

**ASX ANNOUNCEMENT (ASX:BLY)**

29 July 2021

ASX Markets Announcement Office  
Exchange Centre, 20 Bridge Street  
SYDNEY NSW 2000**BOART LONGYEAR RECAPITALISATION & REDOMICILIATION - UPDATE**

Boart Longyear Limited (ASX:BLY) (**Boart Longyear** or the **Company**) is pleased to provide the following update in relation to the proposed recapitalisation of the Company (**Recapitalisation**) and proposed re-domiciliation of the Company to Canada (**Re-domiciliation**), which was announced to the ASX on 13 May 2021.

The Company has seen continued reinvestment into our sector with major mining houses flagging increased exploration, and junior and intermediate miners now accessing capital through equity raisings, allowing them to explore for tomorrow's resources. The Company's underlying business is sound. The operations are competitive, demand for products and services is increasing, and the operating outlook is brighter than it has been in many years. However, Boart Longyear's current capital structure is unsustainable in the medium term due to the Company's debt level and servicing costs and must be addressed.

As shareholders of the Company (**Shareholders**) consider the proposed Recapitalisation, the Company would like to reinforce several points:

- The Recapitalisation will significantly reduce the Company's debt, strengthen the balance sheet, lower interest expense, with the potential to enhance liquidity – all of which will support the Company's operations and future growth in the context of improving global market conditions.
- The Recapitalisation is absolutely necessary. Boart Longyear's current capital structure is unsustainable in the medium term due to the Company's debt level and servicing costs and must be addressed.
- While existing Shareholders will be diluted under the proposed Recapitalisation, eligible Shareholders will be given the opportunity to apply to purchase up to A\$30,000 of Boart Longyear shares (**Shares**) under a share purchase plan (at the same price as the implied issue price of the Shares issued under the Creditors' Schemes), to maintain a more meaningful equity interest in the Company.
- If the Re-domiciliation is approved by Shareholders, eligible Shareholders who hold small parcels of Shares valued at less than AU\$3,000 will have the opportunity, subject to certain conditions, to offer to sell their Shares back to the Company under a selective buy-back, if they would prefer not to retain their holding.

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**Shareholder Information Line**

If you have any questions in relation to either the Recapitalisation or the Re-domiciliation (or the EGM Notice of Meeting or Re-domiciliation Scheme Explanatory Memorandum), please contact the Shareholders' Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) between 9:00 am to 5:00 pm (Sydney time), Monday to Friday.

**Recapitalisation****Creditors' Schemes**

The Recapitalisation will be primarily implemented by two Australian creditors' schemes of arrangement between the Company and certain of its creditors under Part 5.1 of the *Corporations Act 2001* (Cth) (**Creditors' Schemes**).

The Supreme Court of New South Wales has today made orders:

- approving the distribution of an explanatory statement and notices of meeting in connection with the Creditors' Schemes (**Creditors' Schemes Explanatory Statement**); and
- that the Company convene meetings of the creditors affected by the Creditors' Schemes to consider and, if thought fit, approve the Creditors' Schemes (**Creditors' Scheme Meetings**).

The Creditors' Schemes Meetings will be held on Tuesday, 31 August 2021.

The Creditors' Schemes Explanatory Statement will shortly be despatched to relevant creditors.

The Creditors' Schemes Explanatory Statement includes an independent expert's report prepared by FTI Consulting in relation to the Creditors' Schemes.

The Creditors' Schemes Explanatory Statement (including the schemes of arrangement and the independent expert's report prepared by FTI Consulting, but excluding the other annexures) is attached to this announcement as Appendix A.

**Shareholder meeting to approve Recapitalisation Resolutions**

In addition to the Creditors' Scheme Meetings, the Company will also hold a meeting of Shareholders to consider and vote on each of the shareholder resolutions required to implement the Recapitalisation (**Recapitalisation Resolutions**), (**EGM**).

The Company will shortly despatch to Shareholders the notice of meeting for the EGM (**EGM Notice of Meeting**).

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The EGM is scheduled be held at 10:00 am (Sydney time) on Wednesday, 8 September 2021 at Ashurst, Level 11, 5 Martin Place, Sydney 2000.

Shareholders who are unable to, or do not wish to, attend the EGM in person may attend online through an online platform by accessing the following link:  
<https://agmlive.link/BLYEGM21>.

More detailed instructions on how to participate at the EGM via the online platform are set out in the EGM Notice of Meeting.

The EGM Notice of Meeting includes an independent expert's report prepared by KPMG Financial Advisory Services (Australia) Pty Ltd (**Recapitalisation Independent Expert**) in relation to the Recapitalisation (the **KPMG Recapitalisation Report**). The Recapitalisation Independent Expert has concluded that the Recapitalisation is **fair and reasonable** to Shareholders that are not associated with the creditors that are subject to the Creditors' Schemes, in the absence of a superior proposal.

The Independent Directors (being all the Directors other than Conor Tochilin and Rubin McDougal) unanimously recommend that Shareholders vote in favour of the Recapitalisation Resolutions in the absence of a superior proposal, as each Independent Director believes that the Recapitalisation Resolutions are in the best interest of the Company and its shareholders. In coming to their recommendation to endorse the Recapitalisation, the Independent Directors have considered the factors set out in the EGM Notice of Meeting.

The EGM Notice of Meeting (including the KPMG Recapitalisation Report) is attached to this announcement as Annexure B. The EGM Notice of Meeting sets out important information about the Recapitalisation, and the Independent Directors encourage Shareholders to read the EGM Notice of Meeting in full.

The Independent Directors intend to vote any Shares they own or control in favour of the Recapitalisation Resolutions on which they are entitled to vote at the EGM.

### **Re-domiciliation**

The Re-domiciliation will be implemented by a members' scheme of arrangement between the Company and its Shareholders under Part 5.1 of the *Corporations Act 2001* (Cth) (**Re-domiciliation Scheme**).

The Supreme Court of New South Wales has today made orders:

- approving the despatch of an explanatory statement and notice of meeting in connection with the Re-domiciliation Scheme (**Re-domiciliation Scheme Explanatory Memorandum**) and

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- that the Company convene a meeting of Shareholders to consider and, if thought fit, approve the Re-domiciliation Scheme.

The Re-domiciliation Scheme Meeting, at which Shareholders will consider and vote on the Re-domiciliation Scheme, will be held at 10:30 am (Sydney time) on Wednesday, 8 September 2021 at Ashurst, Level 11, 5 Martin Place, Sydney 2000.

Shareholders who are unable to, or do not wish to, attend the Re-domiciliation Scheme Meeting in person may attend online through an online platform by accessing the following link: <https://agmlive.link/BLYSM21>.

More detailed instructions on how to participate at the Re-domiciliation Scheme Meeting via the online platform are set out in the Re-domiciliation Scheme Explanatory Memorandum. The Re-domiciliation Scheme Explanatory Memorandum will shortly be despatched to Shareholders.

The Re-domiciliation Scheme Explanatory Memorandum includes an independent expert's report prepared by KPMG Financial Advisory Services (Australia) Pty Ltd (**Re-domiciliation Independent Expert**) in relation to the Re-domiciliation (the **KPMG Re-domiciliation Report**). The Re-domiciliation Independent Expert has concluded that the Re-domiciliation is in the best interests of Shareholders.

The Company's board of directors unanimously recommend that Shareholders vote in favour of the Re-domiciliation Scheme at the Re-domiciliation Scheme Meeting. Each Director intends to cause any Shares in which he has a relevant interest to be voted in favour of the Re-domiciliation Scheme.

The Re-domiciliation Scheme Explanatory Memorandum (including the KPMG Re-domiciliation Report) is attached to this announcement as Annexure C. The Re-domiciliation Scheme Explanatory Memorandum sets out important information about the Re-domiciliation Scheme, and the Directors encourage Shareholders to read the Re-domiciliation Scheme Explanatory Memorandum in full.

Shareholders should be aware that the Creditors' Schemes Explanatory Statement (including the independent expert's report prepared by FTI Consulting for the purposes of the Creditors' Schemes) were prepared for the benefit of affected creditors in the context of the Creditors' Schemes, and do not directly contemplate or address the interests of Shareholders. Shareholders are encouraged to refer to the EGM Notice of Meeting, which has been prepared having regard to Shareholders' information requirements and interests.

Copies of each of the EGM Notice of Meeting, Creditors' Scheme Explanatory Statement and Re-domiciliation Scheme Explanatory Memorandum (including a copy of the independent expert's report prepared in respect of them) will also be made available on the Company's website at: <https://www.boartlongyear.com/company/investors/restructuring-initiatives>



**ASX ANNOUNCEMENT (ASX:BLY)****Share Consolidation**

As part of the Recapitalisation, and as further described in the EGM Notice of Meeting, the Company is proposing that prior to the issue of the new Shares under the Creditors' Schemes, the Share Purchase Plan (described below) and completion of the purchase by the Company of any Shares under the Selective Buy-Back (described below), the Shares will be consolidated through the consolidation of every 20 Shares into 1 Share (**Share Consolidation**).

The Share Consolidation is conditional on Shareholder approval at the EGM of both the Share Consolidation and each of the other Recapitalisation Resolutions.

For further information about the Share Consolidation, Shareholders should refer to the EGM Notice of Meeting.

**Share Purchase Plan**

As part of the Recapitalisation, the Company is offering eligible Shareholders the opportunity to apply for up to A\$30,000 of Shares at an issue price of A\$2.48 per Share (calculated on a post-Share Consolidation basis, being the same price as the implied issue price of the Shares issued under the Creditors' Schemes), subject to an aggregate cap of US\$2.5 million (**Share Purchase Plan**).

The Share Purchase Plan is conditional on:

- Shareholder approval of the Share Purchase Plan at the EGM; and
- the Creditors' Schemes becoming effective under section 411(10) of the *Corporations Act 2001* (Cth).

The offer booklet for the Share Purchase Plan, which contains further information on the terms of the Share Purchase Plan, is attached to this announcement as Annexure D (**SPP Offer Booklet**). The SPP Offer Booklet will shortly be despatched to Shareholders in Australia and New Zealand.

**Selective Buy-Back**

The Company proposes that eligible Shareholders who hold small parcels of Shares valued at less than AU\$3,000 (calculated by reference to the closing price of Shares on ASX on the SBB Record Date, being Wednesday, 28 July 2021) will have the opportunity, subject to certain conditions, to offer to sell their Shares back to the Company at a price of A\$2.48 per Share (calculated on a post-Share Consolidation basis, being the same price as the implied issue price of the Shares issued under the Creditors' Schemes) under a selective buy-back (**Selective Buy-Back**). The Company may, in its absolute discretion, determine whether to accept (in whole or in part) or reject an offer to sell Shares received by the Company. The maximum aggregate amount that the Company will spend to buy back Shares under the Selective Buy-Back will be US\$500,000.

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The Selective Buy-Back is conditional on:

- Shareholder approval of the Selective Buy-Back at the EGM;
- Shareholder approval of the Re-domiciliation Scheme at the Re-domiciliation Scheme Meeting; and
- the Creditors' Schemes becoming effective under section 411(10) of the *Corporations Act 2001* (Cth).

A booklet containing additional information about the Selective Buy-Back is attached to this announcement as Annexure E (**SBB Booklet**). The SBB Booklet will shortly be despatched to Shareholders in Australia and New Zealand.

## Indicative timetable

Set out below is an indicative timetable for the Recapitalisation and Re-domiciliation.

Event	Date / time
Record date for Share Purchase Plan and Selective Buy-Back	7:00 pm (Sydney time) on Wednesday, 28 July 2021
Offer period for SPP and Selective Buy-Back opens	Thursday, 29 July 2021
Creditors' Scheme Meetings	Tuesday, 31 August 2021
Proxy form cut-off time for EGM	10:00 am (Sydney time) on Monday, 6 September 2021
Proxy form cut-off time for Re-domiciliation Scheme Meeting	10:30 am (Sydney time) on Monday, 6 September 2021
Voting entitlement record date for EGM and Re-domiciliation Scheme Meeting	7:00 pm (Sydney time) on Monday, 6 September 2021
Offer period for Share Purchase Plan and Selective Buy-Back closes	7:00 pm (Sydney time) on Monday, 6 September 2021
EGM	10:00 am (Sydney time) on Wednesday, 8 September 2021
Re-domiciliation Scheme Meeting	10:30 am (Sydney time) on Wednesday, 8 September 2021
Second Court Hearing for Creditors' Schemes	Thursday, 16 September 2021
Creditors' Schemes Effective Date	Friday, 17 September 2021
<i>(if Creditors' Schemes are approved by Scheme Creditors and the Court and all other conditions precedent to the Creditors Schemes are satisfied or waived)</i>	
Share Consolidation Record Date	Tuesday, 21 September 2021

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<b>Event</b>	<b>Date / time</b>
Boart Longyear Share Register updated for Share Consolidation	Wednesday, 22 September 2021
Creditors' Schemes Implementation Date  <i>Shares issued pursuant to the Creditors' Schemes (including under the Creditor Share Purchase Option). Shares issued pursuant to the Share Purchase Plan. Buy-Back Date under the Selective Buy-Back (with any Shares bought back by the Company cancelled on this date).</i>	Thursday, 23 September 2021
Second Court Hearing for Re-domiciliation Scheme	Tuesday, 28 September 2021
Re-domiciliation Scheme Effective Date  <i>(if Re-domiciliation Scheme is approved by Shareholders and the Court and all other conditions precedent to the Re-domiciliation Scheme are satisfied or waived)</i>	Wednesday, 29 September 2021
The new Canadian parent company ( <b>New BLY Parent</b> ) admitted to official list of ASX; New BLY Parent CDIs begin trading on ASX on a deferred settlement basis	Thursday, 30 September 2021
Re-domiciliation Scheme Record Date	Friday, 1 October 2021
Re-domiciliation Scheme Implementation Date	Tuesday, 5 October 2021
New BLY Parent CDIs begin trading on a normal (T+2) settlement basis	Wednesday, 6 October 2021

**Note:** The dates in the timetable above are indicative only and, among other things, are subject to the satisfaction or waiver (if applicable) of the conditions precedent to the Recapitalisation and the Re-domiciliation, and are subject to change. Any variation to the timetable below will be announced to ASX.

**Amendment to Restructuring Support Agreement**

The Company has agreed an amendment to the Restructuring Support Agreement announced by the Company on 13 May 2021 (**Restructuring Support Agreement**) to make the following changes to the terms of the new warrants to be issued to the holders of senior unsecured note claims (**SUN Claims**) under the Creditors' Schemes:

- holders of SUN Claims will be issued new warrants (**New Warrants**) under the Creditors' Schemes to purchase Boart Longyear common shares of up to 10% of the total Shares on issue immediately following implementation of the Creditors' Schemes (after giving effect to the exercise of the New Warrants, and pre-dilution for any

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shares to be issued under the Share Purchase Plan, the Creditor Share Purchase Option and any management incentive plan) – being a total of 32,782,148 New Warrants;

- the exercise period of the New Warrants will not exceed the sixth anniversary of the date of their issue; and
- the terms of the New Warrants will not prohibit or restrict the Company in any way from paying any dividends or making other distributions (including of shares or any other securities or property).

A copy of the amendment deed (excluding signature pages) is attached to this announcement as Annexure F.

**Chapter 15 recognition**

The Company and certain of its subsidiaries will shortly make a filing for recognition of the Creditor Schemes as foreign main proceedings under chapter 15 of title 11 of the United States Code. The Company will seek the relevant orders from the US Court as soon as practicable after the Creditors' Schemes Effective Date (as described above).

**Disclaimer**

No representation or warranty, express or implied, is made as to the fairness, accuracy, completeness or correctness of the information, opinions and conclusions contained in this announcement. To the maximum extent permitted by law, neither Boart Longyear nor its directors, employees, agents or advisers, nor any other person, accepts any liability, including, without limitation, any liability arising from fault or negligence on the part of any of them or any other person, for any loss arising from the use of this announcement or its contents or otherwise arising in connection with it.

**Forward looking statements**

This announcement may contain forward-looking statements within the meaning of securities laws. Forward looking statements can generally be identified by the use of words such as "project", "foresee", "plan", "expect", "aim", "intend", "anticipate", "believe", "estimate", "may", "should", "will" or similar expressions. Any forward-looking statements involve known and unknown risks and uncertainties, many of which are outside the control of the Company and its representatives. Forward-looking statements may also be based on estimates and assumptions with respect to future business decisions, which are subject to change. Any statements, assumptions, opinions or conclusions as to future matters may prove to be incorrect, and actual results, performance or achievement may vary materially from any projections and forward-looking statements.

Except as required by law or the ASX Listing Rules, Boart Longyear assumes no obligation to provide any additional or updated information or to update any forward looking statements,



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whether as a result of new information, future events or results, or otherwise. Nothing in this announcement will, under any circumstances (including by reason of this announcement remaining available and not being superseded or replaced by any other presentation or publication with respect to the Company, or the subject matter of this announcement), create an implication that there has been no change in the affairs of the Company since the date of this announcement.

### **Not for release or distribution in the United States**

Nothing contained in this announcement constitutes investment, legal, tax or other advice. You should make your own assessment and take independent professional advice in relation to the information and any action on the basis of the information. This announcement does not constitute an offer to sell, or a solicitation of an offer to buy, securities in the United States or to, or for the account or benefit of, any "U.S. person" (as defined in Regulation S under the U.S. Securities Act of 1933, as amended (the "U.S. Securities Act")) ("U.S. Person"). Securities may not be offered or sold in the United States or to, or for the account or benefit of, U.S. Persons unless the securities have been registered under the U.S. Securities Act or pursuant to an exemption from, or in a transaction not subject to, registration.

### **Authorised for lodgement by:**

Nora Pincus,  
Company Secretary



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## **ASX ANNOUNCEMENT (ASX:BLY)**

### **About Boart Longyear**

Established in 1890, Boart Longyear is in its 131st year as the world's leading provider of drilling services, orebody-data-collection technology, and innovative, safe and productivity-driven drilling equipment. With its main focus in mining and exploration activities spanning a wide range of commodities, including copper, gold, nickel, zinc, uranium, and other metals and minerals, the company also holds a substantial presence in the energy, oil sands exploration, and environmental sectors.

The Global Drilling Services division operates for a diverse mining customer base with drilling methods including diamond coring exploration, reverse circulation, large diameter rotary, mine dewatering, water supply drilling, pump services, production, and sonic drilling services.

The Geological Data Services division utilises innovative scanning technology and down-hole instrumentation tools to capture detailed geological data from drilled core and chip samples. This valuable orebody knowledge gives mining companies the ability to make timely decisions for more efficient exploration activities.

The Global Products division offers sophisticated research and development and holds hundreds of patented designs to manufacture, market, and service reliable drill rigs, innovative drill string products, rugged performance tooling, durable drilling consumables, and quality parts for customers worldwide.

Boart Longyear is headquartered in Salt Lake City, Utah, USA, and listed on the Australian Securities Exchange in Sydney, Australia (ASX:BLY). More information about Boart Longyear can be found at [www.boartlongyear.com](http://www.boartlongyear.com). To get Boart Longyear news direct, follow us on [Twitter](#), [LinkedIn](#) and [Facebook](#).

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**Appendix A – Creditors' Schemes Explanatory Statement**

# Explanatory Statement

pursuant to Section 412 of the *Corporations Act 2001* (Cth)

**THIS IS AN IMPORTANT DOCUMENT AND REQUIRES YOUR IMMEDIATE ATTENTION.**

**You are encouraged to read it in its entirety, take professional advice, and consult with your professional advisers when making any decisions in connection with a BLY Creditor Scheme, including deciding whether or not to vote in favour of it.**

For the Creditors' Scheme of Arrangement between:

**Boart Longyear Limited**

ACN 123 052 728

**Boart Longyear Australia Pty Limited**

ACN 000 401 025

**Boart Longyear Investments Pty Limited**

ACN 124 070 373

**Boart Longyear Management Pty Limited**

ACN 123 283 545

**Votraint No. 1609 Pty Limited**

ACN 119 244 272

**BL Capital Management LLC**

ARBN 649 445 321

**BLY US Holdings Inc.**

ARBN 649 445 394

(together, defined as the "Scheme Companies")

and

**The Secured Scheme Creditors**

(as defined in the Secured Creditors' Scheme)

In order for the Secured Creditors' Scheme to proceed, it must be approved by the Secured Scheme Creditors. Approval will be sought at the Secured Creditors' Scheme Meeting that will commence at 10.30 am (Sydney time) on 31 August 2021 at Ashurst, Level 11, 5 Martin Place, Sydney. Further details of the Secured Creditors' Scheme Meeting and on how to vote at the Secured Creditors' Scheme Meeting, as well as information about the proposed Secured Creditors' Scheme, are set out in this Explanatory Statement.



For the Creditors' Scheme of Arrangement between:

## **Boart Longyear Limited**

ACN 123 052 728

## **Boart Longyear Australia Pty Limited**

ACN 000 401 025

## **Boart Longyear Investments Pty Limited**

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## **BL Capital Management LLC**

ARBN 649 445 321

## **BLY US Holdings Inc.**

ARBN 649 445 394

(together, defined as the "Scheme Companies")

and

## **The Unsecured Scheme Creditors**

(as defined in the Unsecured Creditors' Scheme)

and

## **The Subordinate Claim Holders**

(as defined in the Unsecured Creditors' Scheme)

In order for the Unsecured Creditors' Scheme to proceed, it must be approved by the Unsecured Scheme Creditors. Approval will be sought at the Unsecured Creditors' Scheme Meeting that will commence at 11.30 am (Sydney time) on 31 August 2021 at Ashurst, Level 11, 5 Martin Place, Sydney. Further details of the Unsecured Creditors' Scheme Meeting and on how to vote at the Unsecured Creditors' Scheme Meeting, as well as information about the proposed Unsecured Creditors' Scheme, are set out in this Explanatory Statement.



Legal adviser to the Scheme Companies

**THIS DOCUMENT DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY SECURITIES OTHER THAN "CREDITOR SCHEMES TRANSACTION SECURITIES" (AS DEFINED HEREIN). NONE OF THE SECURITIES REFERRED TO IN THIS DOCUMENT MAY BE SOLD, ISSUED OR TRANSFERRED IN ANY JURISDICTION IN CONTRAVENTION OF APPLICABLE LAW.**

**THE CREDITOR SCHEMES TRANSACTION SECURITIES PROPOSED TO BE ISSUED PURSUANT TO THE BLY CREDITOR SCHEMES WILL NOT BE REGISTERED WITH THE U.S. SECURITIES AND EXCHANGE COMMISSION ("SEC") UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT") OR THE SECURITIES LAW OF ANY STATE OR OTHER JURISDICTION UNLESS EXPRESSLY SPECIFIED HEREIN, AND ARE BEING OFFERED AND SOLD IN RELIANCE ON CERTAIN EXEMPTIONS FROM REGISTRATION UNDER THE U.S. SECURITIES ACT. CONSEQUENTLY, NEITHER THESE CREDITOR SCHEMES TRANSACTION SECURITIES NOR ANY INTEREST OR PARTICIPATION THEREIN MAY BE OFFERED, SOLD ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE U.S. OR TO U.S. PERSONS (AS DEFINED IN THE U.S. SECURITIES ACT) UNLESS AN EXEMPTION FROM THE REGISTRATION REQUIREMENT OF THE U.S. SECURITIES ACT IS AVAILABLE.**

**Further important information is set out under the heading "IMPORTANT INFORMATION" in the enclosed Explanatory Statement.**

**If you have assigned, sold, or otherwise transferred, or assign, sell or otherwise transfer, your interests as a Secured Scheme Creditor or an Unsecured Scheme Creditor, or do so before the date of the Secured Creditors' Scheme Meeting or Unsecured Creditors' Scheme Meeting (as applicable) you are requested to forward a copy of this document to the person or persons to whom you have assigned, sold or otherwise transferred, or assign, sell or otherwise transfer, your interests as a Secured Scheme Creditor or an Unsecured Scheme Creditor (as applicable). If you are in any doubt as to the action you should take, you should consult your professional adviser without delay.**

## **NOTICE OF SECURED CREDITORS' SCHEME MEETING**

- (1) BOART LONGYEAR LIMITED ACN 123 052 728**
- (2) BOART LONGYEAR AUSTRALIA PTY LIMITED ACN 000 401 025**
- (3) BOART LONGYEAR INVESTMENTS PTY LIMITED ACN 124 070 373**
- (4) BOART LONGYEAR MANAGEMENT PTY LIMITED ACN 123 283 545**
- (5) VOTRAINT NO. 1609 PTY LIMITED ACN 119 244 272**
- (6) BL CAPITAL MANAGEMENT LLC ARBN 649 445 321**
- (7) BLY US HOLDINGS INC. ARBN 649 445 394**

### **NOTICE OF MEETING OF SECURED SCHEME CREDITORS TO CONSIDER AND, IF THOUGHT FIT, AGREE TO A SCHEME OF ARRANGEMENT**

Capitalised terms in this Notice of Secured Creditors' Meeting that are not otherwise defined have the same meaning as is given to those terms in the enclosed Explanatory Statement.

To: the Secured Scheme Creditors in respect of Boart Longyear Limited ACN 123 052 728, Boart Longyear Australia Pty Limited ACN 000 401 025, Boart Longyear Investments Pty Limited ACN 124 070 373, Boart Longyear Management Pty Limited ACN 123 283 545, Votrant No. 1609 Pty Limited ACN 119 244 272, BL Capital Management LLC ARBN 649 445 321 and BLY US Holdings Inc. ARBN 649 445 394.

Pursuant to section 411(1) of the *Corporations Act 2001* (Cth), the Supreme Court of New South Wales has ordered that a meeting of the Secured Scheme Creditors (as defined in the Secured Creditors' Scheme) be convened to consider and, if thought fit, agree to (with or without modification) the proposed Secured Creditors' Scheme between the Secured Scheme Creditors and the Scheme Companies.

#### **1. Notice**

**NOTICE IS HEREBY GIVEN** that a meeting of the Secured Scheme Creditors will be held at Ashurst, Level 11, 5 Martin Place, Sydney on **31 August 2021 at 10:30 am (Sydney Time)** (the "**Secured Creditors' Scheme Meeting**").

Secured Scheme Creditors (or their proxies, attorneys or corporate representatives, as applicable) who are unable to, or do not wish to, attend the Secured Creditors' Scheme Meeting in person may attend online through an online platform. A URL link and access password for the online platform can be requested from the Information Agent via e-mail (at [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)).

As a result of the potential health risks and the government's restrictions in response to the COVID-19 pandemic from time to time, the Scheme Companies encourage Secured Scheme Creditors to attend the Secured Creditors' Scheme Meeting online or lodge a proxy in advance of the Secured Creditors' Scheme Meeting, rather than attending the Secured Creditors' Scheme Meeting in person.

For the health and safety of all attendees, the Scheme Companies will be observing social distancing and any other government requirements that apply at the time of the Secured Creditors' Scheme Meeting. The Scheme Companies will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the Secured Creditors' Scheme Meeting will be held or conducted, information will be provided on BLY's website at <http://www.boartlongyear.com/> and lodged with ASX.

More detailed instructions on how to participate in the Secured Creditors' Scheme Meeting via the online platform are set out in section 12 of the enclosed Explanatory Statement.

The purpose of the Secured Creditors' Scheme Meeting is for the Secured Scheme Creditors to consider and, if thought fit:

**RESOLVE THAT** pursuant to and in accordance with section 411 of the *Corporations Act 2001* (Cth), the scheme of arrangement proposed between the Scheme Companies and the Secured Scheme Creditors, as contained and described in the Explanatory Statement, is agreed to (with or without alterations or conditions as approved by the Court, provided that such alterations or conditions do not change the substance of the Secured Creditors' Scheme in any material respect) (the "**Secured Creditors' Scheme Resolution**").

For further information the Secured Scheme Creditors should refer to the Explanatory Statement accompanying this Notice of Secured Creditors' Scheme Meeting, which is required by section 412 of the *Corporations Act 2001* (Cth) in relation to the Secured Creditors' Scheme.

## **2. Agenda**

The agenda for the Secured Creditors' Scheme Meeting will be as follows:

- (a) the Chairperson will address those present at the Secured Creditors' Scheme Meeting, and provide an explanation of the background to and purpose of the Secured Creditors' Scheme Meeting;
- (b) there will be a general presentation in relation to the proposed Secured Creditors' Scheme and attendees will be given a reasonable opportunity to ask questions in relation to the Secured Creditors' Scheme;
- (c) the procedure for voting on the Secured Creditors' Scheme will be explained; and
- (d) the Secured Creditors' Scheme Resolution to agree to the Secured Creditors' Scheme will be put to the Secured Scheme Creditors present in person or by proxy, attorney or corporate representative at the Secured Creditors' Scheme Meeting for discussion and vote.

## **3. Attendance and voting at the Secured Creditors' Scheme Meeting**

To be eligible to vote at the Secured Creditors' Scheme Meeting, you must be a Secured Scheme Creditor as at Voting Entitlement Record Date and must:

- (a) if you are a TLA Purchaser, have lodged a completed TLA Proof of Debt Form with the Information Agent by 4.00 pm on 25 August 2021 (New York City Time);
- (b) if you are a TLB Purchaser, have lodged a completed TLB Proof of Debt Form with the Information Agent by 4.00 pm on 25 August 2021 (New York City Time);
- (c) if you are a SSN Noteholder, ensure that you instruct your Account Holder to complete a SSN Account Holder Letter and lodge it with the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time).

The Chairperson will then adjudicate upon your Claim as set out in the TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter (as applicable) based on the information contained in or provided with the TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter (as applicable), as well as the information known to the Chairperson, for voting purposes only.

Secured Scheme Creditors may attend the meeting in person (either physically or online), appoint a proxy to attend in their place, attend by corporate representative (if a corporation) or attend by attorney. For a Secured Scheme Creditor to appoint a proxy, a TLA Proxy Form, TLB Proxy Form or SSN Account Holder Letter (as applicable) must be received by the Information Agent by 4.00 pm on 25 August 2021 (New York City Time). The TLA Proxy Form, TLB Proxy Form, TLA Proof of Debt Form, TLB Proof of Debt Form and SSN Account Holder Letter are set out at Annexures G, H, I, J and K (respectively) to the enclosed Explanatory Statement. If any Secured Scheme Creditors wish to vote by attorney or corporate representative, their attorney or corporate representative should bring to the meeting evidence of his or her appointment including evidence of the authority under which the appointment was made.

#### **4. Unsecured Creditors' Scheme Meeting**

In the event you are a Secured Scheme Creditor as at the Voting Entitlement Record Date, you will also be an Unsecured Scheme Creditor eligible to vote in relation to the Unsecured Creditors' Scheme at the Unsecured Creditors' Scheme Meeting to be held on 31 August 2021 at 11:30 am (Sydney Time).

For further information in relation to the Unsecured Creditors' Scheme Meeting, please have regard to the Notice of Unsecured Creditors' Meeting dated 29 July 2021.

**SECURED SCHEME CREDITORS ARE ENCOURAGED TO READ AND CAREFULLY CONSIDER THE EXPLANATORY STATEMENT ACCOMPANYING THIS NOTICE IN ITS ENTIRETY, TAKE PROFESSIONAL ADVICE AND CONSULT WITH THEIR PROFESSIONAL ADVISERS WHEN MAKING ANY DECISION IN CONNECTION WITH THE SECURED CREDITORS' SCHEME, INCLUDING DECIDING WHETHER OR NOT TO VOTE IN FAVOUR OF THE SECURED CREDITORS' SCHEME.**

Dated 29 July 2021

## **NOTICE OF UNSECURED CREDITORS' SCHEME MEETING**

- (1) BOART LONGYEAR LIMITED ACN 123 052 728**
- (2) BOART LONGYEAR AUSTRALIA PTY LIMITED ACN 000 401 025**
- (3) BOART LONGYEAR INVESTMENTS PTY LIMITED ACN 124 070 373**
- (4) BOART LONGYEAR MANAGEMENT PTY LIMITED ACN 123 283 545**
- (5) VOTRAINT NO. 1609 PTY LIMITED ACN 119 244 272**
- (6) BL CAPITAL MANAGEMENT LLC ARBN 649 445 321**
- (7) BLY US HOLDINGS INC. ARBN 649 445 394**

### **NOTICE OF MEETING OF UNSECURED SCHEME CREDITORS TO CONSIDER AND, IF THOUGHT FIT, AGREE TO A SCHEME OF ARRANGEMENT**

Capitalised terms in this Notice of Unsecured Creditors' Meeting that are not otherwise defined have the same meaning as is given to those terms in the enclosed Explanatory Statement.

To: the Unsecured Scheme Creditors in respect of Boart Longyear Limited ACN 123 052 728, Boart Longyear Australia Pty Limited ACN 000 401 025, Boart Longyear Investments Pty Limited ACN 124 070 373, Boart Longyear Management Pty Limited ACN 123 283 545, Votrant No. 1609 Pty Limited ACN 119 244 272, BL Capital Management LLC ARBN 649 445 321 and BLY US Holdings Inc. ARBN 649 445 394.

Pursuant to section 411(1) of the *Corporations Act 2001* (Cth), the Supreme Court of New South Wales has ordered that a meeting of the Unsecured Scheme Creditors (as defined in the Unsecured Creditors' Scheme) be convened to consider and, if thought fit, agree to (with or without modification) the proposed Unsecured Creditors' Scheme between the Unsecured Scheme Creditors, the Scheme Companies and the Subordinate Claim Holders.

#### **1. Notice**

**NOTICE IS HEREBY GIVEN** that a meeting of the Unsecured Scheme Creditors will be held at Ashurst, Level 11, 5 Martin Place, Sydney on **31 August 2021** at **11:30 am (Sydney Time)** (the "**Unsecured Creditors' Scheme Meeting**").

Unsecured Scheme Creditors (or their proxies, attorneys or corporate representatives, as applicable) who are unable to, or do not wish to, attend the Unsecured Creditors' Scheme Meeting in person may attend online through an online platform. A URL link and access password for the online platform can be requested from the Information Agent via e-mail (at [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)).

As a result of the potential health risks and the government's restrictions in response to the COVID-19 pandemic from time to time, the Scheme Companies encourage Unsecured Scheme Creditors to attend the Unsecured Creditors' Scheme Meeting online or lodge a proxy in advance of the Unsecured Creditors' Scheme Meeting, rather than attending the Unsecured Creditors' Scheme Meeting in person.

For the health and safety of all attendees, the Scheme Companies will be observing social distancing and any other government requirements that apply at the time of the Unsecured Creditors' Scheme Meeting. The Scheme Companies will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the Unsecured Creditors' Scheme Meeting will be held or conducted, information will be provided on BLY's website at <http://www.boartlongyear.com/> and lodged with ASX.

More detailed instructions on how to participate in the Unsecured Creditors' Scheme Meeting via the online platform are set out in section 12 of the enclosed Explanatory Statement.

The purpose of the Unsecured Creditors' Scheme Meeting is for the Unsecured Scheme Creditors to consider and, if thought fit:

**RESOLVE THAT** pursuant to and in accordance with section 411 of the *Corporations Act 2001* (Cth), the scheme of arrangement proposed between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, as contained and described in the Explanatory Statement, is agreed to (with or without alterations or conditions as approved by the Court, provided that such alterations or conditions do not change the substance of the Unsecured Creditors' Scheme in any material respect) (the **"Unsecured Creditors' Scheme Resolution"**).

For further information the Unsecured Scheme Creditors should refer to the Explanatory Statement accompanying this Notice of Unsecured Creditors' Scheme Meeting, which is required by section 412 of the *Corporations Act 2001* (Cth) in relation to the Unsecured Creditors' Scheme.

## **2. Agenda**

The agenda for the Unsecured Creditors' Scheme Meeting will be as follows:

- (a) the Chairperson will address those present at the Unsecured Creditors' Scheme Meeting, and provide an explanation of the background to and purpose of the Unsecured Creditors' Scheme Meeting;
- (b) there will be a general presentation in relation to the proposed Unsecured Creditors' Scheme and attendees will be given a reasonable opportunity to ask questions in relation to the Unsecured Creditors' Scheme;
- (c) the procedure for voting on the Unsecured Creditors' Scheme will be explained; and
- (d) the Unsecured Creditors' Scheme Resolution to agree to the Unsecured Creditors' Scheme will be put to the Unsecured Scheme Creditors present in person or by proxy, attorney or corporate representative at the Unsecured Creditors' Scheme Meeting for discussion and vote.

## **3. Attendance and voting at the Unsecured Creditors' Scheme Meeting**

To be eligible to vote at the Unsecured Creditors' Scheme Meeting, you must be an Unsecured Scheme Creditor as at Voting Entitlement Record Date and must:

- (a) if you are a TLA Purchaser, have lodged a completed TLA Proof of Debt Form with the Information Agent by 4.00 pm on 25 August 2021 (New York City Time);
- (b) if you are a TLB Purchaser, have lodged a completed TLB Proof of Debt Form with the Information Agent by 4.00 pm on 25 August 2021 (New York City Time);
- (c) if you are a SSN Noteholder, ensure that you instruct your Account Holder to complete a SSN Account Holder Letter and lodge it with the Information Agent by 4.00 pm on 25 August 2021 (New York City Time); or
- (d) if you are a SUN Noteholder, ensure that you instruct your Account Holder to complete a SUN Account Holder Letter and lodge it with the Information Agent by 4.00 pm on 25 August 2021 (New York City Time).

The Chairperson will then adjudicate upon your Claim as set out in the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as

applicable) based on the information contained in or provided with the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable), as well as the information known to the Chairperson, for voting purposes only.

Unsecured Scheme Creditors may attend the meeting in person (either physically or online), appoint a proxy to attend in their place, attend by corporate representative (if a corporation) or attend by attorney. For an Unsecured Scheme Creditor to appoint a proxy, a TLA Proxy Form, TLB Proxy Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) must be received by the Information Agent by 4.00 pm on 25 August 2021 (New York City Time). The TLA Proxy Form, TLB Proxy Form, TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter and SUN Account Holder Letter are set out at Annexures G, H, I, J, K and L (respectively) to the enclosed Explanatory Statement. If any Unsecured Scheme Creditors wish to vote by attorney or corporate representative, their attorney or corporate representative should bring to the meeting evidence of his or her appointment including evidence of the authority under which the appointment was made.

#### **4. Secured Creditors' Scheme Meeting**

TLA Purchasers, TLB Purchasers and SSN Noteholders who are Unsecured Scheme Creditors as at the Voting Entitlement Record Date will also be Secured Scheme Creditors eligible to vote in relation to the Secured Creditors' Scheme at the Secured Creditors' Scheme Meeting to be held on 31 August 2021 at 10:30 am (Sydney Time).

For further information in relation to the Secured Creditors' Scheme Meeting, please have regard to the Notice of Secured Creditors' Meeting dated 29 July 2021.

**UNSECURED SCHEME CREDITORS ARE ENCOURAGED TO READ AND CAREFULLY CONSIDER THE EXPLANATORY STATEMENT ACCOMPANYING THIS NOTICE IN ITS ENTIRETY, TAKE PROFESSIONAL ADVICE AND CONSULT WITH THEIR PROFESSIONAL ADVISERS WHEN MAKING ANY DECISION IN CONNECTION WITH THE UNSECURED CREDITORS' SCHEME, INCLUDING DECIDING WHETHER OR NOT TO VOTE IN FAVOUR OF THE UNSECURED CREDITORS' SCHEME.**

Dated 29 July 2021



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B	Unsecured Creditors' Scheme of Arrangement
C	FTI Consulting Report
D	Certified Copies of Financial Statements
E	Report On Company Activities and Property (ASIC Form 507)
F	Scheme Administrators' Scale of Charges
G	TLA Proxy Form
H	TLA Proof of Debt Form
I	TLB Proxy Form
J	TLB Proof of Debt Form
K	SSN Account Holder Letter
L	SUN Account Holder Letter
M	List of Secured Scheme Creditors
N	List of Unsecured Scheme Creditors
O	ASX Announcement dated 13 May 2021

1. **IMPORTANT INFORMATION REGARDING THE SECURED CREDITORS' SCHEME AND UNSECURED CREDITORS' SCHEME**

**THE SECURED SCHEME CREDITORS AND UNSECURED SCHEME CREDITORS SHOULD READ THIS EXPLANATORY STATEMENT IN ITS ENTIRETY BEFORE MAKING A DECISION WHETHER OR NOT TO VOTE IN FAVOUR OF THE SECURED CREDITORS' SCHEME AND/OR THE UNSECURED CREDITORS' SCHEME (AS APPLICABLE)**

1.1 **Orders to convene the Scheme Meeting**

On 29 July 2021, the Court made orders under section 411(1) of the Corporations Act directing that a meeting of the Secured Scheme Creditors be convened to vote upon the proposed Secured Creditors' Scheme, and that a meeting of the Unsecured Scheme Creditors be convened to vote upon the proposed Unsecured Creditors' Scheme.

This Explanatory Statement has been provided to the Secured Scheme Creditors in connection with the Secured Creditors' Scheme Meeting, and to the Unsecured Scheme Creditors in connection with the Unsecured Creditors' Scheme Meeting for the purpose of considering and, if thought fit, agreeing to the proposed Secured Creditors' Scheme and the Unsecured Creditors' Scheme respectively.

The Secured Creditors' Scheme Meeting will commence at:

**10.30 am on, 31 August 2021**

at

**Ashurst Australia, 5 Martin Place, Sydney, NSW 2000, Australia**

The Unsecured Creditors' Scheme Meeting will comment at:

**11.30 am on, 31 August 2021**

at

**Ashurst Australia, 5 Martin Place, Sydney, NSW 2000, Australia**

Further information on the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting and the procedure for voting is set out in section 12 of this Explanatory Statement.

**IMPORTANT NOTICE ASSOCIATED WITH COURT ORDER UNDER SECTION 411(1) OF THE *CORPORATIONS ACT 2001* (CTH)**

The fact that under section 411(1) of the *Corporations Act 2001* (Cth) the Court has ordered that a meeting be convened and has approved the Explanatory Statement required to accompany the notice of the meeting does not mean that the Court:

- (a) has formed any view as to the merits of the proposed BLY Creditor Schemes or as to how Secured Scheme Creditors or Unsecured Scheme Creditors should vote (on this matter Secured Scheme Creditors and the Unsecured Scheme Creditors must reach their own decision); or
- (b) has prepared, or is responsible for the content of, the Explanatory Statement.

The Court's order under section 411(1) is not an endorsement of, or any other expression of opinion on, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme.

## 1.2 Prescribed information

Under section 412(1) of the Corporations Act and regulation 5.1.01 of the Corporations Regulations, this Explanatory Statement must contain certain information to assist the Secured Scheme Creditors and Unsecured Scheme Creditors in deciding whether or not to vote in favour of the proposed Secured Creditors' Scheme or Unsecured Creditors' Scheme respectively. The table below indicates where in this Explanatory Statement that information can be found.

Prescribed information	Section of this Explanatory Statement
A statement that an order under s 411(1) of the Corporations Act is not an endorsement of, or any other expression of opinion on, the BLY Creditor Schemes	Section 1.1
An explanation of the effect of the proposed BLY Creditor Schemes	Section 8
The criteria and the date for determining the participants in the BLY Creditor Schemes, the persons entitled to vote at the Secured Creditors' Scheme Meeting and Unsecured Creditors' Scheme Meeting, and the persons who will be bound by the BLY Creditor Schemes.	Sections 8.15 and 12
The expected dividend that would be paid to the Secured Scheme Creditors and Unsecured Scheme Creditors if the Scheme Companies were wound up within 6 months of the Court's order on the date of the First Court Hearing	Section 9
The Implied Value (otherwise known as the expected dividend that would be paid) of the interests of the Secured Scheme Creditors and Unsecured Scheme Creditors if the Secured Creditors' Scheme and Unsecured Creditors' Scheme were put into effect as proposed	Section 9
The material interests of the Directors of the Scheme Companies	Section 11.1
Certified copies of all financial statements to be lodged by the Scheme Companies with ASIC	Annexure D
Reports on the affairs of the Scheme Companies	Annexure E

<b>Prescribed information</b>	<b>Section of this Explanatory Statement</b>
The scale of charges that the Scheme Administrators propose to charge to implement the BLY Creditor Schemes	Annexure F
A list of the names of all known Secured Scheme Creditors and the debts owed to those Secured Scheme Creditors	Annexure M
A list of the names of all known Unsecured Scheme Creditors and the debts owed to those Unsecured Scheme Creditors	Annexure N

## **2. IMPORTANT INFORMATION IN RESPECT OF THE BLY CREDITOR SCHEMES**

### **2.1 Responsibility statement**

The Scheme Companies have provided and are responsible for all information in this Explanatory Statement (other than the FTI Consulting Information). The Scheme Companies and their Directors, officers, employees, and advisers expressly disclaim and do not assume any responsibility for the accuracy or completeness of the FTI Consulting Information.

This Explanatory Statement has been prepared solely for use by the Secured Scheme Creditors and the Unsecured Scheme Creditors for the purpose of evaluating whether or not to vote in favour of the Secured Creditors' Scheme and Unsecured Creditors' Scheme respectively. No other person apart from the Scheme Companies and FTI Consulting (only in respect of the FTI Consulting Information) has been authorised to make any representation or warranty, express or implied, as to its accuracy or completeness. Nothing contained in this Explanatory Statement is, or should be relied on as, a representation, assurance or guarantee as to the benefits of the Secured Creditors' Scheme or Unsecured Creditors' Scheme over any alternative for the Secured Scheme Creditors or Unsecured Scheme Creditors as applicable.

FTI Consulting has prepared the FTI Consulting Report in relation to the Scheme Companies and the proposed BLY Creditor Schemes based, in part, on information provided by the Scheme Companies. Except to the extent that the Scheme Companies are responsible for the information they have provided to FTI Consulting for the purpose of the FTI Consulting Report (and the Scheme Companies take responsibility for that information), FTI Consulting takes responsibility for the FTI Consulting Information.

The FTI Consulting Information consists of the information in section 9 of this Explanatory Statement, the FTI Consulting Report in Annexure C and certain other information or statements in this Explanatory Statement that have been identified as being sourced from, or attributed to, FTI Consulting.

No person has been authorised to give any information or to make any representation in connection with the BLY Creditor Schemes other than the representations contained in this Explanatory Statement.

### **2.2 Not financial product or other advice**

This Explanatory Statement is not financial product advice. It has been prepared without reference to your particular investment objectives, financial situation, tax situation, needs or specific circumstances. You should not construe any statements made in this Explanatory Statement as investment, tax or legal advice. Your decision whether to vote for or against the proposed BLY Creditor Schemes (as applicable to you) will depend on an assessment of your own individual circumstances. As the financial, legal and taxation consequences of the BLY Creditor Schemes may be different for each Secured Scheme Creditor and Unsecured Scheme Creditor, it is recommended that you seek your own professional financial, legal and taxation advice before making your decision.

### **2.3 Forward-looking statements**

Certain statements in this Explanatory Statement relate to the future. The forward-looking statements in this Explanatory Statement are not based solely on historical facts, but rather reflect the current expectations of the Scheme Companies as at the date of this Explanatory Statement. These statements generally may be identified by the use of forward-looking words or phrases such as "believe", "aim", "expect", "anticipate", "intend", "foresee", "likely", "should", "plan", "may", "estimate", "potential", or other similar words and phrases.

Similarly, statements that describe the Scheme Companies' objectives, plans, goals or expectations are or may be forward looking statements.

Forward-looking statements are based on numerous assumptions regarding present and future circumstances. As such, forward-looking statements involve known and unknown risks, uncertainties, assumptions and other important factors that could cause the actual result, performance or achievement to be materially different from the future result, performance or achievement expressed or implied by those statements.

Given this, Secured Scheme Creditors and Unsecured Scheme Creditors are cautioned not to place undue reliance on any forward-looking statements made by the Scheme Companies in this document or elsewhere.

Other than as required by law, none of the Scheme Companies, their Directors, or any other person gives any representation, assurance or guarantee that the occurrence of any event, outcome, performance or achievement expressed or implied in any forward-looking statement in this Explanatory Statement will actually occur. The Scheme Companies have no intention of updating or revising any forward-looking statements, regardless of whether new information, future events or any other factors affect the information contained in this Explanatory Statement, except as required by law.

#### **2.4 Lodged with ASIC**

A copy of this Explanatory Statement has been given to ASIC pursuant to section 412(7) of the Corporations Act. Neither ASIC nor any of its officers takes any responsibility for the contents of this Explanatory Statement.

#### **2.5 Date of this Explanatory Statement**

The date of this Explanatory Statement is 29 July 2021.

#### **2.6 Defined terms and interpretation**

Capitalised words used in this Explanatory Statement have the meanings set out section 13.2 of this Explanatory Statement, unless the context otherwise requires or a term has been defined elsewhere in the text of the Explanatory Statement. Some of the attachments to this Explanatory Statement contain their own defined terms and should be read accordingly.

Section 13.1 contains general guidelines for interpreting this Explanatory Statement.

#### **2.7 One Explanatory Statement for both BLY Creditor Schemes**

This Explanatory Statement has been prepared to be the explanatory statement to both the Secured Creditors' Scheme and Unsecured Creditors' Scheme. The Secured Creditors' Scheme can only proceed if the Unsecured Creditors' Scheme is approved and becomes effective and vice versa in respect of the Unsecured Creditors' Scheme.

A Secured Scheme Creditor is not entitled to participate in the Unsecured Creditors' Scheme, unless that Secured Scheme Creditor is also an Unsecured Scheme Creditor.

An Unsecured Scheme Creditor is not entitled to participate in the Secured Creditors' Scheme, unless that Unsecured Scheme Creditor is also a Secured Scheme Creditor.

#### **2.8 Secured Scheme Creditors and Unsecured Scheme Creditors outside Australia**

This Explanatory Statement has been prepared to reflect the applicable disclosure requirements of Australia, which may be different from the requirements applicable in other



jurisdictions. The financial information included in this document is based on financial statements that have been prepared in accordance with accounting principles and practices generally accepted in Australia, which may differ from generally accepted accounting principles and practices in other jurisdictions.

The implications of the BLY Creditor Schemes for Secured Scheme Creditors and Unsecured Scheme Creditors who are resident in, have a registered address in, are citizens of and/or are taxable in jurisdictions other than Australia may be affected by the laws of the relevant jurisdiction. Such overseas Secured Scheme Creditors and Unsecured Scheme Creditors should inform themselves about and observe any applicable legal requirements.

## 2.9 Tax disclosure

Please note that terms defined in this section 2.9 do not form part of the Glossary of terms at section 13.2 of this Explanatory Statement.

### (a) Australia

Potential Australian tax risks to BLY from the implementation of the BLY Creditor Schemes (excluding the Members' Scheme):

#### (i) Commercial Debt Forgiveness (CDF)

The exchange of debt for Shares is expected to give rise to a "commercial debt forgiveness" (CDF) under the Australian tax legislation. The CDF rules do not create immediate taxable income for BLY, but give rise to a "net forgiven amount" broadly equal to the difference between the amount of the outstanding debt being exchanged and the value of the Shares issued. This CDF net forgiven amount is applied to reduce available tax losses and other tax attributes of BLY. The amount of the possible CDF net forgiven amount is dependent on the value of the Shares as of the effective date of the exchange, which is not known at this time. While BLY anticipates that some of its carry forward losses will be available to offset the CDF net forgiven amount, BLY may not have sufficient loss carry forwards available to fully offset any CDF net forgiven amount from the exchange. In this situation, the net forgiven amount would then reduce tax basis in other assets. The reduction in tax basis of short-term assets could result in a near-term cash tax liability in the event those assets are disposed of by BLY for amounts in excess of their reduced tax basis.

#### (ii) Limitation on Use of Prior Year Tax Losses

Australian tax law may limit the ability to use prior year losses to offset future income should BLY fail the "continuity of ownership test" (COT) under the Australian tax legislation (a **COT Failure**). If a COT Failure occurs prior to the end of the income tax year of BLY in which the CDF occurs, it will increase the risk that the CDF net forgiven amount (as discussed above) will not be fully offset by BLY's carry forward losses and will instead reduce the tax basis of BLY's assets, which could result in a near-term cash tax liability.

Broadly, the COT requires BLY to have maintained more than 50% of the same ultimate beneficial owners from the start of each loss year and at each applicable test time until the end of the income year in which the loss is sought to be recouped (certain concessions are available for listed companies that reduce the number of applicable testing points and limit the extent of tracing required through to ultimate beneficial owners). Due to significant overlap between the creditors who are being issued Shares under the BLY Creditor Schemes and BLY's current shareholders, the implementation of the BLY

Creditor Schemes is not expected to result in an "ownership change" of the Australia Tax Group for the purposes of COT calculation. However, the issuance of new equity to the debtholders may affect BLY's ability to satisfy the COT into the future and equity holders who exit their positions after the implementation of the BLY Creditor Schemes may put at risk the continued ownership requirement.

BLY is separately preparing for a re-domiciliation of BLY to North America which may increase the risk of a COT Failure. For further information in relation to the Members' Scheme, please see section 7 of this Explanatory Statement.

However, in Australia there is a secondary same business test or (depending on the applicable loss year) alternately a similar business test (together known as the "continuity of business test") which, if BLY qualifies, may offer relief if a COT Failure occurs.

(b) **Canada**

The following summary describes the principal Canadian federal income tax considerations in respect of the exchange of Shares and the acquisition and holding of New BLY Parent Shares received pursuant to the Members' Scheme. For greater certainty, any reference to Shares or New BLY Parent Shares in this summary includes any such shares represented by CDIs.

This summary only applies to a beneficial owner of Shares receiving Shares pursuant to the Secured Creditors' Scheme or Unsecured Creditors' Scheme who, at all relevant times, for purposes of the Income Tax Act (Canada) (the **ITA**): (a) is not, or is deemed not to be, resident in Canada for purposes of the ITA (including a partnership that is not a "Canadian partnership" for purposes of the ITA) and any applicable income tax treaty or convention to which Canada is a party; (b) deals at arm's length with BLY and New BLY Parent; (c) is not affiliated with BLY or New BLY Parent; (d) holds the Shares, and will hold any New BLY Parent Shares received under the Members' Scheme, as capital property; and (e) who does not use or hold, and is not deemed to use or hold, Shares in connection with carrying on a business in Canada (a **Non-Resident Holder**).

Generally, the Shares and New BLY Parent Shares will be capital property to a Non-Resident Holder provided the Non-Resident Holder does not hold such shares in the course of carrying on a business or as part of an adventure or concern in the nature of trade.

This summary is based on the current provisions of the ITA, and on an understanding of the current administrative policies and assessing practices of the Canada Revenue Agency (**CRA**) published in writing prior to the date hereof. This summary takes into account all specific proposals to amend the ITA publicly announced by or on behalf of the Minister of Finance (Canada) prior to the date hereof (**Proposed Amendments**) and assumes that all Proposed Amendments will be enacted in the form proposed. However, no assurances can be given that the Proposed Amendments will be enacted as proposed, or at all. This summary does not otherwise take into account or anticipate any changes in law or administrative policy or assessing practice whether by legislative, regulation, administrative or judicial action nor does it take into account tax legislation or considerations of any province, territory or foreign jurisdiction, which may differ from those discussed herein.

This summary does not apply to a shareholder who:

- (i) is a "specified financial institution";
- (ii) an interest in which is a "tax shelter investment";
- (iii) is, for purposes of certain rules (referred to as the mark-to-market rules) applicable to securities held by financial institutions, a "financial institution";
- (iv) reports its "Canadian tax results" in a currency other than Canadian currency;
- (v) has entered or enters into, with respect to any of the shares discussed herein, a "derivative forward agreement" or "synthetic disposition arrangement" (as defined in the ITA);
- (vi) is or was an employee of BLY or New BLY Parent and who acquired Shares or New BLY Parent Shares in respect of, in the course of, or by virtue of, their employment, including pursuant to an employee stock option;
- (vii) that is an Ineligible Foreign Shareholder; or
- (viii) is a "foreign affiliate" of a taxpayer resident in Canada.

**Furthermore, this summary does not apply to holders of warrants issued by BLY or New BLY Parent. Any such holders or shareholders should consult its own tax advisor with respect to the Members' Scheme.**

Special rules, which are not discussed in this summary, may apply to a Non-Resident Holder that is an insurer that carries on an insurance business in Canada and elsewhere. Such Non-Resident Holders are advised to obtain their own tax advice.

This summary is of a general nature only and is not, and is not intended to be, legal or tax advice to any particular shareholder. This summary is not exhaustive of all Canadian federal income tax considerations. Accordingly, shareholders should consult their own tax advisors having regard to their own particular circumstances.

(i) **Consequences of Participation in the Members' Scheme**

A Non-Resident Holder will not be subject to tax under the ITA in respect of any capital gain realised on the exchange of Shares for New BLY Parent Shares under the Members' Scheme, nor will capital losses arising therefrom be reported under the ITA, unless the Shares are, or are deemed to be, "taxable Canadian property" of the Non-Resident Holder for the purposes of the ITA and the Non-Resident Holder is not entitled to an exemption under an applicable income tax convention between Canada and the country in which the Non-Resident Holder is resident.

Shares will not constitute "taxable Canadian property" to a Non-Resident Holder at the time of the disposition thereof under the Members' Scheme unless at any particular time during the 60 month period immediately preceding the disposition:

- (A) more than 50% of the fair market value of the Shares was derived directly or indirectly from one or any combination of:
  - (aa) real or immovable property situated in Canada;
  - (bb) "Canadian resource properties" (as defined in the ITA);
  - (cc) "timber resource properties" (as defined in the ITA); or

- (dd) an option, an interest or right in such property, whether or not such property exists; and
- (B) if the Shares are then listed on a designated stock exchange (which currently includes the ASX), the Non-Resident Holder, persons with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA), partnerships in which the Non-Resident Holder or a person with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA) holds a membership interest directly or indirectly through one or more partnerships, or any combination thereof, concurrently at the time condition (A) is met, owned 25% or more of the issued Shares.

Notwithstanding the foregoing, the Shares could be deemed to be "taxable Canadian property" to a Non-Resident Holder, for example, if a Non-Resident Holder acquired the Shares in exchange for "taxable Canadian property" in certain circumstances set out in the ITA.

If the Shares constitute "taxable Canadian property" to a Non-Resident Holder, such Non-Resident Holder may be required to give notice of the disposition to the CRA and apply for a clearance certificate pursuant to Section 116 of the ITA.

A Non-Resident Holder that holds Shares that may constitute taxable Canadian property should consult its own tax advisor prior to the Members' Scheme.

(ii) **Consequences of Non-Resident Holders owning New BLY Parent Shares**

Any dividends paid or credited, or deemed to be paid or credited, on New BLY Parent Shares to a Non-Resident Holder will be subject to Canadian withholding tax at the rate of 25% of the gross amount of the dividend unless the rate is reduced under the provisions of an applicable income tax convention between Canada and the Non-Resident Holder's country of residence. For instance, where the Non-Resident Holder is a resident of the United States that is entitled to full benefits under the Canada United States Income Tax Convention (1980) as amended and is the beneficial owner of the dividends, the rate of Canadian withholding tax applicable to dividends is generally reduced to 15%.

(iii) **Consequences of Non-Resident Holders disposing of New BLY Parent Shares**

For a Non-Resident Holder to be subject to tax under the ITA on any capital gain realised on the disposition or deemed disposition of New BLY Parent Shares, such New BLY Parent Shares must be or be deemed to be "taxable Canadian property", as defined in the ITA, to the Non-Resident Holder at the time of disposition or deemed disposition and not constitute "treaty-protected property", as defined in the ITA.

New BLY Parent Shares will not constitute "taxable Canadian property" to a Non-Resident Holder at the time of the disposition or deemed disposition thereof unless at any particular time during the 60 month period immediately preceding the disposition:

- (A) more than 50% of the fair market value of the New BLY Parent Shares was derived directly or indirectly from one or any combination of:

- (aa) real or immovable property situated in Canada;
  - (bb) "Canadian resource properties" (as defined in the ITA);
  - (cc) "timber resource properties" (as defined in the ITA); or
  - (dd) an option, an interest or right in such property, whether or not such property exists; and
- (B) if the New BLY Parent Shares are then listed on a designated stock exchange, the Non-Resident Holder, persons with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA), partnerships in which the Non-Resident Holder or a person with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA) holds a membership interest directly or indirectly through one or more partnerships, or any combination thereof, concurrently at the time condition (A) is met, owned 25% or more of the issued New BLY Parent Shares

Notwithstanding the foregoing, the New BLY Parent Shares could be deemed to be "taxable Canadian property" to a Non-Resident Holder, for example, if a Non-Resident Holder acquired the New BLY Parent Shares in exchange for "taxable Canadian property" in certain circumstances set out in the ITA.

If the New BLY Parent Shares constitute "taxable Canadian property" to a Non-Resident Holder, such Non-Resident Holder may be required to give notice of the disposition to the CRA and apply for a clearance certificate pursuant to Section 116 of the ITA.

A Non-Resident Holder contemplating a disposition of New BLY Parent Shares that may constitute taxable Canadian property should consult its own tax advisor prior to such disposition.

(c) **United States**

The following discussion summarises certain US federal income tax consequences of the BLY Creditor Schemes to BLY and its subsidiaries. This summary is based on the US Internal Revenue Code of 1986, as amended (the **US Tax Code**), the Treasury Regulations promulgated under the US Tax Code (the **Treasury Regulations**), judicial decisions and published administrative rules, and pronouncements of the Internal Revenue Service (the **IRS**), all as in effect on the date of this Explanatory Statement. Changes in applicable law may have retroactive effect and could significantly affect the US federal income tax consequences described below. Due to the lack of definitive judicial and administrative authority in a number of areas, substantial uncertainty may exist with respect to some of the tax consequences described below. BLY has not requested, and does not intend to request, any ruling or determination from the IRS or any other taxing authority with respect to the US federal income tax consequences discussed in this Explanatory Statement, and the discussion below is not binding upon the IRS or the courts. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position than any position discussed in this Explanatory Statement. This summary does not address any state, local or non-US tax consequences of the BLY Creditor Schemes to BLY and its subsidiaries. This summary does not address any tax consequences for Secured Scheme Creditors or Unsecured Scheme Creditors, including any tax consequences arising as a result of the receipt of Shares in BLY in cancellation of the debts owed to them, the ownership of such Shares and the potential exchange of Shares in BLY for CDIs in respect of New BLY Parent if the re-domiciliation occurs pursuant to the Members' Scheme. Secured Scheme Creditors

and Unsecured Scheme Creditors are urged to consult their own tax advisors regarding any US federal income tax consequences to them of the BLY Creditor Schemes and the re-domiciliation.

For US federal income tax purposes, BLY US is the common parent of an affiliated group of corporations that files a single US federal income tax return (the **US Tax Group**), of which its direct and indirect subsidiaries (other than BCM, which is a disregarded entity of BLY US for US federal income tax purposes) are members of the US Tax Group. The US Tax Group has a substantial amount of federal net operating loss (**NOL**) carryforwards and certain other tax attributes. As discussed below, the US Tax Group's NOL carryforwards and other tax attributes may be significantly reduced in connection with the implementation of the BLY Creditor Schemes.

(i) **Cancellation of Debt and Reduction of Tax Attributes**

In general, absent an exception, a debtor will realise and recognise cancellation of indebtedness income (**COD Income**) upon satisfaction of its outstanding indebtedness for total consideration less than the amount of such indebtedness. The amount of COD Income, in general, is the excess of (a) the adjusted issue price of the indebtedness satisfied, over (b) the sum of: (i) the amount of cash paid; (ii) the issue price of any new indebtedness of the taxpayer issued; and (iii) the fair market value of any other new consideration given in satisfaction of such satisfied indebtedness at the time of the exchange.

Under section 108 of the US Tax Code, a debtor is not, however, required to include any amount of COD Income in gross income (a) if the debtor is under the jurisdiction of a court in a case under title 11 of the United States Code (relating to bankruptcy) and the discharge of debt is granted by the court or is pursuant to a plan approved by the court (the **Bankruptcy Exception**) or (b) to the extent the debtor is insolvent immediately before the discharge (the **Insolvency Exception**). Instead, as a consequence of such exclusion, a debtor must reduce its tax attributes (such as current year losses, NOL carryforwards, capital loss carryforwards, tax credits and tax basis in assets) by the amount of COD Income that it excluded from gross income pursuant to section 108 of the US Tax Code. The reduction in tax attributes occurs only after the tax for the year of the debt discharge has been determined. Any excess COD Income over the amount of available tax attributes will generally not give rise to US federal income tax and will generally have no other US federal income tax impact. Where the debtor joins in the filing of a consolidated US federal income tax return, applicable Treasury Regulations require, in certain circumstances, that certain tax attributes of other members of the group also be reduced.

In connection with the implementation of the BLY Creditor Schemes, BLY US is expected to realise COD Income. The exact amount of any COD Income that will be realised by BLY US will depend on the value of the New Common Equity treated as transferred in satisfaction of the BLY US and BCM debt and, therefore, will not be determinable until the consummation of the BLY Creditor Schemes. The restructuring is occurring pursuant to the BLY Creditor Schemes and the Group will be seeking an order of the US Bankruptcy Court to recognise the BLY Creditor Schemes. In a similar, but not identical, situation, the IRS issued a ruling to another taxpayer concluding that a US Bankruptcy Court recognition of a foreign proceeding allowed the taxpayer to qualify for the Bankruptcy Exception. However, such ruling was based on the specific facts presented at the time and is not binding on the IRS and does

not constitute authority. Depending on the facts, the Group's receipt of the US Bankruptcy Court order recognising the BLY Creditor Schemes may allow BLY US to qualify for the Bankruptcy Exception. If the Bankruptcy Exception does not apply, BLY US expects that it would qualify for the Insolvency Exception. The application of the Insolvency Exception is highly factual, however, and it is possible that BLY US would need to include all or a portion of any COD Income in gross income for US federal income tax purposes. In such case, the US Tax Group's NOL carryforwards would be used to offset COD Income that is included in gross income, though it is possible that the US Tax Group may have a cash tax liability on account of any includible COD Income that cannot be offset by available NOL carryforwards. Any COD Income eligible for the Bankruptcy Exception or Insolvency Exception will reduce US Tax Group tax attributes.

(ii) **Limitation of NOL Carryforwards and Other Tax Attributes**

Under sections 382 and 383 of the US Tax Code, if a corporation undergoes an "ownership change," the amount of any NOL carryforwards, interest expense carryforwards, tax credit carryforwards, net unrealised built-in losses, and possibly certain other attributes of the corporation allocable to periods prior to the ownership change (collectively, **Pre-Change Losses**) that may be utilised to offset future taxable income generally are subject to an annual limitation. In general, the amount of the annual limitation is equal to the product of (a) the fair market value of the stock of the corporation immediately before the "ownership change" (with certain adjustments) multiplied by (b) the "long-term tax-exempt rate" (1.64% for ownership changes occurring in June 2021). The section 382 limitation may be increased to the extent that the corporation recognises certain built-in gains in their assets during the five-year period following the ownership change, or are treated as recognising built-in gains pursuant to the safe harbors provided in IRS Notice 2003-65 (in either case, up to the amount of the company's original net unrealised built-in gain). If a corporation has a net unrealised built-in loss at the time of an ownership change (taking into account most assets and items of "built-in" income and deductions), then generally built-in losses (including amortisation or depreciation deductions attributable to such built-in losses) recognised during the following five years (up to the amount of the original net unrealised built-in loss) will be treated as Pre-Change Losses and similarly will be subject to the annual limitation. In general, a corporation's net unrealised built-in loss will be deemed to be zero unless it is greater than the lesser of (a) \$10,000,000 or (b) 15% of the fair market value of its assets (with certain adjustments) before the ownership change. The IRS has issued proposed regulations that would significantly modify the calculation and treatment of net unrealised built-in gains and losses. Section 383 of the US Tax Code applies a similar limitation to capital loss carryforwards and tax credits. Any unused limitation may be carried forward, thereby increasing the annual limitation in the subsequent taxable year.

Due to significant overlap between the creditors receiving BLY stock in the BLY Creditor Schemes and BLY's current shareholder base, the implementation of the BLY Creditor Schemes is not expected to result in an "ownership change" of the US Tax Group for purposes of section 382 and 383 of the US Tax Code.

(iii) **Application of Section 7874 of the US Tax Code**

Following implementation of the BLY Creditor Schemes and, if approved, the Members' Scheme, the Group intends to continue to operate under BLY or, if

the Members' Scheme is approved, New BLY Parent. The IRS may, however, assert that BLY (or New BLY Parent) should be treated as a US corporation for US federal income tax purposes pursuant to section 7874 of the US Tax Code (**Section 7874**). For US federal income tax purposes, a corporation generally is classified as either a US corporation or a foreign corporation by reference to the jurisdiction of its organisation or incorporation. Because BLY is organised in Australia and New BLY Parent would be organised in Canada, each would generally be classified as a foreign corporation under these rules. However, Section 7874 provides an exception to this general rule under which a foreign incorporated entity may, in certain circumstances, be treated as a US corporation for US federal income tax purposes.

Under Section 7874, a corporation created or organised outside the United States (i.e., a foreign corporation) will nevertheless be treated as a US corporation for US federal income tax purposes when (i) the foreign corporation directly or indirectly acquires substantially all of the assets held directly or indirectly by a US corporation (including the indirect acquisition of assets of the US corporation by acquiring the outstanding shares of the US corporation) (such acquisition, the **Domestic Entity Acquisition**), (ii) the shareholders of the acquired US corporation hold, by vote or value, at least 80% (or 60% if the Third Country Rule, as defined below, applies) of the shares of the foreign acquiring corporation after the acquisition by reason of holding shares in the acquired US corporation (such percentage held by the shareholders of the acquired US corporation, the **Section 7874 Percentage**), and (iii) the foreign corporation's "expanded affiliated group" does not have substantial business activities in the foreign corporation's country of organisation or incorporation relative to such expanded affiliated group's worldwide activities after the acquisition. If the Section 7874 Percentage is at least 60% but less than 80% and the Third Country Rule (as defined below) does not apply, the acquiring foreign corporation and its affiliates may be subject to adverse tax consequences including, but not limited to, the recognition of "inversion gain" by the acquired US corporation over a 10-year period following the transaction and disqualification of dividends paid from preferential "qualified dividend income" rates. Furthermore, certain "disqualified individuals" (including officers and directors of a US corporation) may be subject to an excise tax on certain stock-based compensation. The Treasury Regulations promulgated under Section 7874 (the **Section 7874 Regulations**) generally provide that if (i) there is a Domestic Entity Acquisition in which the Section 7874 Percentage is at least 60%, and (ii) in a related acquisition, such foreign acquiring corporation acquires another foreign corporation and the foreign acquiring corporation is not resident for tax purposes in the foreign country in which the acquired foreign corporation was tax resident prior to the transactions, then the foreign acquiring corporation will be treated as a domestic corporation for US federal income tax purposes (the **Third Country Rule**). For purposes of determining the ownership percentages under Section 7874, the Section 7874 Regulations treat creditor claims against a US corporation as stock of the US corporation if, immediately before the first date properties of the corporation are acquired in a Domestic Entity Acquisition, the US corporation is in a case under title 11 of the United States Code or is insolvent. The Section 7874 Regulations also exclude "disqualified stock" from the calculation of the Section 7874 Percentage. "Disqualified stock" includes stock issued by a foreign acquiring corporation in exchange for "nonqualified property," which includes certain obligations issued by a member of an "expanded affiliated group," along with certain other property. The Section 7874 Regulations are complex and include other rules that could impact the calculation of the Section 7874 Percentage.



Although it is not free from doubt, based upon the existing capital structure of BLY US, which is owned by a direct subsidiary of BLY, BLY intends to take the position that neither the implementation of the BLY Creditor Schemes nor the Members' Scheme should result in BLY or New BLY Parent (if applicable) being treated as completing a Domestic Entity Acquisition of BLY US and, as a result, neither BLY nor New BLY Parent (if applicable) is expected to be treated as a US corporation for US federal income tax purposes or otherwise subject to the adverse tax consequences of Section 7874. If it is determined that BLY (or New BLY Parent) has completed a Domestic Entity Acquisition of BLY US and certain creditors of BLY US and its direct or indirect subsidiaries own 80% (or 60% if the Third Country Rule applies) or more of BLY (or New BLY Parent) pursuant to the application of the 7874 Regulations, BLY (and/or New BLY Parent) would be treated as a US corporation for US federal income tax purposes. BLY would generally also be considered an Australian tax resident for Australian tax and other non-US tax purposes (and, if applicable, New BLY Parent would generally also be considered a Canadian tax resident for Canadian tax and other non-US tax purposes). As a result, in that case, BLY (and, if applicable, New BLY Parent) would be treated as a dual resident corporation for U.S. federal income tax purposes, which may increase the overall tax expense of the Group. If it is determined that BLY (or New BLY Parent) has completed a Domestic Entity Acquisition of BLY US and certain creditors of BLY US and its direct or indirect subsidiaries own 60% or more, but less than 80%, of BLY (or New BLY Parent) pursuant to the application of the 7874 Regulations (and the Third Country Rule does not apply), BLY and New BLY Parent, if applicable, would be respected as non-US corporations but Section 7874 could apply to cause certain adverse US federal income tax consequences, as discussed above. The application of Section 7874 to the BLY Creditor Schemes and the Members' Scheme is subject to detailed regulations and administrative guidance, the application of which are uncertain in numerous respects. In addition, it is possible that certain current legislative proposals could change the manner in which the Section 7874 rules are applied, potentially with retroactive effect. No assurance can be given that the IRS would not take a contrary position regarding Section 7874's application to BLY (or New BLY Parent) or that such position, if asserted, would not be sustained. Accordingly, Secured Scheme Creditors and Unsecured Scheme Creditors are urged to consult their own tax advisors regarding Section 7874's potential application to the BLY Creditor Schemes and the Members' Scheme.

## **2.10 Ineligible Persons**

No action has been taken to register or qualify the Creditor Schemes Transaction Securities or otherwise permit a public offer of such securities in any jurisdiction outside Australia.

Based on the information available to BLY, the Secured Scheme Creditors and Unsecured Scheme Creditors whose addresses are in the following jurisdictions will be entitled to have the relevant Creditor Schemes Transaction Securities issued to them under the BLY Creditor Schemes subject to any qualifications set out below in respect of that jurisdiction:

- (a) Australia;
- (b) Bermuda;
- (c) Canada;
- (d) Cayman Islands;

- (e) Ireland, where (i) Secured Scheme Creditors and Unsecured Scheme Creditors are "qualified investors" (as defined in Article 2(e) of the Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union) or (ii) the number of other Secured Scheme Creditors and Unsecured Scheme Creditors is less than 150;
- (f) Italy, where (i) Secured Scheme Creditors and Unsecured Scheme Creditors are "qualified investors" (as defined in Article 2(e) of the Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union) or (ii) the number of other Lenders is less than 150;
- (g) Netherlands, where (i) Secured Scheme Creditors and Unsecured Scheme Creditors are "qualified investors" (as defined in Article 2(e) of the Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union) or (ii) the number of other Secured Scheme Creditors and Unsecured Scheme Creditors is less than 150;
- (h) Switzerland;
- (i) United States; and
- (j) any other person or jurisdiction in respect of which BLY reasonably believes that it is not prohibited and not unduly onerous or impractical to issue Creditor Schemes Transaction Securities to a Secured Scheme Creditor or Unsecured Scheme Creditor with a registered address in such jurisdiction.

If you are located in a jurisdiction which is not listed above, or if you are located in a jurisdiction in which BLY considers it would be unlawful for BLY to make an offer of Shares or if applicable, New Warrants, to you in accordance with the laws of that jurisdiction, you may be classed as an 'Ineligible Person' for the purposes of the BLY Creditor Schemes. For further information in relation to how Ineligible Persons will be treated for the purposes of the BLY Creditor Schemes, please refer to section 8.5 of this Explanatory Statement.

## 2.11 Foreign jurisdiction disclaimers

**THIS EXPLANATORY STATEMENT AND THE BLY CREDITOR SCHEMES DO NOT CONSTITUTE AN OFFER OF CREDITOR SCHEMES TRANSACTION SECURITIES IN ANY JURISDICTION IN WHICH IT WOULD BE UNLAWFUL. THIS EXPLANATORY STATEMENT DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY ANY CREDITOR SCHEMES TRANSACTION SECURITIES. NONE OF THE CREDITOR SCHEMES TRANSACTION SECURITIES REFERRED TO IN THIS EXPLANATORY STATEMENT MAY BE SOLD, ISSUED OR TRANSFERRED IN ANY JURISDICTION IN CONTRAVENTION OF APPLICABLE LAW.**

This Explanatory Statement may not be distributed to any person in any country outside Australia except in respect of those jurisdictions described below and in the manner contemplated below.

### (a) United States

The relevant Creditor Schemes Transaction Securities proposed to be issued pursuant to the BLY Creditor Schemes will not be registered with the U.S. Securities and Exchange Commission (the **SEC**) under the U.S. Securities Act of 1933, as amended (the **U.S. Securities Act**) or the securities laws of any state or other jurisdiction unless expressly specified herein, and are being issued in reliance on certain exemptions from registration under the U.S. Securities Act. Consequently, neither these securities nor any interest or participation therein may be offered, sold, assigned, transferred, pledged, encumbered or otherwise disposed of in the U.S. or

to U.S. Persons (as defined in the U.S. Securities Act) unless an exemption from the registration requirement of the U.S. Securities Act is available.

(i) **Creditor Share Purchase Option, CSPO Shares and New Warrants**

The Creditor Share Purchase Option, Shares issued upon exercise of the Creditor Share Purchase Option (**CSPO Shares**) and New Warrants will be issued and delivered in reliance upon exemptions from the registration requirements of the U.S. Securities Act, including that provided by section 3(a)(10) of the U.S. Securities Act (Section 3(a)(10)). In order to qualify for the exemption from the registration requirements of the U.S. Securities Act provided by Section 3(a)(10), there must be a hearing on the fairness of the Unsecured Creditors' Scheme's terms and conditions to the holders, which all the holders are entitled to attend in person or through representatives to oppose the approval of the Unsecured Creditors' Scheme by the Court, and with respect to which notification will be given to all the holders. For the purpose of qualifying for the exemption from the registration requirements of the U.S. Securities Act provided by Section 3(a)(10), the Scheme Companies intend to rely on the Court's hearing to approve the Unsecured Creditors' Scheme.

In addition, any SUN Noteholder who is an Affiliate of the Scheme Companies at the time of or within 90 days prior to any resale of the CSPO Shares or the New Warrants will be subject to certain U.S. transfer restrictions relating to such securities. CSPO Shares and New Warrants may not be sold without registration under the U.S. Securities Act, except pursuant to an available exemption from the registration requirements of the U.S. Securities Act or in a transaction not subject to such requirements (including a transaction that satisfies the applicable requirements for resale outside of the United States pursuant to Regulation S). Persons who may be deemed to be Affiliates of the Scheme Companies include individuals who, or entities that, control directly or indirectly, or are controlled by or are under common control with the Scheme Companies and may include certain officers and directors of the Scheme Companies and the principal shareholders of the Scheme Companies. SUN Noteholders will be required to make their own determination of their Affiliate status and should consult their own legal advisers prior to any sale of the New Warrants.

(ii) **Warrant Shares**

In connection with the issue of the Warrant Shares upon the cash exercise of the relevant New Warrants, the relevant holder of the New Warrants will be required to confirm, by delivering a duly executed Representation Letter to the Scheme Companies (with their Exercise Notice), that the relevant holder is a person eligible to receive securities under the U.S. Securities Act and agree in writing to certain representations and covenants, amongst other things. If the confirmations required by the Representation Letter cannot be or are not given, the relevant holder will only be able to exercise their New Warrants as a cashless exercise. Accordingly:

- (A) all SUN Noteholders will be required to deliver a duly executed Representation Letter (with their Exercise Notice) as a condition to the cash exercise of their New Warrants and the issue of resulting Warrant Shares; and
- (B) subsequent holders of New Warrants (that is, those who are not SUN Noteholders) will also be required to deliver a duly executed

Representation Letter (with their Exercise Notice) on the cash exercise of New Warrants,

(together, the SUN Noteholders and subsequent holders of New Warrants described above are the **Applicable Warrant Holders**).

The Warrant Shares will be issued and delivered in reliance upon exemptions from the registration requirements of the U.S. Securities Act. The Warrant Shares to be issued upon cashless exercise will be issued in reliance upon the exemption from registration provided by Section 3(a)(9) of the U.S. Securities Act. The Warrant Shares to be issued upon cash exercise will be issued in the United States solely to persons where such a person is an institutional "accredited investor" (**Accredited Investor**) within the meaning of clauses (1), (2), (3), (7) or (8) of clause (a) of Rule 501 of Regulation D under the U.S. Securities Act (**Regulation D**) in reliance on Rule 506(c) of Regulation D. Outside the United States, the Warrant Shares to be issued upon cash exercise will be issued only in offshore transactions in reliance on Regulation S.

Upon issuance, the Warrant Shares to be issued upon cash exercise will be "restricted securities" (as defined by Rule 144(a)(3) under the U.S. Securities Act) and may not be offered, sold, pledged or otherwise transferred prior to the date that is one year after the later of (x) the date of original issue and (y) the last date on which either BLY or any affiliate of BLY was the owner of such shares (or any predecessor thereto) except (i) in an offshore transaction complying with Regulation S under the U.S. Securities Act, (ii) in the United States, to an Accredited Investor, (iii) pursuant to an exemption from registration under the Securities Act provided by Rule 144 (if applicable) or (iv) pursuant to an effective registration statement under the U.S. Securities Act, and in each of cases (i) through (iv) in accordance with any applicable securities laws of any state of the United States and any other jurisdiction. If at any time an offer, sale or transfer of Warrant Shares is made other than in the ordinary course on ASX where the seller has no reason to know the sale has been prearranged with a person in the United States or a U.S. Person, the holder will and each subsequent holder is required to, notify any purchaser of the Warrant Shares of the resale restrictions set forth in this paragraph.

The Directors of the Scheme Companies understand that none of the Creditor Schemes Transaction Securities will be listed on a U.S. securities exchange, with any securities regulatory authority of any State or other jurisdiction of the United States or with any inter dealer quotation system in the United States. The Scheme Companies do not intend to take action to facilitate a market in any of the Creditor Schemes Transaction Securities in the United States. Consequently, the Scheme Companies believe that it is unlikely that an active trading market in the United States will develop for any such securities.

Neither the SEC nor any U.S. federal, state or other securities commission or regulatory authority has registered, approved or disapproved any of the Creditor Schemes Transaction Securities or passed upon the accuracy or adequacy of this Explanatory Statement. Any representation to the contrary is a criminal offence in the United States.

Secured Scheme Creditors and Unsecured Scheme Creditors should consult their own legal, financial and tax advisers with respect to the legal, financial and tax consequences of the Secured Creditors' Scheme and Unsecured Creditors' Scheme (as applicable) in their particular circumstances.

The issuance of the Creditor Schemes Transaction Securities to the Secured Scheme Creditors and Unsecured Scheme Creditors (as explained in detail in this Explanatory Statement) relates to the issuance of shares and warrants in an Australian company and is proposed to be made by and pursuant to a scheme of arrangement under Australian company law. Accordingly, the BLY Creditor Schemes are subject to the disclosure requirements, rules and practices applicable to Australian schemes of arrangement and the information in this Explanatory Statement is not the same as that which would have been disclosed if the Explanatory Statement had been prepared for the purposes of complying with the registration requirements of the U.S. Securities Act or in accordance with the laws or regulations of any other jurisdiction. Financial information regarding the Scheme Companies referred to in this Explanatory Statement has been or will have been prepared in accordance with Australian accounting standards that may not be comparable to the accounting standards applicable to financial statements of U.S. companies or companies whose financial statements are prepared in accordance with generally accepted accounting principles in the United States.

It may be difficult for Secured Scheme Creditors and the Unsecured Scheme Creditors in the United States to enforce their rights and claims arising out of U.S. federal securities laws against officers and directors of the Scheme Companies who are residents of countries other than the United States, and it may not be possible to sue the Scheme Companies in a non U.S. court for violations of U.S. securities laws.

(b) **Bermuda**

No offer or invitation to subscribe for the Creditor Schemes Transaction Securities may be made to the public in Bermuda. No invitation is being made to persons resident in Bermuda for exchange control purposes to subscribe for the Creditor Schemes Transaction Securities.

(c) **Canada**

No prospectus has been filed with any securities commission or similar authority in Canada in connection with the issuance of the Creditor Schemes Transaction Securities. In addition, no securities commission or similar authority in Canada has reviewed or in any way passed upon this document or the merits of the securities described herein, and any representation to the contrary is an offence under applicable Canadian securities laws.

The issuance of Creditor Schemes Transaction Securities pursuant to the BLY Creditor Schemes may be exempt from the prospectus requirements under applicable Canadian securities legislation. As a consequence of this exemption, certain protections, rights and remedies provided by Canadian securities legislation, including statutory rights of rescission or damages, will not be available in respect of such Creditor Schemes Transaction Securities to be issued in connection with the BLY Creditor Schemes.

The Creditor Schemes Transaction Securities will be subject to restrictions on resale in Canada. BLY is not presently a "reporting issuer" as such term is defined under applicable Canadian securities legislation in any province or territory of Canada. Canadian investors are further advised that BLY is not required to file, and currently does not intend to file, a prospectus or similar document with any securities regulatory authority in Canada qualifying the issuance of the Creditor Schemes Transaction Securities to the public or otherwise in any province or territory of Canada. Accordingly, the Creditor Schemes Transaction Securities may be subject to

an indefinite hold period under applicable Canadian securities laws unless resales are made in accordance with applicable prospectus requirements or pursuant to an available exemption from such prospectus requirements. Canadian investors are advised to seek legal advice prior to any contemplated resale of any of the Creditor Schemes Transaction Securities.

It may be difficult for Secured Scheme Creditors and Unsecured Scheme Creditors in Canada to enforce their rights and claims arising out of Canadian provincial or territorial securities laws against officers and directors of BLY who are residents of countries other than Canada, and it may not be possible to sue BLY in a non-Canadian court for violations of Canadian securities laws.

(d) **Cayman Islands**

No offer or invitation to subscribe for the Creditor Schemes Transaction Securities may be made to the public in the Cayman Islands or from within the Cayman Islands.

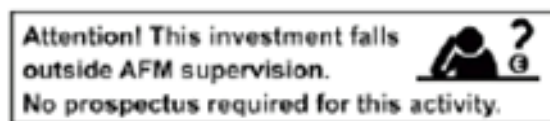
(e) **European Union (Ireland, Italy and Netherlands)**

This Explanatory Statement has not been, and will not be, registered with or approved by any securities regulator in the European Union. Accordingly, this Explanatory Statement may not be made available, nor may the Creditor Schemes Transaction Securities be offered for sale, in the European Union except in circumstances that do not require a prospectus under Article 1(4) of Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union (the **Prospectus Regulation**).

In accordance with Article 1(4) of the Prospectus Regulation, an offer of Creditor Schemes Transaction Securities in any member state of the European Union is limited:

- (i) to persons who are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation);
- (ii) to fewer than 150 natural or legal persons (other than qualified investors); or
- (iii) in any other circumstance falling within Article 1(4) of the Prospectus Regulation.

Investors in the Netherlands should note:



(f) **Switzerland**

The Creditor Schemes Transaction Securities may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange or on any other stock exchange or regulated trading facility in Switzerland. Neither this Explanatory Statement nor any other offering material relating to the Creditor Schemes Transaction Securities constitutes a prospectus or a similar notice as such terms are understood pursuant to art. 35 of the Swiss Financial Services Act (**FinSA**) or the listing rules of any stock exchange or regulated trading facility in Switzerland. Neither this Explanatory Statement nor any other offering material relating to the Creditor

Schemes Transaction Securities may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this Explanatory Statement nor any other offering material relating to the BLY Creditor Schemes or the Creditor Schemes Transaction Securities have been, or will be, filed with or approved by any Swiss regulatory authority or authorized review body. In particular, this Explanatory Statement will not be filed with, and the offer of Creditor Schemes Transaction Securities will not be supervised by, the Swiss Financial Market Supervisory Authority (**FINMA**).

This Explanatory Statement may be distributed in Switzerland only to existing Secured Scheme Creditors and Unsecured Scheme Creditors and is not for general circulation in Switzerland.

## 2.12 **Privacy**

The Chairperson, Ashurst, the Information Agent, the Scheme Administrators and the Scheme Companies may collect, use and disclose personal information in the process of implementing the BLY Creditor Schemes. This information may include the names, contact details, bank account details or other details of Secured Scheme Creditors and Unsecured Scheme Creditors and the names of persons appointed by Secured Scheme Creditors and Unsecured Scheme Creditors to act as proxy, corporate representative or attorney at the respective Scheme Meetings. The purposes for which this information is collected is to assist the Chairperson, Ashurst, the Information Agent, the Scheme Administrators and the Scheme Companies in the conduct of the Scheme Meetings and to enable the BLY Creditor Schemes to be implemented by the Scheme Administrators. If the BLY Creditor Schemes are approved by the Court, the Scheme Companies and the Information Agent will be required to disclose this personal information to the Scheme Administrators in implementing the BLY Creditor Schemes.

If this personal information is not collected, the Chairperson, Ashurst, the Information Agent, the Scheme Administrators and the Scheme Companies may be hindered in, or prevented from, conducting the Scheme Meetings and implementing the BLY Creditor Schemes.

Your personal information is usually disclosed to the Court, the Chairperson, Ashurst, the Information Agent, the Scheme Administrators, the Scheme Companies, third party service providers, professional advisers, ASIC, FIRB, ASX and other regulatory authorities and, in addition, where disclosure is required by law or where you have consented to the disclosure. Secured Scheme Creditors and Unsecured Scheme Creditors have the right to access personal information that has been collected about them and seek correction of such information. Secured Scheme Creditors and Unsecured Scheme Creditors should contact the Scheme Companies in the first instance about exercising that right.

BCM, BLY US and the Information Agent are located in the United States. You consent to this overseas disclosure of your personal information in participating in the BLY Creditor Schemes and in giving your consent, acknowledge that BLY, the other Schemes Companies and the Information Agent are not required to take such steps as are reasonable in the circumstances to ensure that the overseas recipient does not breach the Australian Privacy Principles under the *Privacy Act 1988* (Cth).

If you have questions regarding privacy or a complaint about how your personal information is handled, contact the Scheme Companies at the address below:

Attention: Nora Pincus  
Email: [nora.pincus@boartlongyear.com](mailto:nora.pincus@boartlongyear.com)  
Boart Longyear Limited  
26 Butler Boulevard  
Burbridge Business Park  
Adelaide Airport,  
South Australia 5950  
AUSTRALIA

It is the responsibility of Secured Scheme Creditors and Unsecured Scheme Creditors who appoint a named person to act as their proxy or attorney at the Scheme Meetings to inform their proxy or attorney of the matters outlined above.

#### 2.13 **Documents available for inspection**

Documents referred to in this Explanatory Statement that are not reproduced in the Annexures to this Explanatory Statement or have not otherwise been provided to Secured Scheme Creditors or Unsecured Scheme Creditors will be made available for inspection by Secured Scheme Creditors and Unsecured Scheme Creditors upon request.

To request access, contact the Scheme Companies at the address below:

Boart Longyear Limited  
26 Butler Boulevard  
Burbridge Business Park  
Adelaide Airport,  
Adelaide South Australia 5950  
AUSTRALIA

To the extent that documents referred to in this Explanatory Statement are confidential to the Scheme Companies, other members of the Group or third parties, or if the Scheme Companies cannot legally disclose such documents, the Scheme Companies reserve the right:

- (a) not to make such documents available for inspection; or
- (b) to make only masked copies of, or extracts from, such documents available for inspection.

#### 2.14 **Detailed disclosure relating to the Notice of EGM Meeting**

As discussed in further detail at section 8.2 of this Explanatory Statement, the implementation of both BLY Creditor Schemes is subject to the prior satisfaction of various conditions precedent. One of the conditions precedent to the BLY Creditor Schemes is that at or before 8.00 am on the Second Court Date, each of the Shareholder Resolutions are passed by the requisite majorities of BLY Shareholders.

BLY Shareholders will consider and vote on the Shareholder Resolutions, amongst other matters, at the Shareholder Meeting.

Further information relating to the Shareholder Meeting is set out in the Notice of EGM Meeting, released to the ASX on or about the date of this Explanatory Statement, a copy of which is available at "<http://www.boartlongyear.com>".



## 2.15 Consents and disclaimers in respect of the Explanatory Statement

The following persons have given and have not, before the date of this Explanatory Statement, withdrawn their written consent to:

- (a) be named in this Explanatory Statement in the form and context that they are named;
- (b) the inclusion of their respective reports or of statements noted next to their names and the references to those reports or statements in the form and context in which they are included in this Explanatory Statement; and
- (c) the inclusion of other statements in this Explanatory Statement which are based on, or referable to, statements made in those reports or statements, or which are based on or referable to other statements made by those persons in the form and context in which they are included.

Name of person	Named as
Ashurst	Australian legal counsel to BLY
FTI Consulting	Independent Expert in respect of the BLY Creditor Schemes and the Scheme Administrators
KPMG Corporate Finance	Independent Expert in respect of the dilution of BLY Shareholdings under the BLY Creditor Schemes

Each of the above persons:

- (a) has not authorised or caused the issue of this Explanatory Statement;
- (b) does not make, or purport to make, any statement in this Explanatory Statement or any statement on which a statement in this Explanatory Statement is based, other than those statements referred to above and as consented to by that person; and
- (c) to the maximum extent permitted by law, expressly disclaims all liability in respect of, makes no representation regarding, and takes no responsibility for, any part of this Explanatory Statement other than a reference to its name and the statement or report (if any) that has been included in this Explanatory Statement with the consent of that person as set out above.

## 2.16 Questions

If you have any questions in relation to:

- (a) the BLY Creditor Schemes;
- (b) the lodgement of TLA Proxy Forms, TLB Proxy Forms, TLA Proof of Debt Forms, TLB Proof of Debt Forms or SSN Account Holder Letters as a Secured Scheme Creditor; and/or
- (c) the lodgement of TLA Proxy Forms, TLB Proxy Forms, TLA Proof of Debt Forms, TLB Proof of Debt Forms, SSN Account Holder Letters or SUN Account Holder Letters as an Unsecured Scheme Creditor;

you are encouraged to contact the Information Agent at:

**Attention:** Boart Longyear Scheme Processing  
c/o Prime Clerk LLC  
One Grand Central Place  
60 East 42nd Street, Suite 1440  
New York, NY 10165

Email: [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)  
Toll-Free: (877) 965-7990  
Local/International: (929) 203-3308  
Scheme Website: [cases.primeclerk.com/boart2021](http://cases.primeclerk.com/boart2021)

### 3. KEY DATES AND STEPS

Event	Date
Voting Entitlement Record Date	3:00 pm (Sydney) 2 August 2021
Deadline for receipt of SSN Account Holder Letters, SUN Account Holder Letters, TLA Proof of Debt Forms, TLA Proxy Forms, TLB Proof of Debt Forms and TLB Proxy Forms	4.00 pm 25 August 2021 (New York City Time)
Secured Creditors' Scheme Meeting of all Secured Scheme Creditors	10.30 am 31 August 2021 (Sydney Time)
Unsecured Creditors' Scheme Meeting of all Unsecured Scheme Creditors	11.30 am 31 August 2021 (Sydney Time)
Second Court Date	16 September 2021
Scheme Consideration Election Window	<p>Being the period on and from the date which is notified by BLY as the date being at least five (5) Business Days prior to the Scheme Effective Date in both BLY Creditor Schemes up to (but not including) the Scheme Effective Date in both BLY Creditor Schemes.</p> <p>The Scheme Companies currently anticipate that the Scheme Effective Date for both BLY Creditor Schemes will be 17 September 2021.</p>
Lodgement of Second Court Orders with ASIC	The Scheme Companies currently anticipate lodging Second Court Orders with ASIC on 17 September 2021.
Creditors' Scheme Implementation Date	<p>Being the date notified by the Scheme Administrators pursuant to the Restructuring Implementation Deed. As at the date of this Explanatory Statement, it is anticipated that the Creditors' Scheme Implementation Date will be on or about 23 September 2021.</p>

#### NOTE

All dates and times referred to in this Explanatory Statement and the documents attached to it are to times in Sydney, Australia except where otherwise stated. The dates set out in the above table are indicative only and may be subject to change. The Scheme Companies reserve the right to vary the times and dates set out above, subject to the Corporations Act and the approval of any variations by the Court or ASIC where required.

Secured Scheme Creditors and Unsecured Scheme Creditors are encouraged to take the following steps in advance of the Secured Creditors' Scheme Meeting or Unsecured Creditors' Scheme Meeting (as applicable):

(a) **Read this Explanatory Statement in full**

The Scheme Companies encourage you to take professional advice, and to consult with your professional advisers, when making any decisions in connection with the Secured Creditors' Scheme or Unsecured Creditors' Scheme as applicable to you.

(b) **Consider attending and voting at the Secured Creditors' Scheme Meeting or Unsecured Creditors' Scheme Meeting as applicable to you**

See section 12 for detailed information in relation to the Secured Creditors' Scheme Meeting and Unsecured Creditors' Scheme Meeting.

#### **4. OVERVIEW OF EXPLANATORY STATEMENT AND BACKGROUND TO THE BLY CREDITOR SCHEMES**

##### **4.1 Why you are receiving this Explanatory Statement**

This Explanatory Statement contains information about the proposed BLY Creditor Schemes and is required by section 412(1) of the Corporations Act to be issued together with each Notice of Secured Creditors' Scheme Meeting issued to a Secured Scheme Creditor and each Notice of Unsecured Creditors' Scheme Meeting issued to an Unsecured Scheme Creditor.

You have been sent this Explanatory Statement because, according to the records of the Scheme Companies as at the Voting Entitlement Record Date, you are either a Secured Scheme Creditor, an Unsecured Scheme Creditor, or both.

Receipt of this Explanatory Statement does not amount to confirmation that you have a valid claim against or are owed any amount by the Scheme Companies.

##### **For Secured Scheme Creditors**

If you are a Secured Scheme Creditor as at the Voting Entitlement Record Date (irrespective of whether or not you were a Secured Scheme Creditor as at the date of this Explanatory Statement), you will be eligible to vote at the Secured Creditors' Scheme Meeting provided that:

- (a) if you are a TLA Purchaser or TLB Purchaser:
  - (i) the Information Agent receives a completed TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable) from you by no later than 4.00 pm, 25 August 2021 (New York City Time); and
  - (ii) if you wish to vote by proxy, the Information Agent receives a TLA Proxy Form or TLB Proxy Form (as applicable) from you by 4.00 pm, 25 August 2021 (New York City Time); and
- (b) if you are a SSN Noteholder, the Information Agent receives a completed SSN Account Holder Letter from your Account Holder by no later than 4.00 pm, 25 August 2021 (New York City Time).

Additionally, if any Secured Scheme Creditor wishes to vote by attorney or corporate representative, such attorney or corporate representative should bring to the Secured Creditors' Scheme Meeting evidence of his or her appointment including authority under which the appointment was made.

The TLA Proof of Debt Form is set out in Annexure H, the TLB Proof of Debt Form is set out in Annexure J, the TLA Proxy Form is set out in Annexure G, the TLB Proxy Form is set out in Annexure I and the SSN Account Holder Letter is set out in Annexure K of this Explanatory Statement.

Further details of the Secured Creditors' Scheme Meeting, including the procedure for voting, can be found in section 12 of this Explanatory Statement.

Please note that in the event you are a Secured Scheme Creditor as at the Voting Entitlement Record Date, you will also be an Unsecured Scheme Creditor eligible to vote in relation to the Unsecured Creditors' Scheme at the Unsecured Creditors' Scheme Meeting, subject to the Information Agent receiving a completed TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter from you or on your behalf (as applicable). Further information relating to Unsecured Scheme Creditors and the Unsecured Creditors' Scheme Meeting is set out below in this section 4.1 of this Explanatory Statement.

Secured Scheme Creditors who wish to participate in the Creditor Share Purchase Option must return a TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter (as applicable) with the relevant section titled 'Creditor Share Purchase Option' completed, to the Information Agent by no later than 4.00 pm, 25 August 2021 (New York City Time).

#### **For Unsecured Scheme Creditors**

If you are an Unsecured Scheme Creditor as at the Voting Entitlement Record Date (irrespective of whether or not you were an Unsecured Scheme Creditor as at the date of this Explanatory Statement), you will be eligible to vote at the Unsecured Creditors' Scheme Meeting provided that:

- (a) if you are a TLA Purchaser or TLB Purchaser:
  - (i) the Information Agent receives a completed TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable) from you by no later than 4.00 pm, 25 August 2021 (New York City Time); and
  - (ii) if you wish to vote by proxy, the Information Agent receives a TLA Proxy Form or TLB Proxy Form (as applicable) from you by 4.00 pm, 25 August 2021 (New York City Time);
- (b) if you are a SSN Noteholder, the Information Agent receives a completed SSN Account Holder Letter from your Account Holder by no later than 4.00 pm, 25 August 2021 (New York City Time); and
- (c) if you are a SUN Noteholder, the Information Agent receives a completed SUN Account Holder Letter from your Account Holder by no later than 4.00 pm, 25 August 2021 (New York City Time).

Additionally, if any Unsecured Scheme Creditor wishes to vote by attorney or corporate representative, such attorney or corporate representative should bring to the Unsecured Creditors' Scheme Meeting evidence of his or her appointment including authority under which the appointment was made.

The TLA Proof of Debt Form is set out in Annexure H, the TLB Proof of Debt Form is set out in Annexure J, the TLA Proxy Form is set out in Annexure G, the TLB Proxy Form is set out in Annexure I, the SSN Account Holder Letter is set out in Annexure K and the SUN Account Holder Letter is set out in Annexure L of this Explanatory Statement.

Further details of the Unsecured Creditors' Scheme Meeting, including the procedure for voting, can be found in section 12 of this Explanatory Statement.

Please note that TLA Purchasers, TLB Purchasers and SSN Noteholders who are Unsecured Scheme Creditors as at the Voting Entitlement Record Date will also be Secured Scheme Creditors eligible to vote in relation to the Secured Creditors' Scheme at the Secured Creditors' Scheme Meeting, subject to the Information Agent receiving a completed TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter from you or on your behalf (as applicable). Further information relating to Secured Scheme Creditors and the Secured Creditors' Scheme Meeting is set out above in this section 4.1 of this Explanatory Statement.

Unsecured Scheme Creditors who wish to participate in the Creditor Share Purchase Option must return a TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) with the relevant section titled 'Creditor Share Purchase Option' completed, to the Information Agent by no later than 4.00 pm, 25 August 2021 (New York City Time).

#### 4.2 **Summary of the scheme procedure**

The proposed BLY Creditor Schemes are creditors' schemes of arrangement. A creditors' scheme of arrangement is a compromise or arrangement between a company or companies and its creditors (or any class of them) effected in accordance with Part 5.1 of the Corporations Act.

The resolution to agree to the scheme at the scheme meeting must be passed by a majority in number (more than 50%) of the scheme creditors who are present and voting at the scheme meeting (either in person or by proxy, corporate representative or attorney) being a majority whose admitted claims together amount to at least 75% of the debt owing to the scheme creditors present and voting at the scheme meeting (either in person or by proxy, corporate representative or attorney) (**Requisite Majority**). Admitted claims being the amount to which the scheme creditors' claims against the scheme proponent company are admitted by the chairperson for the purpose of voting at the scheme meeting.

If the scheme is agreed to by the Requisite Majority, in order to become effective, the scheme must then be approved by the Court at the Second Court Hearing. The Court may grant its approval subject to such alterations or conditions as it thinks fit. However, the scheme will not take any effect if any alterations the Court makes or the conditions the Court imposes change the substance of the scheme in any material respect.

If the scheme is approved by the Court, and the Second Court Orders are lodged with ASIC, then the scheme will become effective. Once all the conditions precedent (detailed in section 8.2 in respect of the Secured Creditors' Scheme and the Unsecured Creditors' Scheme below) set out in the scheme are satisfied, the steps to implement the scheme will be undertaken.

Once the scheme becomes effective, it will be binding upon the proponent companies and all scheme creditors, including those scheme creditors that did not vote in favour of the scheme, or those that did not attend, or vote at, the scheme meeting.

It will also be binding upon the parties who under the scheme sign a deed poll as a result of them each having signed a deed poll.

If, in the opinion of the scheme administrators, it is not possible to give effect to the scheme, each of the parties bound by the scheme are required to do all things reasonably necessary to put each other party in the position it would have been in if none of the steps under the scheme had occurred.

#### 4.3 **Why are the BLY Creditor Schemes being proposed?**

The Group's current capital structure exposes it to a variety of market, operational and liquidity risks. To address these risks, the Group sought to identify options available to it to make its capital structure more sustainable, including by addressing the debt maturities due to occur on 31 December 2022, the Group's high levels of debt and the Group's underlying financial performance.

The Group's high levels of debt have constrained the Group's ability to generate sufficient operating cashflows to cover interest payments and meet working capital requirements. The Group is poised through its business plans to capitalise on the natural resources industry entering an improved commodity cycle. However, the Group has been limited by its capacity to take on large contracts due to working capital shortages.

The BLY Creditor Schemes are being proposed to address the Group's over-levered balance sheet and high interest debt service costs by converting approximately US\$795 million, or approximately 85% of the Group's existing total debt and interest costs into 98.5% BLY's ordinary shares immediately after implementation of the BLY Creditor Schemes (before (1)

the issue of any Shares on the exercise of any New Warrants, Existing Warrants and Existing Options, (2) the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option, and (3) any buy-back of Shares under the Selective Buy-Back). This significant deleveraging will improve the Group's liquidity providing it with a sustainable capital structure and improved financial flexibility which is critical to supporting its operations, business plans and future growth.

#### 4.4 **Objects and purpose of the BLY Creditor Schemes**

The Recapitalisation Transactions, which includes the BLY Creditor Schemes, have been designed by the Group to achieve a comprehensive recapitalisation of the Group. The Recapitalisation Transactions will primarily be implemented by the Secured Creditor's Scheme and the Unsecured Creditors' Scheme, together with the Restructuring Support Agreement and the Restructuring Implementation Deed. The purpose of the Recapitalisation Transactions is to provide the Group with a more sustainable capital structure and improved financial flexibility.

The Recapitalisation Transactions will achieve this by:

- (a) substantially reducing the Group's levels of debt and its interest costs;
- (b) refinancing the Existing Backstop ABL and the Incremental Finance Facility;
- (c) giving BLY Shareholders the opportunity to further invest in the Group in accordance with the Share Purchase Plan, and, if the Members' Scheme to effect the re-domiciliation (described below) is approved, giving certain BLY Shareholders at their election the ability to discontinue their investment in accordance with the terms of the Selective Buy-Back; and
- (d) giving the Secured Scheme Creditors and Unsecured Scheme Creditors the opportunity to further invest in the Group in accordance with the Creditor Share Purchase Option.

The Recapitalisation Transactions are conditional on the BLY Creditor Schemes and the Shareholder Resolutions being approved by the requisite majority of creditors or BLY Shareholders (as applicable).

The steps to implement the Recapitalisation Transactions (including the BLY Creditor Schemes) are set out in the Restructuring Implementation Deed.

In summary, the Recapitalisation Transactions comprise:

- (a) the BLY Creditor Schemes explained in and annexed to this Explanatory Statement;
- (b) the Creditor Share Purchase Option (forming part of the BLY Creditor Schemes);
- (c) the refinancing of the Existing Backstop ABL and the Incremental Finance Facility pursuant to the Exit Financing Facility;
- (d) the Share Purchase Plan; and
- (e) the Share Consolidation.

BLY is also proposing the Selective Buy-Back which is conditional on the Members' Scheme Approval, BLY Shareholders passing the relevant Shareholder Resolution and the BLY Creditor Schemes becoming Effective.

The Recapitalisation Transactions are explained in more detail in section 6 below.



The Group is also pursuing a members' scheme of arrangement under the Corporations Act concurrently with the BLY Creditor Schemes and other Recapitalisation Transactions. The BLY Creditor Schemes and other Recapitalisation Transactions are not conditional on the approval or implementation of the Members' Scheme. The aim of the Members' Scheme is to re-domicile the ultimate holding company in the Group to Canada. Consequently, while Secured Scheme Creditors and Unsecured Scheme Creditors will initially receive Shares in BLY in exchange for their debt owed by the Scheme Companies as a result of implementing the BLY Creditor Schemes, if the Members' Scheme is duly approved, those Shares in BLY will be exchanged shortly thereafter for CDIs in respect of New BLY Parent. Whether or not the Shares in BLY issued to Secured Scheme Creditors and Unsecured Scheme Creditors in connection with the BLY Creditor Schemes will be exchanged for CDIs in respect of New BLY Parent will depend on whether: (a) the requisite majority of BLY Shareholders vote in favour of the Members' Scheme at a meeting of BLY Shareholders convened by Court order to implement the re-domiciliation to be effected by the Members' Scheme; and (b) the Members' Scheme is approved by the Court. The Members' Scheme and associated re-domiciliation is explained in more detail in Section 7 below.

#### 4.5 **Alternatives considered**

The Scheme Companies consider that the Recapitalisation Transactions, which include the BLY Creditor Schemes, will achieve the primary objectives of creating a more sustainable capital structure and increasing financial flexibility to allow the Scheme Companies to implement their business plan to take advantage of an anticipated increase in global mining activity.

The Scheme Companies are not considering, nor are they aware of any superior alternate proposals for either obtaining the necessary financing or reducing the existing debt and/or cash interest requirements of the Scheme Companies. During the course of preliminary negotiations, the Scheme Companies explored a range of potential options. The Scheme Companies' existing debt quantum and terms, as well as the respective rights of their existing creditors with respect to the Scheme Companies' assets, ultimately precluded additional loan options other than those already disclosed. The Scheme Companies consider that the only currently executable alternative to the BLY Creditor Schemes is insolvency filings, which would provide a significantly inferior outcome for the Secured Scheme Creditors, Unsecured Scheme Creditors, Shareholders of BLY and the Scheme Companies' other creditors and stakeholders.

In this regard, Ashurst, on behalf of the Scheme Companies, has engaged FTI Consulting to prepare the FTI Consulting Report which addresses, amongst other things, the expected dividends that would be respectively available to the Secured Scheme Creditors and Unsecured Scheme Creditors:

- (a) if the Scheme Companies were to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Corporations Act; and
- (b) if the BLY Creditor Schemes were put into effect as proposed.

Further details in relation to the FTI Consulting Report, including its conclusions, can be found in section 9 of this Explanatory Statement and a copy of the FTI Consulting Report is at Annexure C.

#### 4.6 **Secured Scheme Creditors and Unsecured Scheme Creditors should obtain advice**

The Scheme Companies are not in a position to make an assessment of the prospects of success of any individual Secured Scheme Creditor's Claims or Unsecured Scheme Creditors' Claims, or the quantum of recovery which may be available to individual Secured Scheme Creditors or Unsecured Scheme Creditors if the BLY Creditor Schemes do not proceed.

These are matters for each Secured Scheme Creditor and Unsecured Scheme Creditor to consider.

As the legal, financial and taxation consequences of the Secured Creditors' Scheme and Unsecured Creditors' Scheme may be different for each Secured Scheme Creditor and Unsecured Scheme Creditor respectively, professional legal, financial and taxation advice should be sought in relation to the Secured Creditors' Scheme and Unsecured Creditors' Scheme (as applicable).

#### 4.7 **Overview of the BLY Creditor Schemes**

##### **(a) The Secured Creditors' Scheme**

The principal objects and purposes of the Secured Creditors' Scheme are to fully equitise the Secured Debt which is payable by the Scheme Companies under the Term Loan A, Term Loan B and SSN Indenture and provide a release to the Scheme Companies in respect of their obligations relating to the Secured Debt under those facilities and, to the extent relevant, related securities and guarantees.

In exchange for such releases, the Secured Scheme Creditors will receive their respective proportions of the Secured Scheme Consideration (being the relevant proportion of New Common Equity), as summarised below.

The Secured Scheme Creditors will also have the option to subscribe for Shares under the Creditor Share Purchase Option at the CSPO Issue Price. The Creditor Share Purchase Option will be undertaken as an institutional placement and is intended to raise an amount up to the CSPO Cap Amount, as described in section 8.8 of this Explanatory Statement.

Section 8 of this Explanatory Statement contains detailed information on the terms of the Secured Creditors' Scheme. The Secured Creditors' Scheme itself is set out at Annexure A.

##### **(b) The Unsecured Creditors' Scheme**

The principal objects and purposes of the Unsecured Creditors' Scheme are to fully equitise the Unsecured Debt which is payable by the Scheme Companies under the Term Loan A, Term Loan B, SSN Indenture and SUN Indenture, and provide a release to the Scheme Companies in respect of their obligations relating to the Unsecured Debt under those facilities and, to the extent relevant, related securities and guarantees.

In exchange for such releases, the Unsecured Scheme Creditors will receive their respective proportions of the Unsecured Scheme Consideration (being the relevant portion of the New Common Equity and for those Unsecured Scheme Creditors who are also SUN Noteholders, the relevant proportion of New Warrants), as summarised below.

The Unsecured Scheme Creditors will also have the option to subscribe for Shares under the Creditor Share Purchase Option, as described in section 8.8 of this Explanatory Statement.

Section 8 of this Explanatory Statement contains detailed information on the terms of the Unsecured Creditors' Scheme. The Unsecured Creditors' Scheme itself is set out at Annexure B.

(c) **Secured Scheme Consideration and Unsecured Scheme Consideration**

As described in further detail in section 8.11 of this Explanatory Statement, if the BLY Creditor Schemes are implemented the Secured Scheme Creditors and Unsecured Scheme Creditors will be issued their pro rata share of the Secured Scheme Consideration and Unsecured Scheme Consideration (as applicable). A table showing the allocation of the New Common Equity by reference to the tranches of the Secured Debt and Unsecured Debt as at the RSA Date, and in accordance with the allocation principles summarised in section 8.3 is set out below.

<b>Debt tranche</b>	<b>Percentage of New Common Equity</b>
SSN Secured Debt	53.55%
TLA Secured Debt	15.00%
TLB Secured Debt	18.52%
<b>Sub-total</b>	<b>87.07%</b>
SSN Unsecured Debt	1.98%
SUN Debt	3.73%
TLA Unsecured Debt	3.32%
TLB Unsecured Debt	3.89%
<b>Sub-total</b>	<b>12.92%</b>

In addition, if an Unsecured Scheme Creditor is a SUN Noteholder, it will receive a pro rata share of the Total New Warrants, to be allocated in accordance with the principles set out in the Unsecured Creditors' Scheme as summarised in section 8.3 of this Explanatory Statement. The terms of the New Warrants are set out in Schedule 11 of the Unsecured Creditors' Scheme and the key terms are summarised as follows:

<b>Summary of terms of New Warrants</b>	
<b>Subscription Right</b>	<p>Each New Warrant will confer on its holder the right (but not the obligation) to subscribe for one Warrant Share, subject to any adjustment (set out below).</p> <p>A New Warrant will not confer any rights to dividends or to participate in any new issue of shares without exercising the New Warrant.</p> <p>Warrant Shares allotted and issued on the exercise of a New Warrant will rank <i>pari passu</i> in all respects (including as to dividends the entitlement to which is determined after allotment) with the then-issued shares and are subject to the Constitution.</p>

Summary of terms of New Warrants	
<b>Exercise Price</b>	AU\$2.79 (as adjusted in accordance with clause 6 of the New Warrant Deed Poll)
<b>Method of Exercise</b>	<p>Each New Warrant may be exercised at any time in the period after its issue to 5.00pm Sydney time on the date which is the 6th anniversary of the date of its issue (<b>Exercise Period</b>).</p> <p>Each New Warrant may be exercised at any time during the Exercise Period by delivering a duly completed Exercise Notice (accompanied, if New Warrant Certificates have been issued, by the New Warrant Certificate(s) for the New Warrants exercised), and if the New Warrant is exercised for cash, a Representation Letter, to BLY.</p>
<b>Adjustments</b>	<p>The terms of the New Warrants will be adjusted in the following circumstances (excluding any of the following circumstances which are triggered by the Implementation Steps set out in the Restructuring Implementation Deed):</p> <ul style="list-style-type: none"> <li>• <b>(pro-rata issues)</b> the Exercise Price will be reduced in accordance with the formula in the ASX Listing Rules;</li> <li>• <b>(bonus issues)</b> the number of Warrant Shares over which New Warrants will be exercisable will be increased by the number of Warrant Shares the holder would have received if the New Warrant had been exercised before the record date of the bonus issue;</li> <li>• <b>(reorganisation of capital)</b> the rights of the holder of the Warrant (and the Exercise Price) will be changed to the extent necessary to comply with the ASX Listing Rules applying to a reorganisation of capital;</li> <li>• <b>(distributions when BLY is not listed on the ASX)</b> if, at any time during the Exercise Period when BLY is not listed on the ASX, BLY fixes a record date for the payment of a distribution of any evidences of indebtedness, Shares or any other property of any nature whatsoever (including cash) or any options, warrants or other rights to subscribe for such property, to the holders of Shares (other than a dividend, a pro rata issue of Shares, a bonus issue of Shares or a corporate action which is a re-organisation of capital), the Exercise Price will be adjusted in accordance with a formula set out in the New Warrant Deed Poll;</li> <li>• <b>(change in capital)</b> on a change in capital, the rights of the holder of the New Warrant will be changed to reflect what the holder would have received if the New Warrant had been exercised prior to the record date for that change in capital.</li> </ul>
<b>Change of Control</b>	On a change of control transaction (which includes a sale of all or substantially all of the assets of BLY but excludes a public stock merger), BLY will cancel the New Warrants and pay the holder the

Summary of terms of New Warrants	
	<p>warrant value (determined in accordance with a Black-Scholes model) in cash.</p> <p>Where the change of control transaction is a public stock merger, BLY shall procure that the acquirer or successor entity shall assume the obligations of BLY and the warrant will become exercisable into the public stock except where the market capitalisation is less than US\$500 million where the New Warrant will be cancelled and the holder will be paid the warrant value in cash unless it elects for the New Warrant to remain on foot and become exercisable over the public stock.</p>
<b>Re-domiciliation</b>	<p>If BLY re-domiciles, the New Warrants will confer the right (but not the obligation) to acquire the securities or other property received in place of a Warrant Share as a result of the re-domiciling.</p> <p>In this regard, Secured Scheme Creditors and Unsecured Scheme Creditors should refer to section 7 of this Explanatory Statement.</p>
<b>Transfer</b>	<p>Subject to certain restrictions on transfer to U.S. Persons, the New Warrants may only be transferred in lots of not less than 100,000 New Warrants (except where the transfer is to effect a transfer by a New Warrant holder of all New Warrants held by that New Warrant holder, at BLY's discretion).</p> <p>Subject to compliance with the terms of the New Warrant Deed Poll, the New Warrants are transferrable without the prior written consent of BLY.</p>

(d) **Other creditors**

Neither the Secured Creditors' Scheme nor Unsecured Creditors' Scheme will effect unsecured trade creditors of the Scheme Companies or the other Obligors, or the secured or unsecured creditors of the Scheme Companies or the other Obligors, other than the Secured Scheme Creditors and Unsecured Scheme Creditors. Except to the extent set out above (and in more detail below) in relation to the directors and officers of the Scheme Companies, it will also have no effect on employees of the Scheme Companies or the other Obligors who, subject to ordinary course changes in employment arrangements, will continue their employment.

4.8 **Identity of the Secured Scheme Creditors and Unsecured Scheme Creditors**

**Secured Scheme Creditors**

The Secured Scheme Creditors of each of the Scheme Companies are identical and consist of:

- (a) the TLA Purchasers, in relation to the TLA Secured Debt, as creditors of BCM as the issuer under the Term Loan A, and the Scheme Companies (excluding BCM) as guarantors under the Term Loan A.
- (b) the TLB Purchasers, in relation to the TLB Secured Debt, as creditors of BCM as the issuer under the Term Loan B, and the Scheme Companies (excluding BCM) as guarantors under the Term Loan B.

- (c) the SSN Noteholders, in relation to the SSN Secured Debt, as creditors of BLY Issuer as issuer of the SSN Indenture Notes, and the Scheme Companies (excluding BLY Issuer) as guarantors under the SSN Indenture, who are the persons with a direct or indirect beneficial interest as principal in the SSN Indenture Notes and contingent creditors of the Scheme Companies as a result of their right (in certain circumstances) under the SSN Indenture to request that the Scheme Companies issue a definitive note in respect of their interest in the SSN Indenture Notes.

The SSN Notes Registered Holder (being DTC, the registered holder of the SSN Indenture Notes) and its nominee (being Cede & Co.) are also included as Secured Scheme Creditors in order to obtain the benefit of certain provisions of the Secured Creditors' Scheme and for technical reasons. As explained in further detail below at section 12.5(c) of this Explanatory Statement however, in order to avoid double counting of interests in the SSN Indenture Notes at the Secured Creditors' Scheme Meeting, the voting procedure will be based on Cede & Co., in its capacity as nominee of DTC, appointing the Account Holders as its proxies in respect of the amount of the SSN Indenture Notes shown on its records maintained in book-entry form as being held by them as at the Voting Entitlement Record Date.

### **Unsecured Scheme Creditors**

The Unsecured Scheme Creditors of each of the Scheme Companies are identical and consist of:

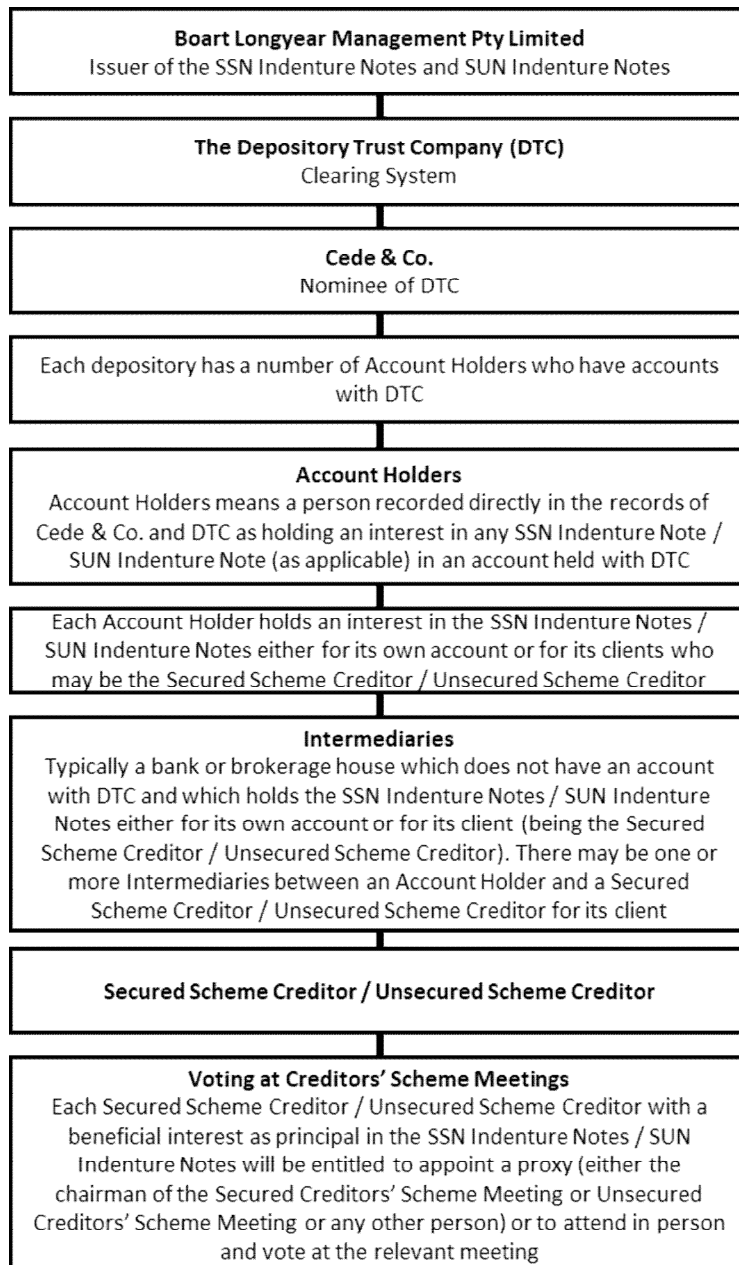
- (a) the TLA Purchasers, in relation to the TLA Unsecured Debt, as creditors of BCM as the issuer under the Term Loan A, and the Scheme Companies (excluding BCM) as guarantors under the Term Loan A.
- (b) the TLB Purchasers, in relation to the TLB Unsecured Debt, as creditors of BCM as the issuer under the Term Loan B, and the Scheme Companies (excluding BCM) as guarantors under the Term Loan B.
- (c) the SSN Noteholders, in relation to the SSN Unsecured Debt, as creditors of BLY Issuer as issuer of the SSN Indenture Notes, and the Scheme Companies (excluding BLY Issuer) as guarantors under the SSN Note Indenture, who are the persons with a direct or indirect beneficial interest as principal in the SSN Indenture Notes and contingent creditors of the Scheme Companies as a result of their right (in certain circumstances) under the SSN Indenture to request that the Scheme Companies issue a definitive note in respect of their interest in the SSN Indenture Notes.
- (d) the SUN Noteholders, in relation to the SUN Debt, as creditors of BLY Issuer as issuer of the SUN Indenture Notes, and the Scheme Companies (excluding BLY Issuer) as guarantors under the SUN Note Indenture, who are the persons with a direct or indirect beneficial interest as principal in the SUN Indenture Notes and contingent creditors of the Scheme Companies as a result of their right (in certain circumstances) under the SUN Indenture to request that the Scheme Companies issue a definitive note in respect of their interest in the SUN Indenture Notes.

The SSN Notes Registered Holder and SUN Notes Registered Holder (being DTC, the registered holder of the SSN Indenture Notes and the SUN Indenture Notes) and its nominee (being Cede & Co.) are also included as Unsecured Scheme Creditors in order to obtain the benefit of certain provisions of the Unsecured Creditors' Scheme and for technical reasons. As explained in further detail below at section 12.5(c) of this Explanatory Statement however, in order to avoid double counting of interests in the SSN Indenture Notes and the SUN Indenture Notes at the Unsecured Creditors' Scheme Meeting, the voting procedure will be based on Cede & Co., in its capacity as nominee of DTC, appointing the Account Holders as its proxies in respect of:

- (a) the amount of the SSN Indenture Notes shown on its records maintained in book-entry form as being held by them as at the Voting Entitlement Record Date; and
- (b) the amount of the SUN Indenture Notes shown on its records maintained in book-entry form as being held by them as at the Voting Entitlement Record Date.

#### 4.9 Holding structure of the SSN Indenture Notes and SUN Indenture Notes

Set out below a diagram representing the ownership structure of the SSN Indenture Notes and SUN Indenture Notes.



#### 4.10 Secured Debt

The Scheme Companies' financial arrangements with the Secured Scheme Creditors proposed to be affected by the Secured Creditors' Scheme are the Term Loan A, the Term

Loan B and the SSN Indenture. The amounts to be compromised under the Term Loan A, Term Loan B and SSN Indenture by the Secured Creditors' Scheme comprise the following:

- (a) amounts owing under the Term Loan A and Term Loan B up to the relevant Secured Debt Caps. Financial accommodation incurred under the Term Loan A and Term Loan B is secured, however amounts owing under the Term Loan A and Term Loan B are subject to respective Secured Debt Caps. The result of this is:
  - (i) under the Term Loan A, only:
    - (A) principal and accruing interest of up to US\$85,000,000; plus
    - (B) a pro rata portion of the "Secured Term Loan Interest Amount" (as defined in the SUN Indenture), which is currently calculated to be US\$0; and
  - (ii) under the Term Loan B:
    - (A) principal and accruing interest of up to US\$105,000,000; plus
    - (B) a pro rata portion of the "Secured Term Loan Interest Amount" (as defined in the SUN Indenture), which is currently calculated to be US\$0,

have the benefit of security. The remaining principal and accrued interest is unsecured, and is therefore Unsecured Debt.

- (b) amounts owing under the SSN Indenture, other than the SSN Applicable Premium, as described further below. The amounts owing under the SSN Indenture with the benefit of security include the principal and accreted interest.

As at 12 May 2021 (being the RSA Date), the Scheme Companies owed the following amounts to the Secured Scheme Creditors under the Creditors' Schemes Finance Documents:

- (a) **(Term Loan A)** The amount of US\$85,000,000, being principal and accreted/accrued interest up to the limit of the relevant Secured Debt Cap owing to the TLA Purchasers under the existing terms of the Term Loan A.
- (b) **(Term Loan B)** The amount of US\$105,000,000, being principal and accreted/accrued interest up to the limit of the relevant Secured Debt Cap owing to the TLB Purchasers under the existing terms of the Term Loan B.
- (c) **(SSN Indenture)** The amount of US\$303,567,773.87, being principal plus accreted interest comprising US\$302,909,840.93 (owing to core SSN Noteholders who consented to the amendment to the SSN Indenture in June 2020) and US\$657,932.94 (owing to stub SSN Noteholders who did not consent to the amendment to the SSN Indenture in June 2020).

A list which provides the names of all known Secured Scheme Creditors as at 12 May 2021 and the Secured Debt owed to those Secured Scheme Creditors is set out in Annexure M to this Explanatory Statement.

The relevant details of all known Secured Scheme Creditors as required by paragraphs 8201(c), (d), and (e) of Schedule 8 of the Corporations Regulations is set out at Annexure M to this Explanatory Statement.



#### 4.11 Unsecured Debt

The Scheme Companies' financial arrangements with the Unsecured Scheme Creditors proposed to be affected by the Unsecured Creditors' Scheme are the Term Loan A, the Term Loan B, the SSN Indenture and the SUN Indenture. The amounts to be compromised under the Term Loan A, Term Loan B, SSN Indenture and SUN Indenture by the Unsecured Creditors' Scheme comprise the following:

- (a) amounts owing under the Term Loan A and Term Loan B exceeding the relevant Secured Debt Caps.
- (b) SSN Applicable Premium owing in respect of the SSN Indenture. Pursuant to the SSN Indenture, a premium (the SSN Applicable Premium) is payable on redemption of the SSN Indenture Notes, following acceleration of the SSN Indenture Notes and following various asset sales specified under the SSN Indenture. The SSN Applicable Premium does not have the benefit of security.
- (c) all amounts owing under the SUN Indenture. It is also noted that the SUN Indenture was amended on 31 August 2017 (under the "Fourth Supplemental Indenture" to the SUN Indenture) to introduce a subordination provision which stipulates that the payment of all obligations owing under the SUN Indenture is contractually subordinated to the prior payment in full of the SUN Designated Senior Indebtedness. SUN Designated Senior Indebtedness is defined in the SUN Indenture as all amounts owing under the Term Loan A, Term Loan B and SSN Indenture. Consequently, all claims under the SUN Indenture are contractually subordinated to all claims under each of the Term Loan A, Term Loan B and SSN Indenture, including claims that are unsecured.

As at 12 May 2021 (being the RSA Date), the Scheme Companies owed the following amounts to Unsecured Scheme Creditors under the Creditors' Schemes Finance Documents:

- (a) **(Term Loan A)** Unsecured accreted/capitalised interest on the principal beyond the Secured Debt Cap in the amount of US\$75,336,984.87 owing to the TLA Purchasers under the existing terms of the Term Loan A.
- (b) **(Term Loan B)** Unsecured accreted/capitalised interest on the principal beyond the Secured Debt Cap in the amount of US\$88,285,306.60 owing to the TLB Purchasers under the existing terms of the Term Loan B.
- (c) **(SSN Indenture)** SSN Applicable Premium in the amount of US\$44,924,586.44 owing under the terms of the SSN Indenture, comprising US\$44,830,656.46 (owing to core SSN Noteholders who consented to the amendment to the SSN Indenture in June 2020) and US\$93,929.98 (owing to stub SSN Noteholders who did not consent to the amendment to the SSN Indenture in June 2020).
- (d) **(SUN Indenture)** Principal and interest of US\$93,944,522.71 owing under the terms of the SUN Indenture.

A list which provides the names of all known Unsecured Scheme Creditors as at 12 May 2021 and the Unsecured Debt owed to those Unsecured Scheme Creditors is set out in Annexure N to this Explanatory Statement.

The relevant details of all known Unsecured Scheme Creditors as required by paragraphs 8201(c), (d), and (e) of Schedule 8 of the Corporations Regulations is set out at Annexure N to this Explanatory Statement.

4.12 **Scheme Creditors who are known to be a guaranteed creditor**

Each Secured Scheme Creditor and each Unsecured Scheme Creditor is considered to be a "guaranteed creditor" of the Scheme Companies for the purposes of Schedule 8, clause 8201(d) of the Corporations Regulations (being a creditor that is the beneficiary of a guarantee given by an Obligor pursuant to the Term Loan A, Term Loan B, SSN Indenture and/or SUN Indenture (as applicable)).

4.13 **Scheme Creditors who are known to be an internal creditor**

There are no Secured Scheme Creditors or Unsecured Scheme Creditors who are considered to be an "internal creditor" for the purposes of Schedule 8, clause 8201(e) of the Corporations Regulations.

## 5. TRANSACTIONS LEADING UP TO THE BLY CREDITOR SCHEMES

### 5.1 Restructuring Support Agreement

On 12 May 2021, the Scheme Companies, the Obligors, certain of the Secured Scheme Creditors (who held, as at 12 May 2021, in aggregate, 99.8% of the Secured Debt) and certain of the Unsecured Scheme Creditors (who held, as at 12 May 2021, in aggregate, 98.1% of the Unsecured Debt) entered into the Restructuring Support Agreement. Pursuant to the terms of the Restructuring Support Agreement, the Scheme Companies and the "Supporting Creditors" (being those creditors who agreed to the Restructuring Support Agreement) agree, amongst other things, to support, facilitate, implement and consummate the RSA Transactions, provided that nothing in the Restructuring Support Agreement requires any party to it to vote in favour of the Members' Scheme.

The Restructuring Support Agreement is appended to an ASX announcement released by BLY on 13 May 2021 entitled "Boart Longyear Completes Strategic Review; Reaches Agreement with Majority of Lenders for Proposed Substantial Recapitalisation", which is extracted in Annexure O of this Explanatory Statement.

On or about 27 July 2021, the parties entered into an amendment to the Restructuring Support Agreement (the **First Amendment to the RSA**). In general terms, the purpose of the First Amendment clarified the commercial understanding between the parties as to the meaning of Total New Warrants as that concept is defined in this Explanatory Statement and the Unsecured Creditors' Scheme.

Section 5.2 of this Explanatory Statement below summarises the terms in the Restructuring Support Agreement related to exclusivity obligations. Secured Scheme Creditors and Unsecured Scheme Creditors are encouraged to review and consider the terms of the Restructuring Support Agreement in full.

### 5.2 Exclusivity

BLY and the Group are required to comply with certain exclusivity obligations under the Restructuring Support Agreement, for the duration of an exclusivity period (commencing at the time of the execution of the RSA by all parties to it, and ending on the earlier of the completion of the RSA Transactions, the termination of the RSA, or the RSA Longstop Date), including:

- (a) **No shop restriction** – the Group must ensure that neither it, nor any of its related entities, directly or indirectly solicit, invite, encourage or initiate any enquiries, proposals, negotiations or discussions (or communicate any intention to do any of these things) with a view to obtaining any expression of interest, offer or proposal from any other person in relation to a Competing Proposal or potential Competing Proposal;
- (b) **Notification** – if any member of the Group is approached in relation to a Competing Proposal or proposes to provide any material non-public information concerning the Group or its business or operations to a third party to enable that party to make a Competing Proposal, BLY shall:
  - (i) provide the Supporting Creditors with details of the Competing Proposal including the name of the party proposing the Competing Proposal and the nature of the Competing Proposal;
  - (ii) provide the Supporting Creditors the proposed terms of the Competing Proposal, except to the extent the BLY Board determines, after receiving specific legal advice from BLY's Counsel, that providing such information would reasonably be expected to constitute a breach of:

- (A) the BLY's board fiduciary or statutory duties under applicable law;
- (B) its contractual obligations, provided that BLY shall not enter any contractual obligations that would restrict providing such information;
- (iii) to the extent that the Initial Supporting Creditors have not previously been provided with the information, provide notice that such information has been provided to a third party and, if requested, provide any Supporting Creditor that so requests with a complete copy of that information promptly following such request;
- (c) **Matching right** - if BLY determines that a Competing Proposal is a Superior Proposal, BLY will provide the Supporting Creditors with details of the Competing Proposal that is a Superior Proposal. In this situation, the Restructuring Support Agreement stipulates that the Supporting Creditors will have the right, but not the obligation, until the expiration of five Business Days of receiving the information to make one or more offers to BLY in writing to amend the terms of the Restructuring Support Agreement or propose any other transaction (a **Counterproposal**).

If the Supporting Creditors make a Counterproposal, then the BLY Board must review the Counterproposal in good faith to determine whether it is more favourable to BLY than the Superior Proposal. If the BLY Board determines that the Counterproposal is more favourable to BLY, BLY Shareholders and unsecured creditors of BLY than the Superior Proposal, and is capable of being implemented in a reasonable time, then:

- (i) if the Supporting Creditors contemplate an amendment to the Restructuring Support Agreement, the parties will enter into an amending deed amending the Restructuring Support Agreement reflecting the Counterproposal;
- (ii) if the Counterproposal contemplates any other transaction, BLY will make an announcement as soon as practicable recommending the Counterproposal, in the absence of a Superior Proposal and, if required, subject to the conclusions of an independent expert, and the parties will pursue implementation of the Counterproposal in good faith with their best endeavours; and
- (iii) BLY will effect a change of recommendation of the BLY Board in relation to the transaction and will not authorise or enter into any letter of intention, memorandum of understanding, recapitalisation agreement or other agreement, arrangement or understanding relating to (or consummate) such former Superior Proposal.

As at the date of this Explanatory Statement, no Counterproposal has been made to BLY.

### 5.3 **Reimbursement of costs and expenses of CBP and the Ad Hoc Group**

BLY agrees to pay in cash, on a monthly basis for the period from the date of execution of the Restructuring Support Agreement and ending on the earlier of the completion of the RSA Transactions, the termination of the RSA, or the RSA Longstop Date, all reasonable costs and out of pocket expenses relating to the RSA Transactions incurred by CBP and the Ad Hoc Group.

### 5.4 **Incremental Finance Facility**

On 11 May 2021, BLY Issuer entered into a binding commitment letter with various lenders affiliated with each of Corre, FPA and Nut Tree regarding the provision of debt financing in an aggregate maximum amount of US\$50,000,000. BLY announced that it had entered into

the binding commitment letter on the ASX on 13 May 2021. Each of Corre, FPA and Nut Tree is a member of the Ad Hoc Group.

On 1 June 2021, BLY Issuer and BLY, amongst other members of the Group, and affiliates of each of Corre, FPA and Nut Tree, amongst others, entered into a Term Loan Securities Agreement (**Incremental Finance Facility Agreement**) and related finance documents as contemplated by the binding commitment letter.

The purpose of the Incremental Finance Facility Agreement is to provide working capital and other general corporate purposes which will support the Group whilst the Recapitalisation Transactions are being pursued and then implemented. As at 30 June 2021, US\$30,000,000 had been drawn under the Incremental Finance Facility Agreement.

The material terms of the Incremental Finance Facility Agreement are as follows:

- (a) (**commitment**) a commitment of US\$50,000,000 in aggregate principal amount (noting that US\$30,000,000 of that amount had already been drawn under the facility as at 30 June 2021);
- (b) (**collateral**) the obligations under the Incremental Finance Facility Agreement are guaranteed by the same obligors as the Existing Backstop ABL and is secured by the same collateral as the Existing Backstop ABL;
- (c) (**priority**) the Incremental Finance Facility is:
  - (i) regarding working capital assets subject to the security, second ranking (pari passu with the Existing Backstop ABL); and
  - (ii) regarding non-working capital assets subject to the security, first ranking (pari passu with the small number of SSN Noteholders that did not consent to the Incremental Finance Facility Agreement being entered into);
- (d) (**maturity date**) 31 December 2021;
- (e) (**interest rate**) interest will accrue on drawings under the Incremental Finance Facility Agreement at the rate of either:
  - (i) to the extent BLY Issuer elects to pay in cash, 10% per annum payable monthly in arrears; or
  - (ii) otherwise, 11% per annum with such amounts being capitalised and added to the principal monthly in arrears; and
- (f) (**commitment fee**) an undrawn commitment fee accrues on the undrawn commitment under the Incremental Finance Facility Agreement at the rate of 1.50% per annum and is either:
  - (i) to the extent BLY Issuer elects to pay in cash, payable monthly in arrears; or
  - (ii) otherwise, will be capitalised and added to the principal monthly in arrears; and
- (g) (**other terms and conditions**) the Incremental Finance Facility Agreement includes other customary terms and conditions, including customary covenants and events of default that are substantially the same as those in the Existing Backstop ABL.

As discussed at section 6.1 of this Explanatory Statement, prior to settlement of the other Recapitalisation Transactions, the Group expects to enter into the Exit Financing Facility in

order to fully refinance the Incremental Finance Facility (as well as the Existing Backstop ABL).

## 5.5 Amendments to Existing PNC ABL

On 12 May 2021, BLY Issuer and PNC Bank, National Association, as lender and agent, entered into the Seventh Amendment to the Amended and Restated Revolving Credit and Security Agreement to amend the Existing PNC ABL<sup>1</sup> (**2021 Existing PNC ABL Amendment**).

The 2021 Existing PNC ABL Amendment came into effect on 12 May 2021, which amended the Existing PNC ABL to:

- (a) **(liquidity)** (i) allow full access to the US\$75,000,000 revolver and release the US\$10,000,000 block to the current revolver limit and (ii) increase borrowing base (a) unbilled accounts receivable sub-limit from US\$10,000,000 to US\$15,000,000, (b) accounts receivable advance rate from 85% to 90% until the earliest of implementation under the RSA, completion of an Exit Financing Facility or 30 September 2021 and (c) cap on advance rate on inventory to 65%;
- (b) **(maturity)** subject to certain conditions including that an Exit Financing Facility has been made available to the Group on or before 30 September 2021, extend the term to 12 May 2025; and
- (c) **(Incremental Finance Facility Agreement)** make necessary amendments to permit the Group to incur indebtedness under the Incremental Finance Facility Agreement and to incur indebtedness under an Exit Financing Facility.

## 5.6 Amendments to Creditors' Schemes Finance Documents

On 1 June 2021, relevant members of the Group and relevant finance parties entered into documentation to amend each of the Existing Backstop ABL, Term Loan A, Term Loan B, SSN Indenture and SUN Indenture.

The relevant finance parties also consented to amendments to each intercreditor agreement in respect of the Existing PNC ABL, the Existing Backstop ABL, the Term Loan A, the Term Loan B and the SSN Indenture.

The material changes effected under the amendments to those documents are as follows:

- (a) to permit the Group to incur indebtedness under the Incremental Finance Facility Agreement;
- (b) to provide the finance parties under the Incremental Finance Facility Agreement with the benefit of security interests in the relevant collateral; and
- (c) to place the finance parties under the Incremental Finance Facility Agreement in the position in the Group's intercreditor and collateral waterfall arrangements to reflect the commercial intention reached between the Group and its creditors.

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<sup>1</sup> The Existing PNC ABL is an asset-based revolving bank credit facility agreement that was originally entered into in 2015 between, amongst others, BLY Issuer as borrower, other members of the Group and PNC Bank, National Association (as lender and agent) and which has been amended from time to time including around the time of the 2017 Schemes.

## 5.7 **Existing Backstop ABL**

On 23 July 2017, BLY Issuer, as issuer, other members of the Group, Ascribe and relevant affiliates of Centerbridge and Ares, entered into the Existing Backstop ABL.

The Existing Backstop ABL is a term loan securities agreement that was originally entered into around the time of the 2017 Schemes and which has subsequently been amended from time to time.

As at 30 June 2021, the Group owed US\$62,371,569.65 (being principal and interest) pursuant to the Existing Backstop ABL.

As discussed at section 6.1 of this Explanatory Statement, prior to settlement of the other Recapitalisation Transactions, the Group expects to enter into the Exit Financing Facility in order to fully refinance the Existing Backstop ABL (as well as the Incremental Finance Facility) on the Creditors' Scheme Implementation Date.

## 6. **RECAPITALISATION TRANSACTIONS AND OTHER PROPOSED ARRANGEMENTS RELATED TO THE RESTRUCTURING**

Set out below is a summary of the Recapitalisation Transactions being proposed by BLY and other members of the Group. There are six elements to the Recapitalisation Transactions. These are the Secured Creditors' Scheme and the Unsecured Creditors' Scheme (which both include the Creditor Share Purchase Option), the Exit Financing Facility, the Share Purchase Plan and the Share Consolidation. Each of these elements (with the exception of the Share Consolidation) will be implemented in accordance with the terms of the Restructuring Implementation Deed. BLY is also proposing the Selective Buy-Back.

Each Recapitalisation Transaction, other than the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditor Share Purchase Option, is explained in more detail in this section below. The Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditor Share Purchase Option are explained in more detail below in section 8 of this Explanatory Statement.

### 6.1 **Exit Financing Facility**

Prior to settlement of the other Recapitalisation Transactions, the Group expects to secure a long term new money investment to fully refinance the Existing Backstop ABL and the Incremental Finance Facility, in the form of the Exit Financing Facility.

In this regard, on 19 July 2021 (Salt Lake City) BLY entered into a binding commitment letter in relation to the Exit Financing Facility with Blue Torch Capital LP and HPS Investment Partners, LLC.

As at the date of this Explanatory Statement, it is proposed that BLY US Holdings Inc. (or another Group member) as borrower, and other Group members as guarantors, will enter into the Exit Financing Facility to fully refinance the Existing Backstop ABL and the Incremental Finance Facility. The Exit Financing Facility will take the form of a five year term loan facility with a total commitment of US\$115,000,000.

The Exit Financing Facility will be drawn to refinance the Existing Backstop ABL and the Incremental Finance Facility on the Creditors' Scheme Implementation Date (as illustrated below at section 6.6).

It is a condition precedent to both BLY Creditor Schemes that as at 8.00 am on the Second Court Date, the credit agreement for the Exit Financing Facility has been duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility have been satisfied, other than any conditions relating to:

- (a) the Secured Creditors' Scheme and the Unsecured Creditors' Scheme becoming Effective;
- (b) no amendments, waivers or modifications to the RSA, RID, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme having been made since 8:00 am on the Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);
- (c) each Implementation Step in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) and 8(b) (*Step 2 (Releases)*) of the RID having been completed in accordance with their terms; and
- (d) any conditions which the Exit Financier has agreed to waive or defer.



The Exit Financing<sup>2</sup> is discussed at section 4.2.1 of the FTI Consulting Report, which comments that, amongst other things:

- (a) FTI Consulting's enquiries indicate the process being coordinated by the Group<sup>3</sup> and its advisors to secure the Exit Financing (as detailed at section 4.2.1 of the FTI Consulting Report) is appropriate and advanced with reasonable prospects of success;
- (b) as a consequence, FTI Consulting consider the assumption that the Exit Financing will occur (and hence the Incremental Finance Facility and Existing Backstop ABL will not become due and payable on 31 December 2021) to be reasonable;
- (c) FTI Consulting note the successful completion of this refinance, or securing an alternative solution such as a maturity extension, is a critical component of the Group maintaining solvency after the implementation of the BLY Creditor Schemes. As the Incremental Finance Facility matures on 31 December 2021, and is expected to be drawn to \$50.0 million, in circumstances where the Exit Financing is not completed, or a suitable alternative is not secured, FTI Consulting's opinion on the solvency of the Group<sup>4</sup> is withdrawn as the Group will not be in a position to meet this payment along with other debts falling due on or around this date; and
- (d) this being said, on the basis of the status of the Exit Financing as at the date of the FTI Consulting Report and the fact that securing the Exit Financing is a condition precedent to the BLY Creditor Schemes being effectuated, FTI Consulting confirm their opinion that if the BLY Creditor Schemes are effectuated (thereby confirming that the Exit Financing has been secured), the Group will be solvent after implementation of the BLY Creditor Schemes.

Further details in relation to the FTI Consulting Report, including its conclusions, can be found in section 9 of this Explanatory Statement and a copy of the FTI Consulting Report is at Annexure C.

## 6.2 Share Purchase Plan

BLY proposes to offer Eligible SPP Shareholders the opportunity to subscribe for up to AU\$30,000 worth of Shares at the issue price (being AU\$2.48 per Share) (calculated on a post Share Consolidation basis), subject to an aggregate cap of US\$2.5 million. Shares issued under the Share Purchase Plan will be issued on the Creditors' Scheme Implementation Date (and after the Share Consolidation).

The Share Purchase Plan will allow Eligible SPP Shareholders the opportunity to increase their equity holding in BLY following dilution of their existing shareholding. This will allow certain Eligible SPP Shareholders, whose shareholding will be diluted under the BLY Creditor Schemes, the opportunity to maintain a more meaningful equity interest in BLY following completion of the BLY Creditor Schemes.

To the extent that the Share Purchase Plan is oversubscribed (i.e. where Eligible SPP Shareholders subscribe for an aggregate amount of Shares that exceeds the US\$2.5 million aggregate cap), participating Eligible SPP Shareholders' subscriptions will be scaled back (such that they will acquire a pro-rata percentage of the US\$2.5 million cap, calculated by

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<sup>2</sup> The FTI Consulting Report defines 'Exit Financing' to mean '... a new money loan to fully refinance the Backstop ABL and the Incremental Financing'.

<sup>3</sup> The FTI Consulting Report defines 'Group' to mean 'Boart Longyear Limited and subsidiaries'.

<sup>4</sup> Discussed at section 9 of this Explanatory Statement.

reference to the amount that the participating Eligible SPP Shareholder elected to take up under the Share Purchase Plan).

To the extent that the Share Purchase Plan is undersubscribed (i.e. where Eligible SPP Shareholders do not subscribe for an aggregate amount of Shares that equals or exceeds the US\$2.5 million aggregate cap), the remaining Shares not subscribed for under the Share Purchase Plan (the **SPP Shortfall Amount**) will be offered under, and in accordance with the terms of, the Creditor Share Purchase Option (described further at section 8.8 below).

Proceeds received by BLY under the Share Purchase Plan will be applied to pay down the outstanding balance under the Existing PNC ABL.

The Share Purchase Plan will only be implemented if approved by BLY Shareholders at the Shareholder Meeting of BLY Shareholders.

### 6.3 **Selective Buy-Back**

Provided that BLY Shareholders approve the Selective Buy-Back at the Shareholder Meeting, BLY Shareholders approve the Members' Scheme at the Members' Scheme meeting and the BLY Creditor Schemes becoming Effective, Eligible SBB Shareholders who (amongst other eligibility criteria hold parcels of Shares valued at less than AU\$3,000) will have the opportunity, under certain conditions, to offer their Shares to BLY as part of a Selective Buy-Back (at a price of AU\$2.48 per Share). BLY may in its absolute discretion determine whether to accept (in whole or in part) or reject an offer from Eligible SBB Shareholders to sell Shares under the Selective Buy-Back and the maximum amount that BLY will spend to buy-back Shares under the Selective Buy-Back will be up to an aggregate of US\$500,000.

The Selective Buy-Back is intended to give Eligible SBB Shareholders who hold small parcels of Shares the opportunity to exercise a cash-out option in lieu of retaining their existing Shares, noting that existing Shareholders will be significantly diluted following implementation of the BLY Creditor Schemes and may not wish to hold CDIs in the re-domiciled Canadian company. The Selective Buy-Back will provide Eligible SBB Shareholders with the opportunity to sell their Shares without incurring brokerage fees and other expenses.

If Eligible SBB Shareholders choose to participate in the Selective Buy-Back, the total number of Shares on issue will decrease, thereby increasing the percentage of total Shares held by the remaining BLY Shareholders. The Selective Buy-Back will be implemented on the Creditors' Scheme Implementation Date, but after the other Recapitalisation Transactions have been implemented.

The Selective Buy-Back is conditional on the Members' Scheme Approval, BLY Shareholders passing the relevant Shareholder Resolution and the BLY Creditor Schemes becoming Effective.

### 6.4 **Share Consolidation**

As part of the Recapitalisation Transactions, BLY is proposing that prior to the issue of Shares under the BLY Creditor Schemes, the Share Purchase Plan and the Creditor Share Purchase Option (and completion of the purchase by BLY of any Shares under the Selective Buy-Back), the Shares be consolidated through the consolidation of every 20 fully paid ordinary Shares into 1 fully paid ordinary Share.

The Share Consolidation is proposed to occur prior (rather than subsequent) to implementation of the BLY Creditor Schemes so that all securities issued under the Recapitalisation Transactions are issued on a post-Share Consolidation basis. The effective date of the Share Consolidation will be the date of approval by the Court of the BLY Creditor Schemes.

## 6.5 Pricing for Share Purchase Plan, Selective Buy-Back and Creditor Share Purchase Option

A summary of the pricing for the Share Purchase Plan, Selective Buy-Back and Creditor Share Purchase Option is set out below:

<b>BLY Shareholder transactions</b>		<b>Pricing (on a post-Share Consolidation basis)</b>
Issue of new Shares under Share Purchase Plan		AU\$2.48 per Share
Buy back of existing Shares under Selective Buy-Back		AU\$2.48 per Share
<b>Scheme Creditor transactions</b>		<b>Pricing (on a post-Share Consolidation basis)</b>
Issue of new shares under Creditor Share Purchase Option (as discussed in further detail at sections 8.8 and 12.12 of this Explanatory Statement)		AU\$2.48 per Share

## 6.6 Effect of Recapitalisation Transactions

The tables below illustrate the change in BLY's debt levels as a result of the Recapitalisation Transactions (including how the Exit Financing Facility will be used to refinance the Existing Backstop ABL and the Incremental Finance Facility):

*Sources and uses of funds raised from Recapitalisation Transactions:*

<b>Sources</b>	<b>US\$ million</b>
Share Purchase Plan <sup>5</sup>	2.5
Creditor Share Purchase Option <sup>6</sup>	2.5
Exit Financing Facility <sup>7</sup>	115.0
<b>Total Sources:</b>	<b>120.0</b>

<sup>5</sup> Assumes that the Share Purchase Plan and the Creditor Share Purchase Option are fully subscribed. If less than US\$5 million is raised by BLY from the Share Purchase Plan and Creditor Share Purchase Option, the amount of the Existing PNC ABL that is repaid will lower.

<sup>6</sup> Assumes that the Share Purchase Plan and the Creditor Share Purchase Option are fully subscribed. If less than US\$5 million is raised by BLY from the Share Purchase Plan and Creditor Share Purchase Option, the amount of the Existing PNC ABL that is repaid will lower.

<sup>7</sup> BLY entered into a binding commitment letter in relation to the Exit Financing Facility on 19 July 2021 (Salt Lake City) 2021; the commitment amount is shown for illustrative purposes only.

Uses	US\$ million
Refinance Existing Backstop ABL <sup>8</sup>	62.4
Refinance Incremental Finance Facility <sup>9</sup>	50.3
Repayment of portion of the Existing PNC ABL <sup>10</sup>	5.0
Partial payment of transaction costs and interest costs <sup>11</sup>	2.3
<b>Total Uses:</b>	<b>120.0</b>

*Pro-forma Debt:*

US\$ million	30 June 2021	Transaction Adjustments	Post-Recapitalisation
	Pre-Recapitalisation		
Existing PNC ABL <sup>12</sup>	6.0	(5.0)	1.0 <sup>13</sup>
Existing Backstop ABL <sup>14</sup>	62.4	(62.4)	-
Incremental Finance Facility <sup>15</sup>	50.3	(50.3)	-
Exit Financing Facility <sup>16</sup>	-	115.0	115.0
Term Loan A <sup>17</sup>	162.1	(162.1)	-
Term Loan B <sup>18</sup>	195.4	(195.4)	-

<sup>8</sup> Includes accrued interest as at 30 June 2021.

<sup>9</sup> Represents commitment amount for illustrative purposes and actual accrued interest as at 30 June 2021.

<sup>10</sup> Assumes that the Share Purchase Plan and the Creditor Share Purchase Option are fully subscribed. If less than US\$5 million is raised by BLY from the Share Purchase Plan and Creditor Share Purchase Option, the amount of the Existing PNC ABL that is repaid will lower.

<sup>11</sup> Remaining available balance under the Exit Financing Facility to be applied to pay any further accrued interest on the Existing Backstop ABL, the Incremental Finance Facility and some transaction costs.

<sup>12</sup> (1) Includes accrued interest as at 30 June 2021.

(2) Assumes that the Share Purchase Plan and the Creditor Share Purchase Option are fully subscribed. If less than \$5 million is raised by BLY from the Share Purchase Plan and Creditor Share Purchase Option, the amount of the Existing PNC ABL that is repaid will lower.

<sup>13</sup> This demonstrates the adjusted balance of the Existing PNC ABL as at 30 June 2021 for illustrative purposes only, and will vary.

<sup>14</sup> Includes accrued interest as at 30 June 2021.

<sup>15</sup> Represents commitment amount for illustrative purposes and actual accrued interest as at 30 June 2021.

<sup>16</sup> BLY entered into a binding commitment letter in relation to the Exit Financing Facility on 19 July 2021 (Salt Lake City) 2021; the commitment amount is shown for illustrative purposes only.

<sup>17</sup> Includes accrued interest as at 30 June 2021.

<sup>18</sup> Includes accrued interest as at 30 June 2021.

US\$ million	30 June 2021	Transaction Adjustments	Post-Recapitalisation
	Pre-Recapitalisation		
SSN Indenture Notes <sup>19</sup>	354.9	(354.9)	-
SUN Indenture Notes <sup>20</sup>	94.1	(94.1)	-
Lease liability (IFRS-16)	39.3	(0.0)	39.3
<b>Total Debt:</b>	<b>964.5</b>	<b>(809.2)</b>	<b>155.3</b>

## 6.7 Indictive timeline for implementing the Recapitalisation Transactions and other proposed arrangements related to the Restructuring

Below is a high level indicative timeline for implementing the Recapitalisation Transactions and the Selective Buy-Back and other proposed arrangements related to the Restructuring as outlined above. More detail on the nature of the Implementation Steps, including how the BLY Creditor Schemes will be implemented is set out in section 8.10.

Day on a T – basis (all approximations and in Business Days)	Action
T - 8	Restructuring Implementation Deed executed and delivered by all parties to it, save for the Scheme Administrators, Secured Scheme Creditors, Unsecured Scheme Creditors, Agent, TLB Collateral Agent, SSN Trustee and SUN Trustee, who will execute the RID following the BLY Creditor Schemes becoming effective.
T - 5 BLY Creditor Schemes - Second Court Hearing	Second Court Hearing for BLY Creditor Schemes. Effective date of the Share Consolidation.
T - 4 Scheme Effective Date for BLY Creditor Schemes	<p>Court orders approving the BLY Creditor Schemes are lodged with ASIC.</p> <p>The BLY Creditor Schemes take effect (assuming that all conditions precedent in the BLY Creditor Schemes have been satisfied). Secured Scheme Creditors and Unsecured Scheme Creditors as at this date are bound by the Secured Creditors' Scheme and Unsecured Creditors' Scheme respectively.</p> <p>Last day of trading in pre-consolidation Shares.</p> <p>Restructuring Implementation Deed is fully executed by the Scheme Administrators, Scheme Administrators on behalf of Secured Scheme Creditors and Unsecured Scheme Creditors, Agent, TLB Collateral Agent, SSN</p>

<sup>19</sup> Includes accrued interest and SSN applicable premium as at 30 June 2021.

<sup>20</sup> Includes accrued interest as at 30 June 2021.

<b>Day on a T – basis (all approximations and in Business Days)</b>	<b>Action</b>
	<p>Trustee and SUN Trustee. The Restructuring Implementation Deed becomes effective.</p> <p>After the Restructuring Implementation Deed is effective, BLY will announce the proposed Creditors' Scheme Implementation Date of the BLY Creditor Schemes.</p> <p>Allocation Confirmation of the Creditor Share Purchase Plan provided to Participating SUN Noteholders and the Other CSPO Participants by the Information Agent.</p>
T - 2	The record date for the Share Consolidation.
T - 1	<p>The BLY share register is updated for the implementation of the Share Consolidation and holding statements are dispatched to BLY Shareholders reflecting the change in the number of securities and BLY notifies ASX that this has occurred.</p> <p>Deadline for the Participating SUN Noteholders and the Other CSPO Participants to pay their subscription amount pursuant to their Allocation Confirmation to Link Market Services, BLY's share registry.</p>
<p>T</p> <p>Creditors' Scheme Implementation Date for BLY Creditor Schemes</p> <p>Issue date for Share Purchase Plan and Creditor Share Purchase Option, completion of Selective Buy-Back, and funding under Exit Financing</p>	<p>On the Creditors' Scheme Implementation Date, the following will occur in this order:</p> <ol style="list-style-type: none"> <li>1. The BLY Creditor Schemes will be implemented and Secured Scheme Creditors and Unsecured Scheme Creditors will be issued Shares and, in respect of SUN Noteholders, New Warrants.</li> <li>2. The releases given by the Secured Scheme Creditors and Unsecured Scheme Creditors in the BLY Creditor Schemes will take effect.</li> <li>3. Funding will occur under the Exit Financing Facility, repaying the amounts outstanding under the Incremental Finance Facility and Existing Backstop ABL.</li> <li>4. Shares will be issued to Eligible SPP Shareholders in accordance with the Share Purchase Plan.</li> <li>5. Shares will be issued to the participants under the Creditor Share Purchase Option.</li> <li>6. Provided the Selective Buy-Back is approved by BLY Shareholders at the Shareholder Meeting, the Members' Scheme is approved by BLY Shareholders and the BLY Creditor Schemes become Effective, the Selective Buy-Back is completed, the Shares of the Eligible SBB Shareholders bought back by BLY are cancelled and consideration under the Selective Buy-Back is paid.</li> </ol>

<b>Day on a T – basis (all approximations and in Business Days)</b>	<b>Action</b>
	7. The share register of BLY is settled.

## 6.8 Governance Matters

As announced to ASX on 13 May 2021, under the terms of the RSA, BLY has agreed that the initial and subsequent post-Recapitalisation Transaction composition of the BLY Board will consist of 9 directors, including at least two Australian resident directors, and include:

- (a) the Chief Executive Officer;
- (b) 5 directors nominated by Centerbridge; and
- (c) 3 directors nominated by the Ad Hoc Group.

The above nomination rights contemplated by the RSA will be further documented through the entry into the CBP Director Nomination Agreement and AHG Director Nomination Agreements pursuant to which BLY will grant to Centerbridge and the Ad Hoc Group respectively the right to nominate persons for appointment to the BLY Board.

The CBP Director Nomination Agreement and AHG Director Nomination Agreements will provide that as part of the implementation of the Members' Scheme if approved, BLY agrees to use reasonable endeavours to procure that any successor entity admitted to the official list of the ASX, which will be New BLY Parent, will enter into agreements with Centerbridge and the Ad Hoc Group on substantially equivalent terms. The alternative director nomination agreements to be entered into will be governed by Canadian law and the rights of Centerbridge and the Ad Hoc Group to appoint directors under Canadian law will differ to those under Australian law.

The CBP Director Nomination Agreement and AHG Director Nomination Agreements will replace previous director appointment rights under the following director nomination agreements:

- (a) the director nomination agreement between BLY and Ascribe II Investments LLC dated 8 May 2017;
- (b) the director nomination agreement between BLY, CCP II Dutch Acquisition – ND2 B.V. and CCP Credit SC II Dutch Acquisition – ND B.V. dated 5 May 2017 (as amended on 6 June 2017); and
- (c) the director nomination agreement between BLY and Ares Management LLC on behalf of Ares Corporate Opportunities Fund IV, L.P. and its affiliates dated 8 May 2017.

A summary of Centerbridge and the Ad Hoc Group's rights to appoint directors under the CBP Director Nomination Agreement where the BLY Board comprises nine directors and AHG Director Nomination Agreements is set out in the following table.

	<b>CBP</b>	<b>Ad Hoc Group</b>
Percentage shareholding in Retained Shares in BLY or	Number of directors who can be nominated under	Number of directors who can be nominated under the AHG

CBP		Ad Hoc Group
New BLY Parent (as applicable):	CBP Director Nomination Agreement	Director Nomination Agreements
40% or more	5	3
35.00% or more but less than 40.00%	4	3
30.00% or more but less than 35.00%	3	3
20.00% or more but less than 30.00%	2	2
10.00% or more but less than 20.00%	1	1
Less than 10%	0	0

In the event that the BLY Board increases in size from nine to ten directors at any time (excluding alternate directors) pursuant to BLY's Constitution, and provided that increase was not caused by an act of the Centerbridge Board Nominees, Centerbridge or an associate of Centerbridge, so long as Centerbridge holds, in aggregate, Retained Shares which represent 40% or more of the issued Shares in BLY, Centerbridge will have the right to nominate six directors for appointment to the BLY Board.

The nomination rights afforded to CBP under the CBP Director Nomination Agreement and the Ad Hoc Group under the AHG Director Nomination Agreements mean that the ongoing composition of the BLY Board does not comply with Recommendation 2.1 of the ASX Corporate Governance Council's recommendations in relation to board independence. Under Recommendation 2.1, ASX considers that the board of a listed entity should maintain a nomination committee which has at least three members, with a majority of whom are independent directors and is chaired by an independent director. The operation of the director appointment rights under the CBP Director Nomination Agreement and the AHG Director Nomination Agreements will negate the need for BLY to maintain such a nomination committee. However, the BLY Board will continue to be governed by the Board Charter dated as at 26 November 2019.

All existing Directors, other than Mr Olsen, the Chief Executive Officer, intend to resign from the BLY Board with effect from implementation of the BLY Creditor Schemes when the Centerbridge nominee directors are appointed to the BLY Board and Ad Hoc Group nominee directors are appointed to the BLY Board in accordance with the CBP Director Nomination Agreement and AHG Director Nomination Agreements.

If the Members' Scheme is implemented, the New BLY Parent will be subject to Canadian law governed director nomination agreements which will be substantially on the same terms as the CBP Director Nomination Agreement and AHG Director Nomination Agreements, subject to any limitation to CBP or the AHG's rights under the relevant agreement as required by local law or practice. Consequently, the appointment rights as set out in the table above will still be available to CBP and the AHG in respect of the board of the New BLY



Parent. Accordingly, the board of directors of the New BLY Parent will also not comply with Recommendation 2.1 (as detailed above), which remains relevant as CDIs in respect of New BLY Parent will be listed on ASX. The board of the New BLY Parent will also be governed by its own board charter.

The board of the New BLY Parent will comprise a maximum of nine directors pursuant to New BLY Parent's articles and by-laws.

If the Members' Scheme is implemented, then it is expected that the same members of the BLY Board will become the directors of the New BLY Parent.

#### **6.9 BLY Creditor Schemes recognition in United States**

Chapter 15 of the U.S. Bankruptcy Code provides for the recognition of foreign proceedings in the United States.

Pursuant to the terms of the Restructuring Support Agreement, BLY must use reasonable efforts to obtain recognition of the Creditors' Schemes Proceeding and the BLY Creditor Schemes in the United States via the Chapter 15 Proceeding.

BLY intends to commence the Chapter 15 Proceeding in order to obtain a Chapter 15 Order.

A Chapter 15 Order will, amongst other things:

- (a) give full force and effect as to persons and properties located within the United States to the BLY Creditor Schemes (including the Second Court Orders);
- (b) ensure that all of the Secured Scheme Creditors and Unsecured Scheme Creditors affected by the BLY Creditor Schemes are treated consistently, whether in Australia or the United States; and
- (c) except as otherwise permitted by the BLY Creditor Schemes, protect the Scheme Companies and their property from any lawsuits within the territorial jurisdiction of the United States from those who are bound by the terms of the BLY Creditor Schemes.

#### **6.10 Dual-listing**

Subject to the implementation of the Members' Scheme, BLY will remain listed on the ASX through New BLY Parent and also expects New BLY Parent will pursue a dual listing of its shares in North America at a later date.

## 7. **MEMBERS' SCHEME FOR THE RE-DOMICILIATION**

### 7.1 **Summary of the Members' Scheme**

As announced to ASX on 13 May 2021, under the RSA, BLY agreed to pursue a re-domiciliation of its corporate and tax domicile to Canada using a scheme of arrangement with BLY's Shareholders (**Members' Scheme**). A members' scheme of arrangement is a compromise or arrangement between a company and its members (or any class of them) effected in accordance with Part 5.1 of the Corporations Act. Under the proposed Members' Scheme, BLY will become a wholly owned subsidiary of a new entity incorporated in Canada (**New BLY Parent**).

The anticipated advantages of the Members' Scheme for BLY and the Group include, amongst other things:

- potential for improved access to capital;
- greater organisational efficiency;
- better alignment of post-recapitalisation capital structure with revenue sources;
- aligning shareholder base and management with a familiar jurisdiction;
- retention of ASX listing and familiarity with local exchange;
- comparable shareholder protection; and
- reduced cost of insurance

The process for BLY and the BLY Shareholders to enter into the Members' Scheme is similar to the process for the BLY Creditor Schemes.

BLY must first approach the Court for orders that a meeting of BLY's Shareholders be held to vote on the proposed Members' Scheme. BLY asked the Court to make such orders at the same time it asked for orders that the Scheme Meetings be held. On 29 July 2021, the Court made orders that the meeting of BLY's Shareholders to consider and vote on the Members' Scheme be held on 8 September 2021.

In order for the Members' Scheme to be entered into the BLY Shareholders must vote for the resolution to approve the Members' Scheme by the requisite majority, being:

- (a) a 50% majority in number of Shareholders present and voting at the members' scheme meeting in person, by proxy, by attorney or by a corporate representative; and
- (b) at least 75% of the total number of votes cast by all BLY Shareholders at the members' scheme meeting,

(together, the **Members' Scheme Approval**).

If the Members' Scheme Approval is not obtained at the meeting of BLY Shareholders, then BLY will not approach the Court for orders approving the Members' Scheme, and it will not come into effect. As noted below, the approval of the Members' Scheme is not necessary for the BLY Creditor Schemes to come into effect and be implemented in accordance with their terms and the Restructuring Implementation Deed.

Alternatively, if the Members' Scheme Approval is obtained at the meeting of BLY Shareholders, then BLY may approach the Court seeking orders to approve the Members'

Scheme. The anticipated date of the Court hearing to approve the Members' Scheme is 3 Business Days after the Creditors' Scheme Implementation Date.

If the Members' Scheme is approved by the Court, subject to satisfaction of certain conditions precedent such as lodging the Court order approving the Members' Scheme with ASIC, the Members' Scheme will come into effect and be implemented in accordance with its terms and the terms of the Restructuring Implementation Deed.

The principal object and purpose of implementing the Members' Scheme if approved is that all BLY Shareholders as at the Members' Scheme Record Date under the Members' Scheme will be bound to transfer their Shares in BLY to New BLY Parent, in exchange for New BLY Parent transferring to those people (except for those who are Ineligible Foreign Shareholders) an equivalent number of CHESS Depository Interests (**CDI**) in respect of New BLY Parent, which, subject to the admission to the Official List of ASX of New BLY Parent and quotation by ASX of the New BLY Parent Shares (represented by New BLY Parent CDIs), will be able to be traded on ASX.

Shares in companies that are domiciled in certain overseas jurisdictions (including Canada) are unable to be traded on ASX using CHESS. CDIs are able to be traded on ASX using CHESS and are therefore used to facilitate the trading of such shares on ASX. A CDI is a unit of beneficial ownership in a share in the underlying company (in this case, New BLY Parent).

Each New BLY Parent CDI received by Shareholders of BLY will be a unit of beneficial ownership in a New BLY Parent share. All New BLY Parent CDIs will be registered in the name of CHESS Depository Nominees Pty Limited in accordance with the ASX Settlement Operating Rules (**Operating Rules**). As explained above, this is required to enable New BLY Parent shares to be recorded and transferred on ASX.

A New BLY Parent CDI has the same economic benefits (such as dividends, bonus issues, and rights issues) as a New BLY Parent share, and substantially the same voting rights. Trading in a New BLY Parent share is not substantially different in commercial effect from trading in Shares in BLY (or other CHESS approved securities).

#### *Ineligible Foreign Shareholders*

For the purposes of the Members' Scheme, a BLY Shareholder will be deemed to be an Ineligible Foreign Shareholder if:

- (a) their address as shown in the BLY share register (as at the Members' Scheme Record Date) is in any jurisdiction other than Australia, New Zealand, Switzerland, Hong Kong, Spain, Luxembourg, the Netherlands, Ireland, Italy, Bermuda, the Cayman Islands, Canada or the United States of America; or
- (b) BLY considers it would be unlawful for New BLY Parent to issue New BLY Parent CDIs in accordance with the laws of the jurisdiction in which the BLY Shareholder is located.

Ineligible Foreign Shareholders will not receive New BLY Parent CDIs and instead will receive the net proceeds of the sale of the New BLY Parent CDIs to which they would otherwise have been entitled.

#### *No inter-conditionality*

The Secured Creditors' Scheme and Unsecured Creditors' Scheme and the other Recapitalisation Transactions are not conditional on the implementation of the Members' Scheme. Consequently, if the Members' Scheme Approval is not obtained, or the Court does not approve the Members' Scheme, the Secured Creditors' Scheme and Unsecured

Creditors' Scheme and the other Recapitalisation Transactions will proceed if separately approved and if the conditions to those actions are satisfied or waived. Whereas the Selective Buy-Back is conditional upon the Members' Scheme Approval, the Shareholder Resolutions being passed by the BLY Shareholders and the BLY Creditor Schemes becoming Effective.

#### *Assumption Deed Poll*

It is a condition precedent to the Members' Scheme that New BLY Parent execute the Assumption Deed Poll in favour of the holders of the New Warrants, Existing Warrants, the holders of Existing Options and the Participants pursuant to which it has agreed to assume the obligations of BLY under these instruments from the Members' Scheme Implementation Date.

### **7.2 Why is the Members' Scheme relevant to Secured Scheme Creditors and Unsecured Scheme Creditors?**

Whether or not the Members' Scheme is implemented affects the nature of the ultimate consideration to be delivered to the Secured Scheme Creditors and Unsecured Scheme Creditors. Under the terms of the Restructuring Implementation Deed, the BLY Creditor Schemes will be fully implemented before the Members' Scheme is implemented. This means that, in summary, Secured Scheme Creditors and Unsecured Scheme Creditors will have received New Common Equity (being Shares in BLY) and, if applicable, New Warrants in exchange for releasing their Secured Debt or Unsecured Debt (as applicable) at the time when the Members' Scheme is implemented.

As the Secured Scheme Creditors and Unsecured Scheme Creditors will be BLY Shareholders at the time when the Members' Scheme is implemented, they will be bound by its terms to transfer their Shares in BLY to New BLY Parent in exchange for being issued with an equivalent number of New BLY Parent CDIs.

The BLY Creditor Schemes, including the effects of the Members' Scheme on Secured Scheme Creditors and Unsecured Scheme Creditors, are explained in more detail in Section 8 below.

### **7.3 Risks associated with the Members' Scheme**

BLY and BLY Shareholders are already subject to a number of risks, including those described in sections 7.3(a) and 7.3(b) below.

If the Members' Scheme is implemented, New BLY Parent and holders of New BLY Parent CDIs will be subject to these existing risks. In addition to these existing risks, there are other risks associated with the Members' Scheme as well as additional risks associated with an investment in New BLY Parent. Some of these additional risks are set out below in Section 7.3(c). These Sections do not provide an exhaustive list of these additional risks to which New BLY Parent could be exposed, nor all the risks of the Members' Scheme, but only those risks which the Directors are aware of and consider material.

#### **(a) Risks associated with the Members' Scheme**

- (i) The re-domiciliation effected by the Members' Scheme may fail to realise all of the anticipated advantages for New BLY Parent and the Group, either in a timely manner or at all. Some of the potential advantages of the Members' Scheme may not be achieved as a result of circumstances outside the control of BLY or New BLY Parent.
- (ii) The exact value of the New BLY Parent CDIs is not certain. Under the terms of the Members' Scheme, BLY Shareholders (other than Ineligible Foreign

Shareholders) will receive one New BLY Parent CDI for each Share they hold at the Members' Scheme Record Date. The exact value of the New BLY Parent CDIs that would be realised by a holder of a New BLY Parent CDI will be dependent on the price at which New BLY Parent CDIs trade after the Members' Scheme Implementation Date.

(b) **Existing risks applying to BLY**

BLY is currently exposed to certain risks in operating its business that will also be faced by New BLY Parent and the Group following the re-domiciliation effected by the Members' Scheme. These risks include the following:

- (i) **(Market risk)** BLY's operating results, financial condition and ability to achieve shareholder returns are linked to underlying market demand for drilling services and drilling products. Demand for drilling services and products depends in significant part upon the level of mineral exploration, production and development activities conducted by mining companies, particularly with respect to gold, copper and other base metals. There have been significant declines in BLY's financial performance as a result of the global contraction in exploration and development spending in the commodities sector, and the subsequent impact on mining customers. Mineral exploration, production and development activities remain uncertain and could remain at depressed levels for an extended period of time or decline further, resulting in adverse effects on BLY's operating results, liquidity and financial condition.
- (ii) **(Operational risk)** The majority of BLY's drilling contracts are either short-term or may be cancelled upon short notice by BLY customers and portions of BLY's products backlog may be subject to cancellation.
- (iii) **(Tax risk)**

BLY's unsettled assessments with the Canada Revenue Agency (**CRA**) will, if upheld, result in federal and provincial tax liabilities (including interest) of up to CAD\$35 million. The outcome and timing of any resolution of the Canadian reassessments are unknown. Interest will continue to accrue on all disputed and unpaid amounts until they are paid, or, alternatively, until the disputes are resolved in BLY's favour.

BLY has also recorded a tax provision related to the CRA's audits of the 2010 through 2017 tax years. The provision reflects the uncertainties regarding the outcome of those audits. While BLY believes it is appropriately reserved in respect of the CRA tax disputes, the resolution of those disputes on terms substantially as assessed by the CRA could be material to BLY's financial position or results of operations.

BLY is also under audit by the ATO. The resolution of potential assessments by the ATO may adversely affect BLY's liquidity.

- (iv) **(Government and regulatory risk)** Changes in, or failure to comply with, the laws, regulations, policies or conditions of any jurisdiction in which BLY conducts business could have a material adverse effect on BLY's financial condition, liquidity, results of operations and cash flows. BLY's operations are subject to numerous laws, regulations and guidelines (including anti-bribery, tax, health and safety, and environmental regulations) that could result in material liabilities or increases in BLY's operating costs or lead to the decline in the demand for BLY's services or products.

(c) **Additional risks to New BLY Parent as a result of the re-domiciliation**

- (i) **(Loss of demand and liquidity)** As a result of the Members' Scheme, BLY will re-domicile to Canada and will become a subsidiary of a new parent Canadian company. The re-domicile may lead to a potential loss of demand for New BLY Parent CDIs from Australian investors. There may be a potential reduction in liquidity of New BLY Parent Shares when traded on ASX in the form of CDIs.
- (ii) **(Changes to tax environment)** This section provides a general summary of certain Australian tax implications for BLY as a result of the Members' Scheme. The following comments are made on the basis that after the Members' Scheme completes BLY remains an Australian tax resident company.

The main Australian tax implication of the Members' Scheme on BLY relates to its ability to recoup prior year tax losses. BLY and its Australian subsidiaries have carried forward tax losses as at 31 December 2020. If available, these losses will continue to be used to offset against assessable income derived by BLY going forward.

In broad terms, carry forward tax losses must satisfy the continuity of ownership test (**COT**) or failing that, the similar business test (**SBT**) or the same business test (together known as the "continuity of business test" or **CBT**), depending on the year the losses were generated, prior to recoupment. Broadly, the COT requires BLY to have maintained more than 50% of the same ultimate beneficial owners from the start of each loss year and at each test time until the end of the income year in which the loss is sought to be recouped (certain concessions are available for listed companies that reduce the number of applicable testing points and limit the extent of tracing required through to ultimate beneficial owners). Failing the COT, BLY would be required to satisfy the CBT going forward which broadly would require it to carry on a similar or the same business during a recoupment year as it did immediately before the COT was failed.

The Members' Scheme, or transfers of Shares following the implementation of the Members' Scheme, may cause BLY to fail the COT such that BLY must satisfy the CBT going forward in order to recoup any of BLY's carried forward tax losses that are not otherwise limited. Although BLY believes it will satisfy the SBT, it cannot be guaranteed with certainty. BLY will continue to monitor these tests going forward.

Further, while BLY has not identified any other specific tax risks associated with the re-domiciliation, there may be unexpected tax risks associated with the change in jurisdiction from Australia to a North American jurisdiction.

7.4 **Detailed disclosure relating to the Members' Scheme**

Further information relating to the Members' Scheme is set out in the Members' Scheme Explanatory Statement, released to the ASX on or about the date of this Explanatory Statement, a copy of which is available at "<http://www.boartlongyear.com>".

## 8. THE BLY CREDITOR SCHEMES EXPLAINED

This section 8 contains detailed information on the terms of the proposed BLY Creditor Schemes and the effect they will have on Secured Scheme Creditors and Unsecured Scheme Creditors.

As indicated by the relevant sub-headings, certain subsections relate to both Secured Scheme Creditors and Unsecured Scheme Creditors generally, whilst others relate specifically to either Secured Scheme Creditors or Unsecured Scheme Creditors.

### 8.1 Overview of the outcome of the BLY Creditor Schemes

The principal object and purpose of the BLY Creditor Schemes is to deleverage the Group by releasing all liabilities and obligations in respect of the Secured Debt and Unsecured Debt in exchange for the Secured Scheme Creditors and Unsecured Scheme Creditors receiving their respective proportions of the Secured Scheme Consideration and Unsecured Scheme Consideration (as applicable).

The anticipated outcome for the Scheme Companies and the Secured Scheme Creditors following implementation of the Secured Creditors' Scheme is that all of the Secured Debt will be reduced to nil, and the Secured Scheme Creditors will be issued approximately 87.07% of the New Common Equity.

The anticipated outcome for the Scheme Companies and the Unsecured Scheme Creditors following implementation of the Unsecured Creditors' Scheme is that all of the total Unsecured Debt will be reduced to nil, and the Unsecured Scheme Creditors will be issued approximately 12.93% of the New Common Equity and SUN Noteholders will receive all of the New Warrants.

Immediately following implementation of the BLY Creditor Schemes, the Secured Scheme Creditors and Unsecured Scheme Creditors will together hold 98.5% of the total number of Shares in BLY, and the SUN Noteholders will be issued New Warrants to purchase Shares. However, the Secured Scheme Creditors and Unsecured Scheme Creditors should be aware that the proportion of the total number of Shares held by them is subject to further dilution immediately after the BLY Creditor Schemes have been implemented, including as a result of the implementation of the Share Purchase Plan and Creditor Share Purchase Option, and as any New Warrants, Existing Warrants or Existing Options are exercised by the relevant holders of those instruments. In addition, if the Members' Scheme is approved then on implementation of the Members' Scheme, the relevant Shares in BLY held by the Secured Scheme Creditors and Unsecured Scheme Creditors will be exchanged for New BLY Parent CDIs and the New Warrants will be assumed by New BLY Parent.

### 8.2 Steps prior to the BLY Creditor Schemes becoming effective

The implementation of both BLY Creditor Schemes is subject to the prior satisfaction of various conditions precedent. The conditions precedent are the same for each BLY Creditor Scheme, other than the condition precedent in the Unsecured Creditors' Scheme relating to the Secured Creditors' Scheme becoming effective and vice versa in the Secured Creditors' Scheme. The conditions precedent are listed in clause 3.1 of the Secured Creditors' Scheme and in clause 3.1 of the Unsecured Creditors' Scheme.

A summary of the conditions precedent to the BLY Creditor Schemes being implemented is set out below:

#### (a) FATA - CBP

At or before 8.00 am on the Second Court Date, either:

- (i) The Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any CBP Member (or any of their respective Permitted Assignees) directly or indirectly acquiring the New Common Equity and, if applicable, New Warrants pursuant to the Transactions (**Proposed CBP Acquisitions**) and such approval is not subject to any conditions other than:

- (A) the Standard Tax Conditions; or

- (B) any other condition which is acceptable to each CBP Member that is subject of it acting reasonably; or

- (ii) following notice of the Proposed CBP Acquisitions having been given by CBP to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.

(b) **FATA - AHG**

At or before 8.00 am on the Second Court Date, either:

- (i) The Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any AHG Member (or any of their respective Permitted Assignees) directly or indirectly acquiring the New Common Equity and, if applicable, New Warrants pursuant to the Transactions (**Proposed AHG Acquisitions**) and such approval is not subject to any conditions other than:

- (A) the Standard Tax Conditions; or

- (B) any other condition which is acceptable to each AHG Member that is the subject of it acting reasonably; or

- (ii) following notice of the Proposed AHG Acquisitions having been given by AHG to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.

(c) **Shareholder approval**

At or before 8.00 am on the Second Court Date, each of the Shareholder Resolutions are passed by the requisite majorities of BLY Shareholders.

(d) **ASX Approval**

At or before 8.00 am on the Second Court Date, ASX provides written confirmation that the terms of the New Warrants are appropriate and equitable for the purposes of ASX Listing Rule 6.1 or otherwise waives the requirement for the New Warrants to comply with ASX Listing Rule 6.1.

(e) **Director Nomination Agreements**

At or before 8.00 am on the Second Court Date, each Director Nomination Agreement has been executed by the parties to that Director Nomination Agreement.



(f) **Deeds Poll**

As at 8.00 am on the Second Court Date:

- (i) the Secured Scheme Administrators Deed Poll;
- (ii) the Unsecured Scheme Administrators Deed Poll; and
- (iii) the Obligors Deed Polls;

have been executed, continue to benefit the beneficiaries named in those Deeds Poll in accordance with their terms and have not been terminated.

(g) **Undertakings**

As at 8.00 am on the Second Court Date, the Undertakings have been executed by the Agents, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee and continue to benefit the beneficiaries named in those Undertakings in accordance with their terms and have not been terminated.

(h) **Exit Financing Facility**

As at 8.00 am on the Second Court Date, the credit agreement for the Exit Financing Facility has been duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility have been satisfied, other than any conditions relating to:

- (i) the Secured Creditors' Scheme and the Unsecured Creditors' Scheme becoming Effective;
- (ii) no amendments, waivers or modifications to the RSA, RID, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme having been made since 8:00 am on the Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);
- (iii) each Implementation Step in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) and 8(b) (*Step 2 (Releases)*) of the RID having been completed in accordance with their terms; and
- (iv) any conditions which the Exit Financier has agreed to waive or defer.

(i) **Regulatory Approvals**

As at 8.00 am on the Second Court Date, any approvals or consents, which are not otherwise described in clause 3.1 of the Secured Creditors' Scheme and/or clause 3.1 of the Unsecured Creditors' Scheme, but which are required by law or by any Government Agency to have been obtained by the Scheme Companies to implement the Secured Creditors' Scheme or the Unsecured Creditors' Scheme, have been obtained on an unconditional basis and remain in full force and effect.

(j) **Restructuring Support Agreement**

As at 8.00 am on the Second Court Date, the RSA has not been terminated in accordance with its terms and each of the conditions precedent in clause 5.1 (*Conditions*) of the RSA (other than condition 10 (*Court approval*) and condition 17

(*Exit Financing*)) have either been satisfied or waived in accordance with the terms of the RSA.

(k) **Restructuring Implementation Deed**

As at 8.00 am on the Second Court Date, the RID has been duly executed and delivered by all parties to the RID, save for each party to that document relying on authorities or instructions given under, or in connection with, the Unsecured Creditors' Scheme or Secured Creditors' Scheme.

(l) **Court approval**

The Court makes the Second Court Orders, including with such alterations or conditions required by the Court under section 411(6) of the Corporations Act and the alterations or conditions (if any) satisfy at least one of the following:

- (i) they do not change the substance of the relevant BLY Creditor Scheme in any material respect or impose unduly onerous obligations on any of the parties, acting reasonably; or
- (ii) they have the approval of at least 75% of the Secured Scheme Creditors or Unsecured Scheme Creditors (as applicable) who voted at the Secured Creditors' Scheme Meeting or Unsecured Creditors' Scheme Meeting (as applicable), and each Obligor (as applicable).

Section 411(6) of the Corporations Act allows the Court to approve the BLY Creditor Schemes with various alterations and variations.

(m) **Effective**

The Second Court Orders in respect of both BLY Creditor Schemes coming into effect.

Section 411(10) provides that the Court order approving the BLY Creditor Schemes does not have any effect until an official copy of the order is lodged with ASIC, and upon being so lodged, the order takes effect, or is taken to have taken effect, on and from the date of lodgement or such earlier date as the Court determines and specifies in order to approve the BLY Creditor Schemes.

### 8.3 **BLY Creditor Scheme Consideration**

*Consideration under the Secured Creditors' Scheme*

Pursuant to the Secured Creditors' Scheme, on the Creditors' Scheme Implementation Date, each Secured Scheme Creditor will be entitled (subject to section 8.4 below in relation to SSN Noteholders) to its Secured Scheme Consideration in accordance with the following allocation principles set out in the Secured Creditors' Scheme:

- (a) **(Secured TLA Purchaser)** Each Secured Scheme Creditor that is a TLA Purchaser shall be entitled to receive its applicable share of TLA Secured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLA Secured Debt held by the relevant TLA Purchaser bears to the aggregate outstanding amount of TLA Secured Debt held by all such TLA Purchasers in each case, as at the Voting Entitlement Record Date.

TLA Secured Equity Entitlement means the proportion of New Common Equity to be allocated to each of the TLA Purchasers pursuant to the Secured Creditors' Scheme, calculated by reference to the proportion that 100% of the outstanding amount of TLA Secured RSA Date Debt (being the amount of US\$85,000,000.00) bears to the

aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

- (b) **(Secured TLB Purchaser)** Each Secured Scheme Creditor that is a TLB Purchaser shall be entitled to receive its applicable share of TLB Secured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLB Secured Debt held by the relevant TLB Purchaser bears to the aggregate outstanding amount of TLB Secured Debt held by all such TLB Purchasers in each case, as at the Voting Entitlement Record Date.

TLB Secured Equity Entitlement means the proportion of New Common Equity to be allocated to each of the TLB Purchasers pursuant to the Secured Creditors' Scheme, calculated by reference to the proportion that 100% of the outstanding amount of TLB Secured RSA Date Debt (being the amount of US\$105,000,000.00) bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

- (c) **(Secured SSN Noteholder)** Each Secured Scheme Creditor that is a SSN Noteholder shall be entitled to receive its applicable share of SSN Secured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of SSN Secured Debt held by the relevant SSN Noteholder bears to the aggregate outstanding amount of SSN Secured Debt held by all such SSN Noteholders in each case, as at the Voting Entitlement Record Date.

SSN Secured Equity Entitlement means the proportion of New Common Equity to be allocated to each of the SSN Noteholders pursuant to the Secured Creditors' Scheme, calculated by reference to the proportion that 100% of the outstanding amount of SSN Secured RSA Date Debt (being the amount of US\$303,567,773.87) bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

#### *Consideration under the Unsecured Creditors' Scheme*

Pursuant to the Unsecured Creditors' Scheme, on the Creditors' Scheme Implementation Date, each Unsecured Scheme Creditor will be entitled (subject to section 8.4 below in relation to SSN Noteholders and SUN Noteholders) to its Unsecured Scheme Consideration in accordance with the following allocation principles set out in the Unsecured Creditors' Scheme:

- (a) **(Unsecured TLA Purchaser)** Each Unsecured Scheme Creditor that is a TLA Purchaser shall be entitled to receive its applicable share of TLA Unsecured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLA Unsecured Debt held by the relevant TLA Purchaser bears to the aggregate outstanding amount of TLA Unsecured Debt held by all such TLA Purchasers in each case, as at the Voting Entitlement Record Date.

TLA Unsecured Equity Entitlement means the proportion of New Common Equity to be allocated to each of the TLA Purchasers pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 25% of the outstanding amount of TLA Unsecured RSA Date Debt (being the amount of US\$18,834,246.22) bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

- (b) **(Unsecured TLB Purchaser)** Each Unsecured Scheme Creditor that is a TLB Purchaser shall be entitled to receive its applicable share of TLB Unsecured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLB Unsecured Debt held by the relevant TLB Purchaser bears

to the aggregate outstanding amount of TLB Unsecured Debt held by all such TLB Purchasers in each case, as at the Voting Entitlement Record Date.

TLB Unsecured Equity Entitlement means the proportion of New Common Equity to be allocated to each of the TLB Purchasers pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 25% of the outstanding amount of TLB Unsecured RSA Date Debt (being the amount of US\$22,071,326.65) bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

- (c) **(Unsecured SSN Noteholder)** Each Unsecured Scheme Creditor that is a SSN Noteholder shall be entitled to receive its applicable share of SSN Unsecured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of SSN Unsecured Debt held by the relevant SSN Noteholder bears to the aggregate outstanding amount of SSN Unsecured Debt held by all such SSN Noteholders in each case, as at the Voting Entitlement Record Date.

SSN Unsecured Equity Entitlement means the proportion of New Common Equity to be allocated to each of the SSN Noteholders pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 25% of the outstanding amount of SSN Unsecured RSA Date Debt (being the amount of US\$11,231,146.61) bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

- (d) **(SUN Noteholder)** Each Unsecured Scheme Creditor that is a SUN Noteholder shall be entitled to receive its applicable share of:

- (i) the SUN Equity Entitlement; and
- (ii) the Total New Warrants,

which shall be allocated pro rata by reference to the proportion that the outstanding amount of SUN Debt held by the relevant SUN Noteholder bears to the aggregate outstanding amount of SUN Debt held by all such SUN Noteholders as at the Voting Entitlement Record Date.

SUN Equity Entitlement means the proportion of New Common Equity to be allocated to each of the SUN Noteholders pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 22.5% of the outstanding amount of SUN RSA Date Debt (being the amount of US\$21,137,517.61) bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

The precise allocation of the Secured Scheme Consideration and the Unsecured Scheme Consideration will be set out in the Allocations Spreadsheet, being a spreadsheet prepared by BLY as the allocations spreadsheet for the purpose of the BLY Creditor Schemes and other relevant Recapitalisation Transactions which sets out the relevant entitlements to the Creditor Schemes Transaction Securities issued under the applicable Restructuring Document and distributed in accordance with the Implementation Steps.

A Secured Scheme Creditor or Unsecured Scheme Creditor is entitled to appoint a Designated Recipient to receive its entitlement to New Common Equity and, in respect of the SUN Noteholders, New Warrants, provided that Secured Scheme Creditor or Unsecured Scheme Creditor does so in accordance with the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable).

Each Secured Scheme Creditor or Unsecured Scheme Creditor that appoints a Designated Recipient:

- (a) must procure that such Designated Recipient complies with the terms of the Secured Creditors' Scheme or Unsecured Creditors' Scheme (as applicable), the RID and the Restructuring Documents (as applicable); and
- (b) is liable for such Designated Recipient breaching the terms of the Secured Creditors' Scheme or Unsecured Creditors' Scheme (as applicable), the RID and the Restructuring Documents (as applicable).

#### 8.4 **Entitlement to receive BLY Creditor Scheme Consideration**

As described in further detail in section 12 of this Explanatory Statement, Secured Scheme Creditors and Unsecured Scheme Creditors are encouraged to vote on the Secured Creditors' Scheme and/or the Unsecured Creditors' Scheme (as applicable) by completing and delivering their TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) to the Information Agent by no later than 4.00pm on 25 August 2021 (New York City Time).

##### (a) **TLA Purchasers and TLB Purchasers**

For the TLA Purchasers and TLB Purchasers (or their Designated Recipient who, in each case, are not Ineligible Persons), to receive their Secured Scheme Consideration and Unsecured Scheme Consideration on the Creditors' Scheme Implementation Date, they must ensure that they have completed and delivered their TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable) in accordance with the instructions set out therein.

Further, if a TLA Purchaser or TLB Purchaser is an Other CSPO Participant but subsequently transfers or assigns its interest in the Term Loan A or Term Loan B (as applicable) after already nominating to participate in the Creditor Share Purchase Option, that TLA Purchaser or TLB Purchaser must ensure the person to whom the debt is transferred completes a TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable) such that, among other things, an election is made by that person to participate in the Creditor Share Purchase Option and that person has requested the same Maximum Committed Securities as the TLA Purchaser who is transferring the debt. In this regard, please also refer to section 8.6 below.

##### (b) **SSN Noteholders**

In addition to submitting their SSN Account Holder Letter in accordance with the instructions set out therein, for SSN Noteholders to receive their Secured Scheme Consideration and Unsecured Scheme Consideration on the Creditors' Scheme Implementation Date, they must ensure that their respective Account Holders:

- (i) deliver Custody Instructions to DTC in relation to the SSN Noteholder's interest in the SSN Indenture Notes; and
- (ii) provide confirmation of the Custody Instructions to the Information Agent, during the Scheme Consideration Election Window.

SSN Noteholders should note that the Scheme Consideration Election Window will occur after the SSN Account Holder Letters are to be submitted for the purposes of the Scheme Meetings, and therefore will need to instruct their Account Holders separately in relation to the delivery of their respective Custody Instructions in order to receive New Common Equity on the Creditors' Scheme Implementation Date.

If a SSN Noteholder who is a Secured Scheme Creditor does not procure delivery of Custody Instructions to DTC and provide confirmation of the Custody Instructions to

the Information Agent during the Scheme Consideration Election Window, they will be deemed to be an Unidentified Secured Scheme Creditor and the New Common Equity to which that SSN Noteholder is entitled will be dealt with in accordance with section 8.2 of the Secured Creditors' Scheme (as explained in further detail at section 8.5 of this Explanatory Statement).

If a SSN Noteholder who is an Unsecured Scheme Creditor does not procure delivery of Custody Instructions to DTC and provide confirmation of the Custody Instructions to the Information Agent during the Scheme Consideration Election Window, they will be deemed to be an Unidentified Unsecured Scheme Creditor and the New Common Equity to which that SSN Noteholder is entitled will be dealt with in accordance with section 8.2 of the Unsecured Creditors' Scheme (as explained in further detail at section 8.5 of this Explanatory Statement).

Further, if a SSN Noteholder is an Other CSPO Participant but subsequently transfers or assigns its interest in SSN Indenture after already nominating to participate in the Creditor Share Purchase Option, that SSN Noteholder must ensure the person to whom the debt is transferred completes a SSN Account Holder Letter such that, among other things, an election is made by that person to participate in the Creditor Share Purchase Option and that person has requested the same Maximum Committed Securities as the SSN Noteholder who is transferring the debt. In this regard, please also refer to section 8.6 below.

(c) **SUN Noteholders**

In addition to submitting their SUN Account Holder Letter in accordance with the instructions set out therein, for SUN Noteholders to receive their Unsecured Scheme Consideration on the Creditors' Scheme Implementation Date, they must ensure that their respective Account Holders:

- (i) deliver Custody Instructions to DTC in relation to the SUN Noteholder's interest in the SUN Indenture Notes; and
- (ii) provide confirmation of the Custody Instructions to the Information Agent, during the Scheme Consideration Election Window.

SUN Noteholders should note that the Scheme Consideration Election Window will occur after the SUN Account Holder Letters are to be submitted for the purposes of the Unsecured Creditors' Scheme Meeting, and therefore will need to instruct their Account Holders separately in relation to the delivery of their respective Custody Instructions in order to receive New Common Equity and the New Warrants on the Creditors' Scheme Implementation Date.

If a SUN Noteholder who is an Unsecured Scheme Creditor does not procure delivery of Custody Instructions to DTC and provide confirmation of the Custody Instructions to the Information Agent during the Scheme Consideration Election Window, they will be deemed to be an Unidentified Unsecured Scheme Creditor and the New Common Equity and New Warrants to which that SUN Noteholder is entitled will be dealt with in accordance with section 8.2 of the Unsecured Creditors' Scheme (as explained in further detail at section 8.5 of this Explanatory Statement).

Further, if a SUN Noteholder is a Participating SUN Noteholder but subsequently transfers or assigns its interest in SUN Indenture after already nominating to participate in the Creditor Share Purchase Option, that SUN Noteholder must ensure the person to whom the debt is transferred completes a SUN Account Holder Letter such that, among other things, an election is made by that person to participate in the Creditor Share Purchase Option and that person has requested the same

Maximum Committed Securities as the SUN Noteholder who is transferring the debt. In this regard, please also refer to section 8.6 below.

**8.5 Ineligible Persons, Unidentified Secured Scheme Creditors and Unidentified Unsecured Scheme Creditors**

The BLY Creditor Schemes provide for the situation where a Secured Scheme Creditor or Unsecured Scheme Creditor would otherwise be entitled to Secured Scheme Consideration or Unsecured Scheme Consideration but for the fact they are either:

- (a) an Ineligible Person who has not appointed a Designated Recipient to receive such consideration; or
- (b) an Unidentified Secured Scheme Creditor or Unidentified Unsecured Scheme Creditor, on the basis that:
  - (i) they have not been identified in BLY's records provided to the Scheme Administrators in accordance with clause 7(e) of the RID; or
  - (ii) in respect of a SSN Noteholder or a SUN Noteholder who is a Secured Scheme Creditor or Unsecured Scheme Creditor, they have not procured delivery of Custody Instructions to DTC and provided confirmation of the Custody Instructions to the Information Agent during the Scheme Consideration Election Window to facilitate the delivery of the Secured Scheme Consideration or Unsecured Scheme Consideration, as described at section 8.4 of this Explanatory Statement.

In that scenario, on the Creditors' Scheme Implementation Date, BLY will issue the New Common Equity and, in respect of the SUN Noteholders, the New Warrants to which that Secured Scheme Creditor or Unsecured Scheme Creditor is entitled to a nominee appointed by BLY. The New Common Equity and, if applicable, New Warrants will be held by the nominee for that Secured Scheme Creditor or Unsecured Scheme Creditor.

In the situation where the nominee is holding the New Common Equity and, if applicable, New Warrants because the Secured Scheme Creditor or Unsecured Scheme Creditor is an Ineligible Person, then BLY will cause the nominee to:

- (a) as soon as is reasonably practicable (but, in any case within one month after the Members' Scheme Effective Time or, if the Members' Scheme is not approved by the Court, the Creditors' Schemes Restructuring Effective Time) offer all such New Common Equity (or the CDIs issued to the nominee on implementation of the Members' Scheme) or, if applicable, New Warrants for sale in the manner, at such price and on such other terms the nominee thinks fit (and at the risk of the Secured Scheme Creditor or Unsecured Scheme Creditor who is an Ineligible Person);
- (b) remit to BLY the proceeds of sale (after deducting any reasonable brokerage or other selling costs, taxes and charges).

Promptly after the last sale of New Common Equity (or the CDIs issued to the nominee on implementation of the Members' Scheme) and, if applicable, New Warrants, BLY must pay to each Secured Scheme Creditor and Unsecured Scheme Creditor who is an Ineligible Person the proportion of the net proceeds of sale received by BLY to which that Secured Scheme Creditor or Unsecured Scheme Creditor is entitled.

In the situation where the nominee is holding the New Common Equity and, if applicable, New Warrants because the Secured Scheme Creditor or Unsecured Scheme Creditor is an Unidentified Secured Scheme Creditor or Unidentified Unsecured Scheme Creditor, then BLY will take commercially reasonable steps to seek to identify the relevant Secured Scheme

Creditor or Unsecured Scheme Creditor for a period of 6 months from the date of the nominee receiving the New Common Equity and, if applicable, New Warrants.

If at any time during the 6 month period the Unidentified Secured Scheme Creditor or Unidentified Unsecured Scheme Creditor is identified, BLY will cause to be transferred to such creditor (or its nominated Designated Recipient) the New Common Equity (or the CDIs issued to the nominee on implementation of the Members' Scheme) and, if applicable, New Warrants to which the creditor is entitled to be transferred to it, provided that person is not an Ineligible Person, in which case:

- (a) BLY will cause the nominee to, as soon as is reasonably practicable, sell the New Common Equity (or the CDIs issued to the nominee on implementation of the Members' Scheme) and, if applicable, New Warrants at such price and on such other terms the nominee thinks fit (and at the risk of the relevant Secured Scheme Creditor or Unsecured Scheme Creditor) and remit the net proceeds of sale after deducting any reasonable brokerage or other selling costs, taxes and charges to BLY; and
- (b) promptly after the last sale of the New Common Equity (or the CDIs issued to the nominee on implementation of the Members' Scheme) and, if applicable, New Warrants, BLY must pay to each such Secured Scheme Creditor or Unsecured Scheme Creditor the proportion of the net proceeds of sale received by BLY to which that Secured Scheme Creditor or Unsecured Scheme Creditor is entitled.

Otherwise, where such creditor has not been identified by the end of the 6 month period, BLY will cause the New Common Equity (or the CDIs issued to the nominee on implementation of the Members' Scheme) and, if applicable, New Warrants to which that Secured Scheme Creditor or Unsecured Scheme Creditor is entitled to be sold by the nominee and the proceeds to be donated by way of gift to a charity of BLY's choosing.

#### **8.6 Entitlement to receive consideration after the Voting Entitlement Record Date**

Both BLY Creditor Schemes contain the same provisions in relation to a person's entitlement to scheme consideration after the Voting Entitlement Record Date.

Subject to the transfer restrictions set out in clause 14.2 of each BLY Creditor Scheme (discussed below at section 8.7), the Scheme Companies (1) are under no obligation to recognise any assignment or transfer of interests in the Secured Debt or Unsecured Debt (as applicable) after the Voting Entitlement Record Date for the purpose of a person claiming to be entitled to receive New Common Equity, New Warrants or Shares pursuant to the Creditor Share Purchase Option (as applicable) under the BLY Creditor Schemes, and (2) have no obligations under the BLY Creditor Schemes to any person claiming to be a Secured Scheme Creditor or Unsecured Scheme Creditor to whom the relevant Secured Debt or Unsecured Debt (as applicable) was assigned or transferred, unless that person has:

- (a) provided a duly completed TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter and/or SUN Account Holder Letter (as applicable) to the Information Agent in accordance with the instructions, other than the time by which the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter and SUN Account Holder Letter (as applicable) must be returned to the Information Agent, as set out in section 12 of this Explanatory Statement;
- (b) if the person assigning or transferring the Secured Debt or Unsecured Debt (as applicable) is a party to the RSA, complied with the terms of the RSA; and
- (c) if the person assigning or transferring the Secured Debt or Unsecured Debt (as applicable) is a Participating SUN Noteholder or Other CSPO Participant, complied with the requirement set out at section 8.6(a) above and the relevant TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account



Holder Letter (as applicable) provided to the Information Agent has the relevant section titled 'Creditor Share Purchase Option' completed, whereby, among other things, the relevant transferee has elected to participate in the Creditor Share Purchase Option and has requested the same Maximum Committed Securities as the person assigning or transferring the Secured Debt or Unsecured Debt (as applicable).

Any person to whom the relevant Secured Debt or Unsecured Debt (as applicable) is assigned or transferred after the Voting Entitlement Record Date and is recognised by the Scheme Companies in accordance with the BLY Creditor Schemes, is deemed to have held the relevant Secured Debt or Unsecured Debt (as applicable) as at the Voting Entitlement Record Date for the purpose of determining its entitlement to receive New Common Equity or, (if applicable) New Warrants, or Shares pursuant to the Creditor Share Purchase Option under the BLY Creditor Schemes.

#### 8.7 **Standstill and transfer restrictions under the BLY Creditor Schemes**

Both the Secured Creditors' Scheme and Unsecured Creditors' Scheme contain the same standstill provisions, transfer restrictions and terminate on the Sunset Date.

During the period on and from the Scheme Effective Date up to the Creditors' Schemes Restructuring Effective Time (the **Standstill Period**), neither the Secured Scheme Creditors, Unsecured Scheme Creditors, Agent, TLB Collateral Agent, SSN Trustee nor SUN Trustee may, except for the purpose of enforcing the terms of the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, or any Deed Poll (as applicable), or as otherwise expressly provided by the Secured Creditors' Scheme or Unsecured Creditors' Scheme (as applicable), dispose of, transfer or exercise certain of its rights under the Creditors' Schemes Finance Documents.

The terms of the standstill are set out in clause 14.1 of each BLY Creditor Scheme. The purpose of these clauses is to ensure that the BLY Creditor Schemes can be implemented in an orderly manner, in accordance with their terms.

During the Standstill Period, Secured Scheme Creditors, Unsecured Scheme Creditors, Agent, TLB Collateral Agent, SSN Trustee and SUN Trustee are prohibited from disposing of or transferring any right under the Term Loan A, Term Loan B, SSN Indenture Notes or SUN Indenture Notes, other than with the consent of the Scheme Companies. The restriction on transferring is set out in clause 14.2 of each BLY Creditor Scheme.

Following the Scheme Effective Date in respect of both BLY Creditor Schemes, the Scheme Companies are under no obligation to recognise any assignment or transfer of interests in the Secured Debt or Unsecured Debt for the purposes of the BLY Creditor Schemes. That said, the Scheme Companies may in their sole discretion agree to recognise such assignment or transfer for the purpose of the BLY Creditor Schemes.

Relatedly, SSN Noteholders who are Secured Scheme Creditors and SUN Noteholders who are Unsecured Scheme Creditors should also note that delivering the Custody Instruction to the Information Agent during the Scheme Consideration Election Window will prevent further trading of that SSN Noteholder or SUN Noteholder's interest in the SSN Indenture or SUN Indenture (as applicable).

#### 8.8 **Creditor Share Purchase Option**

SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders who are Scheme Creditors will have the opportunity to subscribe for Shares at an issue price of AU\$2.48 per Share (**CSPO Issue Price**). The total amount to be raised by BLY under the Creditor Share Purchase Option is an amount equal to the aggregate of US\$2.5 million and the SPP Shortfall Amount (the **CSPO Cap Amount**). Shares under the Creditor Share Purchase Option will

be issued to Scheme Creditors who elect to participate in the Creditor Share Purchase Option in accordance with the CSPO Allocation Principles described below. The Shares issued under the Creditor Share Purchase Option will rank equally with BLY's existing fully paid ordinary Shares on issue as at the date of their issue (which will occur after the Share Consolidation).

Shares under the Creditor Share Purchase Option will be allocated by BLY in accordance with the following principles and adjusted as a result of any rounding required by clause 12(b) of the Secured Creditors' Scheme or clause 12(b) of the Unsecured Creditors' Scheme (as applicable) (**CSPO Allocation Principles**):

- (a) (**Firstly, allocations to Participating SUN Noteholders**): Shares will first be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on the following basis:
  - (i) (*Initial pro rata allocation to Participating SUN Noteholders*) the Shares available under the CSPO Cap Amount will initially be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Participating SUN Noteholder as at the Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Participating SUN Noteholders as at the Voting Entitlement Record Date, provided that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
  - (ii) (*Allocation of undersubscriptions to other Participating SUN Noteholders*) if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the initial pro rata allocation to Participating SUN Noteholders (or their Permitted CSPO Nominee) under paragraph (a)(i) above, the remaining available Shares will be allocated to the Participating SUN Noteholders (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (a)(i) above (**Oversubscribing Participating SUN Noteholders**) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Oversubscribing SUN Noteholder as at the Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Oversubscribing Participating SUN Noteholders as at the Voting Entitlement Record Date, provided always that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:
    - (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
    - (B) each Participating SUN Noteholder (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
- (b) (**Secondly, allocations to Other CSPO Participants**): If the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocation of Shares to Participating SUN Noteholders (or their Permitted CSPO Nominees) under paragraph (a) above, then the remaining available Shares will be

allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on the following basis:

- (i) *(Initial pro rata allocation to Other CSPO Participants)* the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Other CSPO Participant under the BLY Creditor Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Other CSPO Participants under the BLY Creditor Schemes (not including Shares under the Creditor Share Purchase Option), provided that the maximum number of Shares that will be allocated to Other CSPO Participants (or their Permitted CSPO Nominees) pursuant to the Creditor Share Purchase Option will be the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter; and
- (ii) *(Allocation of undersubscriptions to Other CSPO Participants)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocations under paragraphs (a) and (b)(i) above, the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (b)(i) above (**Oversubscribing Other CSPO Participants**) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Oversubscribing Other CSPO Participant under the BLY Creditor Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Oversubscribing Other CSPO Participants under the BLY Creditor Schemes (not including Shares under the Creditor Share Purchase Option), provided always that the maximum number of Shares that will be allocated to an Other CSPO Participant (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:
  - (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
  - (B) each Other CSPO Participant (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter.

In each case, a Participating SUN Noteholder and Other CSPO Participants may only participate in the Creditor Share Purchase Option if they are not an Ineligible Person or, if they are an Ineligible Person, if they nominate a Permitted CSPO Nominee.

Participating SUN Noteholders and Other CSPO Participants may nominate another person (who is not an Ineligible Person) to take up their allocation of Shares under the Creditor Share Purchase Option provided that:

- (a) the nominee is a party to the RSA, or accedes to the RSA; and
- (b) the Participating SUN Noteholder or Other CSPO Participant specifies the nominee's name and details in the relevant section titled 'Creditor Share Purchase Option' of

their SUN Account Holder Letter, SSN Account Holder Letter, TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable),

(a **Permitted CSPO Nominee**).

To elect to participate in and to determine the relevant allocation of Shares to be allocated to Participating SUN Noteholders or Other CSPO Participants under the Creditor Share Purchase Option, the relevant SUN Noteholder or Other CSPO Participant must not be an Ineligible Person and must complete and submit to the Information Agent the section titled 'Creditor Share Purchase Option' of their TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) as described in section 12.12 of this Explanatory Statement. Each such Participating SUN Noteholder or Other CSPO Participant's final allocation of Shares will then be determined by BLY in accordance with the CSPO Allocation Principles after 4.00 pm 17 September 2021 (New York City Time). BLY will then send a separate confirmation to Participating SUN Noteholders and Other CSPO Participants to notify them of their final allocation of Shares and their settlement obligations.

Participating SUN Noteholders and Other CSPO Participants must be either a Secured Scheme Creditor or Unsecured Scheme Creditor as at the Schemes Effective Date to remain a Participating SUN Noteholders and Other CSPO Participants. In this regard, please refer to sections 8.4 and 8.6 where further detail is provided about TLA Purchasers, TLB Purchasers, SSN Noteholders or SUN Noteholders entitlement to New Common Equity, New Warrants and/or Shares under the Creditor Share Purchase Option if their interest in the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture (as applicable) is transferred or assigned.

The Creditor Share Purchase Option will only be implemented if the Shareholder Resolutions are approved by Non-Associated Shareholders at the Shareholder Meeting of BLY Shareholders.

#### 8.9 **Sunset Date**

If the BLY Creditor Schemes are not implemented by the Sunset Date, being 31 December 2021, the BLY Creditor Schemes will automatically terminate and the standstill shall cease to apply in relation to any Secured Scheme Creditor or Unsecured Scheme Creditor.

#### 8.10 **Steps to implement the BLY Creditor Schemes: the Implementation Steps**

The Secured Creditors' Scheme provides for the restructuring of the Secured Debt to take place in the sequence set out in clause 8 of the Restructuring Implementation Deed.

Similarly, the Unsecured Creditors' Scheme provides for the restructuring of the Unsecured Debt to take place in the sequence set out in clause 8 of the Restructuring Implementation Deed.

For the purposes of this Explanatory Statement, the sequence of implementing the BLY Creditor Schemes and other Recapitalisation Transactions (except for the Share Consolidation) set out in clause 8 of the Restructuring Implementation Deed is defined as the **Implementation Steps**.

The following table sets out a high level summary of the Implementation Steps as set out in the Restructuring Implementation Deed:

<b>Step Summary of the Implementation Step</b>	
<b>1</b>	<b>Issue of Shares and New Warrants:</b>

Step	Summary of the Implementation Step
	BLY Creditor Schemes are implemented and Secured Scheme Creditors and Unsecured Scheme Creditors are issued Shares and, in respect of SUN Noteholders, New Warrants.
2	<b>Releases:</b> On and from completion of Step 1, the waivers, releases and discharges under the BLY Creditor Schemes take effect.
3	<b>Exit Financing:</b> Immediately after completion of Step 2, funding occurs under the Exit Financing Facility, repaying the amounts outstanding under the Incremental Finance Facility and Existing Backstop ABL.
4	<b>Share Purchase Plan:</b> Immediately after completion of Step 3, Shares are issued to Eligible SPP Shareholders in accordance with the Share Purchase Plan.
5	<b>Creditor Share Purchase Option:</b> Immediately after completion of Step 4, Shares are issued to the participants under the Creditor Share Purchase Option.
6	<b>Selective Buy-Back:</b> Provided that the Selective Buy-Back is approved by BLY Shareholders at the Shareholder Meeting, the Members' Scheme is approved by BLY Shareholders and the BLY Creditor Schemes become Effective, immediately after completion of Step 5, the Selective Buy-Back is completed, the Shares of the Eligible SBB Shareholders are cancelled and consideration under the Selective Buy-Back is paid.
7	<b>Subordinate Claim Releases:</b> Subordinate Claim releases occur.
8	<b>Confirmation of Scheme Restructuring Effective Time:</b> Immediately after completion of Step 7, BLY share register is updated and a copy is provided to the Scheme Administrators.  Scheme Administrator issue certificates to the Secured Scheme Creditors and the Unsecured Scheme Creditors advising of the Creditors' Schemes Restructuring Effective Time and notifying each Secured Scheme Creditor and each Unsecured Scheme Creditor of their respective shareholdings in BLY.
9	<b>Assumption Deed Poll:</b> If the Members' Scheme is approved by the Court and becomes effective under section 411(10) of the Corporations Act then, the Assumption Deed Poll takes effect on the date that the Members' Scheme becomes effective under section 411(10) of the Corporations Act.
10	<b>Members Scheme Implementation:</b> If the Members' Scheme is approved by the Court and becomes effective under section 411(10) of the Corporations Act, then, on the Members' Scheme Implementation Date, the Members' Scheme shall be implemented.

These Implementation Steps are set out in full in clause 8 of the Restructuring Implementation Deed. This section 8.10 only summarises key parts of the Implementation Steps and does not include every part of each Implementation Step. Secured Scheme Creditors and Unsecured Scheme Creditors should carefully review the complete version of the Implementation Steps in the Restructuring Implementation Deed, contained at Schedule 2 of the Secured Creditors' Scheme and Schedule 2 of the Unsecured Creditors' Scheme.

If in the opinion of any of the Scheme Administrators, as a result of an event failing to occur, or take effect, it is not possible to put any of the Implementation Steps into effect, all of the parties to the Restructuring Implementation Deed, including the Secured Scheme Creditors, Unsecured Scheme Creditors, Obligors, those directors and officers who have executed Deeds Poll, the Agents, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee are to place each other in the positions they would have been in had any of the Implementation Steps under the Restructuring Implementation Deed already taken not been so taken.

#### 8.11 Outcomes for Secured Scheme Creditors and Unsecured Scheme Creditors

If the BLY Creditor Schemes are implemented, the Secured Scheme Creditors and Unsecured Scheme Creditors will be issued their pro rata share of the Secured Scheme Consideration and Unsecured Scheme Consideration (as applicable) in accordance with the allocation principles summarised above.

A table showing the allocation of the New Common Equity by reference to the tranches of the Secured Debt and Unsecured Debt as at the RSA Date, and in accordance with the allocation principles summarised in section 8.3 above is set out below.

Debt tranche	Percentage of New Common Equity
SSN Secured Debt	53.55%
TLA Secured Debt	15.00%
TLB Secured Debt	18.52%
<b>Sub-total</b>	<b>87.07%</b>
SSN Unsecured Debt	1.98%
SUN Debt	3.73%
TLA Unsecured Debt	3.32%
TLB Unsecured Debt	3.89%
<b>Sub-total</b>	<b>12.92%</b>

In addition, if an Unsecured Scheme Creditor is a SUN Noteholder, it will receive a pro rata share of the New Warrants in accordance with the principles set out in the Unsecured Creditors' Scheme as summarised above.

The Secured Scheme Consideration and Unsecured Scheme Consideration is given to the Secured Scheme Creditors and Unsecured Scheme Creditors (as applicable) in exchange for the various promises given by them under Secured Creditors' Scheme and Unsecured

Creditors' Scheme (as applicable). These promises include that, with effect on and from completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID, each Secured Scheme Creditor and Unsecured Scheme Creditor waives, releases and discharges all of its rights, title and interest in the Secured Scheme Claims or Unsecured Scheme Claims (as applicable), and waives, releases and discharges all Liabilities of the Scheme Companies, the Obligors, the Released Individuals, the Agent, the TLB Collateral Agent, the SSN Trustee and (if applicable) the SUN Trustee to the Secured Scheme Creditors or Unsecured Scheme Creditors (as applicable) and each and every Claim which the Secured Scheme Creditors or Unsecured Scheme Creditors may have against the Scheme Companies, the Obligors, the Released Individuals, the Agent, the TLB Collateral Agent, the SSN Trustee and (if applicable) the SUN Trustee, in each case, in relation to or in connection with or in any way arising out of the:

- (a) the Secured Scheme Claims and Unsecured Scheme Claims (as applicable) and any of the facts, matters, circumstances and events that arose, occurred in respect of or gave rise to the Secured Scheme Claims or Unsecured Scheme Claims (as applicable);
- (b) the Creditors' Schemes Finance Documents;
- (c) the preparation, negotiation, approval or implementation of the RSA and/or the BLY Creditor Schemes and/or the Members' Scheme and/or the Restructuring Documents and/or the Incremental Finance Documents and/or the Existing Backstop ABL;
- (d) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms.

However, the releases, waivers and discharges above do not:

- (a) disentitle any Obligor, Secured Scheme Creditor, Unsecured Scheme Creditor, Released Individual, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee from enforcing their respective rights under a BLY Creditor Scheme, the Restructuring Documents or in respect of any transaction to be implemented or consummated in connection therewith and each party agrees that those releases, waivers and covenants will be limited to the extent necessary to permit each of them to enforce any such rights;
- (b) extend to any Claim to the extent that such Claim relates to the released party's obligations under the RSA that require performance subsequent to the BLY Creditor Scheme's becoming Effective or to any terms of the RSA, or rights of any party to the RSA, that continue under or pursuant to the RSA; and
- (c) extend to any Claim by any party, to the extent that the relevant released party has engaged in fraud or wilful misconduct or been reckless, grossly negligent or dishonest in respect of the facts, matters, circumstances or events to which that Claim relates.

Separately to the issue of Secured Scheme Consideration and Unsecured Scheme Consideration, SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders who are Scheme Creditors will also have the opportunity to subscribe for Shares pursuant to the Creditor Share Purchase Option. Further details in relation to the Creditor Share Purchase Option can be found at sections 8.8 and 12.12 of this Explanatory Statement.

#### Shareholdings on Implementation

The percentage of Shares owned by Secured Scheme Creditors and Unsecured Scheme Creditors in BLY after the relevant Recapitalisation Transactions (including the BLY Creditor Schemes) are implemented will depend on a number of factors. The table below sets out those Secured Scheme Creditors and Unsecured Scheme Creditor potentially holding 5% or

more of the total of the Shares in BLY after the relevant Recapitalisation Transactions (including the BLY Creditor Schemes) are implemented having regard to the following assumptions:

- (a) the debt holdings of the Supporting Creditors is based on information known to BLY as at 9 July 2021;
- (b) the foreign exchange conversion price used assumes a conversion price based on the average May 2021 USD/AUD exchange rate of \$1.29 (source: CapIQ);
- (c) none of the Existing Warrants and Existing Options are exercised. The current exercise prices of the Existing Warrants and Existing Options will be adjusted as a result of the Share Consolidation by multiplying the exercise prices by 20. Following that adjustment to the relevant exercise prices, the Existing Warrants and Existing Options will be significantly out of the money. It is therefore assumed for these purposes that the Existing Warrants and Existing Options will not be exercised. The tables below do not show the current holdings of the parties of the Existing Warrants and Existing Options;
- (d) No Shares are offered under the Share Purchase Plan;
- (e) No Shares are offered under the Creditor Share Purchase Option;
- (f) None of the New Warrants are exercised; and
- (g) No Shares are purchased by BLY under the Selective Buy-Back.

<b>Creditor (which may comprise one or more individual entities or funds)</b>	<b>Percentage of total Shares</b>
Centerbridge	45.6%
Ascribe	14.9%
Corre	11.8%
FPA	15.7%
Nut Tree	8.8%

## 8.12 Outcome for the Scheme Companies

If the BLY Creditor Schemes are implemented, the outcomes for the Scheme Companies are:

- (a) under the Secured Creditors' Scheme:
  - (i) the Scheme Companies will receive the benefit of the waivers, discharges and releases outlined in Section 8.11 above;
  - (ii) BLY will issue the New Common Equity to the Secured Scheme Creditors in accordance with the allocation principles outlined above; and
  - (iii) BLY will allocate and issue new Shares to Other CSPO Participants (subject to prior allocation and issuance to Participating SUN Noteholders), pursuant to the Creditor Share Purchase Option, as outlined in Section 8.8 above.



- (b) under the Unsecured Creditors' Scheme:
  - (i) the Scheme Companies will receive the benefit of the waivers, discharges and releases outlined in Section 8.11 above;
  - (ii) BLY will issue the New Common Equity and, in respect of the SUN Noteholders, the New Warrants to the Unsecured Scheme Creditors in accordance with the allocation principles outlined above;
  - (iii) BLY will allocate and issue new Shares to Participating SUN Noteholders and (to the extent any new Shares remain available after such allocation and issuance) to Other CSPO Participants, pursuant to the Creditor Share Purchase Option, as outlined in Section 8.8 above; and
  - (iv) the rights of Subordinate Claim Holders to bring Subordinate Claims against BLY will be limited to any amount actually recovered by BLY under any Applicable Insurance Policy applicable to that Subordinate Claim, less expenses incurred in connection with that Subordinate Claim.

In the case where the Members' Scheme is approved and implemented in accordance with its terms and the Restructuring Implementation Deed, the Secured Scheme Creditors and Unsecured Scheme Creditors will be bound by the Members' Scheme to transfer the Shares issued to them by BLY under the relevant BLY Creditor Scheme to New BLY Parent, in exchange for being issued with a number of CDIs in respect of shares in New BLY Parent equivalent to the same number of Shares held by that Secured Scheme Creditor or Unsecured Scheme Creditor.

Further, in respect of a SUN Noteholder who receives New Warrants, if the Members' Scheme is approved, then pursuant to the Assumption Deed Poll, New BLY Parent will be obliged to issue a number of warrants to buy CDIs in respect of shares in New BLY Parent equivalent to the number of New Warrants held by that SUN Noteholder.

#### 8.13 **Outcomes for third parties**

The BLY Creditor Schemes provide for various releases given to parties that are not the Scheme Companies, the Secured Scheme Creditors or Unsecured Scheme Creditors. Such third parties will be bound by the BLY Creditor Schemes by entering into the relevant Deed Poll.

On and from completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID, the Unsecured Scheme Creditors, Secured Scheme Creditors, the Obligors, Released Individuals, Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee will release one another from various Liabilities and Claims arising from:

- (a) the Creditors' Schemes Finance Documents;
- (b) the preparation, negotiation, approval or implementation of the RSA and/or the BLY Creditor Schemes and/or the Members' Scheme and/or the Restructuring Documents; and
- (c) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms;

including any Claims or Liabilities which are unknown to or not in the contemplation of the parties, their employees, agents, former employees or former agents, or their related bodies corporate, at the time the releases in clause 10.1 of the Secured Creditors' Scheme and clause 10.1 of the Unsecured Creditors' Scheme take effect.

## 8.14 Summary of shareholder rights and protections

Under the BLY Creditor Schemes, the Secured Scheme Creditors and Unsecured Scheme Creditors will be issued New Common Equity. In circumstances where the Members' Scheme is approved, the Secured Scheme Creditors and Unsecured Scheme Creditors will receive CDIs in respect of shares in New BLY Parent. Otherwise, if the Members' Scheme is not approved, the Secured Scheme Creditors and Unsecured Scheme Creditors will receive the New Common Equity, being Shares in BLY. Set out below is a summary of shareholder rights and protections for both being a BLY Shareholder or holding CDIs in New BLY Parent.

### (a) Australia

The Corporations Act affords a number of rights to members, and includes a number of minority shareholder protections including the rights and protections set out in the following table. These rights are only relevant if the Members' Scheme is **not** approved and implemented.

### (b) Canada

Where the Members' Scheme **is** approved and implemented, the rights and protections afforded to members in relation to New BLY Parent will differ to those under Australian law. These rights and protections are summarised in the following table.

Item	Australia (relevant where the Members' Scheme is <u>not</u> approved)	Canada (relevant where the Members' Scheme is approved and implemented)
<b>Right to request a general meeting of members</b>	Section 249D of the Corporations Act provides that the directors of BLY must call and arrange to hold a general meeting of members on the valid request of members with at least 5% of the votes that may be cast at the general meeting.	Section 105(4) of the <i>Business Corporations Act</i> (Ontario) ( <b>OBCA</b> ) provides that, subject to certain exceptions, the directors of New BLY Parent must call a meeting of shareholders within twenty-one days after the date on which a valid request of shareholders with at least 5% of the issued shares of New BLY Parent that carry the right to vote at a meeting is received.
<b>Right to requisition a general meeting of members</b>	Section 249F of the Corporations Act provides that members with at least 5% of the votes that may be cast at a general meeting of BLY may call, and arrange to hold, a general meeting.	Section 105(1) of the OBCA provides that shareholders with at least 5% of the issued shares of New BLY Parent that carry the right to vote at a meeting may requisition the directors of the company to call a shareholders' meeting.
<b>Right to propose resolutions at a general meeting of members</b>	Section 249N of the Corporations Act provides that the following may give BLY notice of a resolution that the members propose to move at a general meeting:	Section 99(1) of the OBCA provides that:  (a) a registered holder of shares entitled to vote at a meeting of shareholders; or

<b>Item</b>	<b>Australia</b> (relevant where the Members' Scheme is <u>not</u> approved)	<b>Canada</b> (relevant where the Members' Scheme is approved and implemented)
	<p>(a) members with at least 5% of the votes that may be cast on the resolution; or</p> <p>(b) at least 100 members who are entitled to vote at the general meeting.</p> <p>The notice must be in writing, set out the wording of the proposed resolution and be signed by the members proposing to move the resolution. The resolution must be considered at the next general meeting that occurs more than 2 months after the notice is given.</p>	<p>(b) a beneficial owner of shares that are entitled to be voted at a meeting of shareholders</p> <p>may submit to New BLY Parent notice of a proposal and discuss at the meeting any matter in respect of which the registered holder or beneficial owner would have been entitled to submit a proposal.</p> <p>Section 99(4) of the OBCA provides that a notice may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate at least 5% of total shares or 5% of a class or series of shares of New BLY Parent entitled to vote at the meeting to which the proposal is to be presented.</p>
<b>Information access rights</b>	<p>The Corporations Act affords rights to BLY Shareholders to access certain information about the Scheme Companies. These include the right to inspect the Scheme Companies' registers of members and minute books for members' meetings.</p>	<p>Section 145(1) of the OBCA affords rights to New BLY Parent shareholders to access all company records that New BLY Parent is required to keep under s 140(1).</p>
<b>Ability to seek relief for "oppressive conduct"</b>	<p>Part 2F.1 of the Corporations Act provides for a "statutory oppression" remedy for members, which provides the court with broad powers to grant relief to a member if the conduct of BLY is either:</p> <p>(a) contrary to the interests of the members as a whole; or</p> <p>(b) oppressive to, unfairly prejudicial to, or unfairly discriminatory against, a member (or members) whether in that capacity or another capacity.</p> <p>Examples of oppressive or unfair conduct can include:</p> <p>(a) an issue of Shares by the directors to the disadvantage of a minority BLY Shareholder;</p>	<p>Section 248(2) of the OBCA provides for a statutory "oppression remedy" for, among others, shareholders, which provides the court with broad powers to grant relief to a complainant if the conduct of New BLY Parent or any of its affiliates or their respective directors is either:</p> <p>(a) oppressive; or</p> <p>(b) unfairly prejudicial; or</p> <p>(c) unfairly disregards the interests of any security holder, creditor, director or officer of the corporation.</p> <p>The orders a court can make on the finding of oppressive or unfair conduct are broad, and may include:</p>

Item	Australia (relevant where the Members' Scheme is <u>not</u> approved)	Canada (relevant where the Members' Scheme is approved and implemented)
	<p>(b) improper diversion of business or business opportunities; and</p> <p>(c) denial of access to information.</p> <p>The orders a court can make on the finding of oppressive or unfair conduct are broad, and may include:</p> <p>(a) that BLY be wound up;</p> <p>(b) that BLY's constitution be amended or repealed;</p> <p>(c) that a receiver or a receiver and manager is appointed over any or all of BLY's property;</p> <p>(d) regulating the conduct of BLY's affairs in the future; and</p> <p>(e) authorising a member to institute, prosecute, defend or discontinue specified proceedings in the name and on behalf of BLY (e.g. by way of statutory derivative action).</p>	<p>(a) an order restraining the conduct complained of;</p> <p>(b) that New BLY Parent be wound up;</p> <p>(c) directing rectification of the registers or other New BLY Parent company records;</p> <p>(d) that a receiver or receiver manager is appointed over any or all of New BLY Parent's property;</p> <p>(e) regulating the conduct of New BLY Parent's affairs by amending the articles or by-laws or creating or amending a unanimous shareholder agreement; and</p> <p>(f) an order requiring the trial of any issue.</p>

If:

- (i) the Members' Scheme is not approved, the acquisition of Shares and other interests in BLY is regulated by Chapter 6 of the Corporations Act; and
- (ii) the Members' Scheme is approved, the acquisition of Shares and other interests in New BLY Parent is regulated under Canadian law.

For a brief discussion about relevant restrictions on the acquisition of Shares and other interests, see section 10.2(i) of this Explanatory Statement.

Further, rights attaching to the Shares and CDIs in respect of shares in New BLY Parent (see section 11.3) and the terms and conditions of the New Warrants provide certain other protections to SUN Noteholders.

#### 8.15 Who will be bound by the BLY Creditor Schemes?

##### (a) Secured Creditors' Scheme

If the Secured Creditors' Scheme becomes effective, it will bind each Secured Scheme Creditor (as at the Scheme Effective Date of the Secured Creditors' Scheme) and the Scheme Companies. By operation of the Deeds Poll, provided that they are executed, it will bind the Secured Scheme Administrators, the Obligors, the Agent, the TLB Collateral Agent, the SSN Trustee and any Released Individual.

If you are a Secured Scheme Creditor and you do not vote at the Secured Creditors' Scheme Meeting, or you vote against the Secured Creditors' Scheme, you will be bound by the Secured Creditors' Scheme, provided that the Secured Creditors' Scheme is agreed to by the Requisite Majority and is approved by the Court, and you remain a Secured Scheme Creditor as at the Scheme Effective Date in respect of the Secured Creditors' Scheme.

**(b) Unsecured Creditors' Scheme**

If the Unsecured Creditors' Scheme becomes effective, it will bind each Unsecured Scheme Creditor (as at the Scheme Effective Date of the Unsecured Creditors' Scheme), each Subordinate Claim Holder and the Scheme Companies. By operation of the Deeds Poll, provided that they are executed, it will bind the Unsecured Scheme Administrators, the Obligors, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee and any Released Individual.

If you are an Unsecured Scheme Creditor and you do not vote at the Unsecured Creditors' Scheme Meeting, or you vote against the Unsecured Creditors' Scheme, you will be bound by the Unsecured Creditors' Scheme, provided that the Unsecured Creditors' Scheme is agreed to by the Requisite Majority and is approved by the Court, and you remain an Unsecured Scheme Creditor as at the Scheme Effective Date in respect of the Unsecured Creditors' Scheme.

**8.16 Execution risks**

The execution risks that could prevent the BLY Creditor Schemes being implemented include:

- (a) the BLY Shareholders do not pass the Shareholder Resolutions, particularly the Shareholder Resolution required to issue the New Common Equity to the Secured Scheme Creditors and Unsecured Scheme Creditors;
- (b) the Requisite Majority do not agree to the Secured Creditors' Scheme;
- (c) the Requisite Majority do not agree to the Unsecured Creditors' Scheme;
- (d) the Court does not approve either or both of the BLY Creditor Schemes, or it approves the BLY Creditor Schemes with alterations or conditions that change the substance of the BLY Creditor Schemes in a material way;
- (e) a person objecting to either or both of the BLY Creditor Schemes appeals against the Court's orders approving the BLY Creditor Schemes (and potentially seeks a stay of those orders pending resolution of that appeal) or applies for injunctive relief and the Court orders the stay or grants an injunction without requiring the person to give the usual undertaking as to damages;
- (f) the conditions precedents to the BLY Creditor Schemes are not satisfied including, but not limited to, any of the BLY Creditor Schemes not becoming effective pursuant to section 411(10) of the Corporations Act;
- (g) the Restructuring Support Agreement is terminated; or
- (h) the Restructuring Implementation Deed is terminated.

It is also fundamental to the operation of the BLY Creditor Schemes that:

- (a) the Agent performs its obligations in connection with each of the BLY Creditor Schemes. The Agent has undertaken or it is expected will shortly undertake to sign

and provide a deed poll on the Scheme Effective Date under which it agrees to be bound by both of the BLY Creditor Schemes;

- (b) the TLB Collateral Agent performs its obligations in connection with each of the BLY Creditor Schemes. The TLB Collateral Agent has undertaken or it is expected will shortly undertake to sign and provide a deed poll on the Scheme Effective Date under which it agrees to be bound by both of the BLY Creditor Schemes;
- (c) the SSN Trustee performs its obligations in connection with each of the BLY Creditor Schemes. The SSN Trustee has undertaken to sign and provide a deed poll on the Scheme Effective Date under which it agrees to be bound by both of the BLY Creditor Schemes;
- (d) the SUN Trustee performs its obligations in connection with the Unsecured Creditors' Scheme. The SUN Trustee has undertaken or it is expected will shortly undertake to sign and provide a deed poll on the Scheme Effective Date under which it agrees to be bound by the Unsecured Creditors' Scheme;
- (e) the Scheme Administrators perform their obligations in connection with the BLY Creditor Schemes (as applicable) and the Restructuring Implementation Deed;
- (f) the Secured Scheme Creditors perform their obligations in connection with the Secured Creditors' Scheme. Under the Secured Creditors' Scheme, each Secured Scheme Creditor will irrevocably direct the Secured Scheme Administrators to execute and deliver, as its attorney and agent, a Secured Scheme Creditor Deed Poll and the Restructuring Implementation Deed under which they agree to complete certain actions;
- (g) the Unsecured Scheme Creditors perform their obligations in connection with the Unsecured Creditors' Scheme. Under the Unsecured Creditors' Scheme, each Unsecured Scheme Creditor will irrevocably direct the Unsecured Scheme Administrators to execute and deliver, as its attorney and agent, an Unsecured Scheme Creditor Deed Poll and the Restructuring Implementation Deed under which they agree to complete certain actions; and
- (h) the Backstop Agent, the Backstop Collateral Agent, the Incremental Agent and the Incremental Collateral Agent each perform their respective obligations in connection with the Restructuring Implementation Deed.

#### 8.17 **Modification of the BLY Creditor Schemes**

(a) **Modifications by the Secured Scheme Creditors or Unsecured Scheme Creditors**

It is possible that a Secured Scheme Creditor or an Unsecured Scheme Creditor may propose a modification to the terms of the applicable BLY Creditor Scheme at the respective Scheme Meeting (prior to the passing of the applicable resolution to agree the respective BLY Creditor Scheme) or apply to the Court for a modification of the terms of the respective BLY Creditor Scheme.

Although it is permissible for a Secured Scheme Creditor or Unsecured Scheme Creditor to propose a modification and for a Scheme Meeting to consider a resolution to approve the modification proposed, Secured Scheme Creditors and Unsecured Scheme Creditors should be aware that the consequences of modifying the terms of the BLY Creditor Schemes include:

- (i) if the modification is materially adverse to the Scheme Companies or any particular Secured Scheme Creditor, Unsecured Scheme Creditor or class of

them (as applicable), it may give rise to a basis, which may not otherwise exist, for the Court to refuse to approve the modified BLY Creditor Scheme. In such circumstances, the BLY Creditor Schemes will not become effective (in either the modified or original form);

- (ii) the Scheme Companies may not consent to the modified BLY Creditor Scheme and therefore the Scheme Companies may not be prepared to seek the Court's approval of the modified BLY Creditor Scheme; and
- (iii) depending on the nature and extent of the modifications and their impact upon the overall BLY Creditor Scheme, the modifications could effectively invalidate any previously obtained consents and, if so, then the consequences may be that further consents would need to be obtained.

(b) **Modifications by the Court**

Under section 411(6) of the Corporations Act, the Court may approve the proposed BLY Creditor Schemes at the Second Court Hearing subject to alterations or conditions as it thinks just.

The conditions precedents to each of the BLY Creditor Schemes (outlined in section 8.2 above) include that the BLY Creditor Schemes will only come into effect if, among other things, the Court's alterations or conditions (if any) to the BLY Creditor Schemes do not change the substance of the BLY Creditor Schemes in any material way.

8.18 **The Scheme Administrators**

If the Secured Creditors' Scheme is agreed to by the Secured Scheme Creditors and approved by the Court, the Secured Scheme Administrators will be appointed in accordance with the terms of the Secured Scheme Administrators Deed Poll and the Secured Creditors' Scheme. The Secured Scheme Creditors will irrevocably authorise the Secured Scheme Administrators to execute and deliver, as their attorney and agent, the Restructuring Implementation Deed and the Secured Scheme Creditor Deed Poll.

If the Unsecured Creditors' Scheme is agreed to by the Unsecured Scheme Creditors and approved by the Court, the Unsecured Scheme Administrators will be appointed in accordance with the terms of the Unsecured Scheme Administrators Deed Poll and the Unsecured Creditors' Scheme. The Unsecured Scheme Creditors will irrevocably authorise the Unsecured Scheme Administrators to execute and deliver, as their attorney and agent, the Restructuring Implementation Deed and the Unsecured Scheme Creditor Deed Poll.

Christopher Clarke Hill and David Peter McGrath of FTI Consulting have agreed to act as both Secured Scheme Administrators and Unsecured Scheme Administrators (together, the **Scheme Administrators**).

Under the terms of the Secured Scheme Administrators Deed Poll and Unsecured Scheme Administrators Deed Poll, each Scheme Administrator (as applicable):

- (a) consents to the applicable BLY Creditor Scheme;
- (b) agrees to be bound by the applicable BLY Creditor Scheme as if they were a party to that BLY Creditor Scheme; and
- (c) undertakes:

- (i) to accept all appointments, authorisations and directions, to perform all obligations and undertake all actions attributed to him or her under the applicable BLY Creditor Scheme;
- (ii) to do all things necessary and execute all further documents necessary to give full effect to the applicable BLY Creditor Scheme and all transactions contemplated by it; and
- (iii) not to act inconsistently with any provision of the applicable BLY Creditor Scheme.

The Scheme Administrators' liability in the performance or exercise of their powers, obligations and duties under the applicable BLY Creditor Scheme is limited in accordance with that BLY Creditor Scheme.

In addition, the Scheme Administrators will also be a party to the Restructuring Implementation Deed and be required to comply with their obligations under the terms of that document. The Scheme Administrators' liability in the performance or exercise of their powers, obligations and duties under the Restructuring Implementation Deed is limited in accordance with the Restructuring Implementation Deed.

The remuneration of the Scheme Administrators, their partners and staff will be calculated on a time basis at the hourly rates set out in Annexure F to this Explanatory Statement.

The Scheme Administrators' Costs of administering the Secured Creditors' Scheme, Unsecured Creditors' Scheme and the Restructuring Implementation Deed are estimated to be between AU\$40,000 and AU\$50,000 (excluding GST).

#### **8.19 Challenging the Scheme Administrators generally**

A Secured Scheme Creditor or Unsecured Scheme Creditor who is aggrieved by any act, omission or decision of the Secured Scheme Administrators or Unsecured Scheme Administrators (as applicable) may appeal to the Court under section 599 of the Corporations Act. The Court may confirm, reverse or modify the act or decision, or remedy the omission, as the case may be, and make such orders and directions as the Court thinks fit.



## 9. THE FTI CONSULTING REPORT

### 9.1 Scope of the FTI Consulting Report

Ashurst, on behalf of the Scheme Companies, has engaged FTI Consulting to prepare a report addressing the following matters:

- (a) the solvency of the Group<sup>21</sup> following the implementation of the proposed BLY Creditor Schemes:
  - (i) solvency is to be determined following completion of the BLY Creditor Schemes; and
  - (ii) with reference to 'solvency' in section 95A of the Corporations Act.
- (b) the expected dividend that would be respectively available to the:
  - (i) Secured Scheme Creditors; and
  - (ii) Unsecured Scheme Creditors,

if the Scheme Companies were to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Corporations Act (and the BLY Creditor Schemes were not implemented).
- (c) the expected dividend that would be respectively paid to the:
  - (i) Secured Scheme Creditors; and
  - (ii) Unsecured Scheme Creditors,

if the BLY Creditor Schemes were put into effect as proposed;
- (d) the likely outcome for the Group (including the Scheme Companies) should the BLY Creditor Schemes not be implemented having regard to the Group's (including the Scheme Companies') existing financial position and projections.

Secured Scheme Creditors and Unsecured Scheme Creditors should consider the entire FTI Consulting Report, which is at Annexure C, before deciding how to vote.

### 9.2 Conclusions as to most likely outcome if BLY Creditor Schemes are implemented

Subject to the assumptions and calculations made in the FTI Consulting Report, FTI Consulting is of the opinion that:

- (a) the Group will be solvent following the implementation of the proposed BLY Creditor Schemes; and
- (b) the Implied Value respectively available to Secured Scheme Creditors and Unsecured Scheme Creditors if the BLY Creditor Schemes were effectuated as proposed:

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<sup>21</sup> The FTI Consulting Report defines 'Group' to mean 'Boart Longyear Limited and subsidiaries'.

<b>US\$ million</b>	<b>Debt</b>	<b>Return</b>	<b>Return (c/US\$)</b>
Secured Scheme Creditors	493.6	214.6	43.5
Unsecured Scheme Creditors	302.5	31.9	10.5

### 9.3 **Conclusions as to most likely outcome if BLY Creditor Schemes are not implemented**

Subject to the assumptions and calculations made in the FTI Consulting Report, FTI Consulting is of the opinion that, if the BLY Creditor Schemes are not implemented:

- (a) if no alternate restructuring plan was reasonably certain of being advanced, the Group would likely be unable to pay its debts as and when they fall due. In this circumstance, the directors of the Scheme Companies would likely immediately seek to appoint voluntary administrators (or other applicable insolvency appointment) to the Scheme Companies and other entities within the Group.
- (b) in a Controlled Insolvency Scenario (as defined in the FTI Consulting Report), the expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors would be:

<b>US\$ million</b>	<b>Debt</b>	<b>Return</b>	<b>Return (c/US\$)</b>
Secured Scheme Creditors	492.2	145.9	29.6
Unsecured Scheme Creditors	301.7	-	-

- (c) in an Uncontrolled Insolvency Scenario (as defined in the FTI Consulting Report), the expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors would be:

<b>US\$ million</b>	<b>Debt</b>	<b>Return</b>	<b>Return (c/US\$)</b>
Secured Scheme Creditors	492.2	60.3	12.3
Unsecured Scheme Creditors	301.7	0.7	0.2

#### 9.4 **KPMG Corporate Finance Report and valuation methodology**

BLY has engaged KPMG Financial Advisory Services (Australia) Pty Ltd (of which KPMG Corporate Finance is a division) to prepare an independent expert report setting out whether, in KPMG Corporate Finance's opinion, the Recapitalisation is fair and reasonable to the Non-Associated Shareholders of BLY (the **KPMG Corporate Finance Report**).

The KPMG Corporate Finance Report includes an enterprise value of the Group which differs from the enterprise value of the Group included in the FTI Consulting Report.

KPMG Corporate Finance's enterprise valuation of US\$455.0 to US\$510.0 million adopts a through-the-cycle approach by looking at the historical 3 year (US\$76.0m), 5 year (US\$60.6m) and 7 year (US\$47.8m) average EBITDA having considered adjusted EBITDA and statutory EBITDA ending December 2020 and the 3 year (US\$78.3m), 5 year (US\$71.7m) and 7 year (US\$55.8m) average EBITDA having considered adjusted EBITDA and statutory EBITDA ending December 2021. Based on this analysis KPMG Corporate Finance selected a maintainable EBITDA range of US\$65.0 million to US\$85.0 million. An EBITDA multiple of 7.0 to 6.0 times EBITDA (inclusive of a control premium) has then been applied to derive an enterprise value for the Company utilising through-the-cycle multiples observed for comparable companies.

FTI Consulting's enterprise valuation of US\$394.2 to US\$417.4 million is derived using the capitalisation of earnings method as their primary method, based on an estimated maintainable earnings figure calculated by reference to FTI's FY21 forecast of adjusted EBITDA (assuming that the BLY Creditor Schemes are approved) of US\$115.9 million. In determining this value, FTI Consulting adjusted BLY's 2021 forecast adjusted EBITDA to account for AASB16 'Leases' (where relevant), gains on sale of assets and the removal of VAT write offs. An EBITDA multiple of 3.4 to 3.6 times EBITDA (not inclusive of a control premium) was then applied to derive an enterprise value for the Group.

FTI Consulting cross-checked the above method using a discounted cash flow method and derived an enterprise valuation of US\$376.5 million to US\$444.9 million. FTI Consulting state that this supports their valuation under the primary capitalisation of earnings method.

For the purposes of calculating (a) the Implied Value available to Secured Scheme Creditors and Unsecured Scheme Creditors (referred to above in section 9.2 of this Explanatory Statement) and (b) the expected dividend to Secured Scheme Creditors and Unsecured Scheme Creditors in a Controlled Insolvency Scenario (referred to above in section 9.3 of this Explanatory Statement), FTI have used the mid-point of their enterprise value range of US\$394.2 to US\$417.4 million, being an enterprise value of US\$405.8 million.

While FTI Consulting and KPMG Corporate Finance have both adopted a capitalisation of earnings approach, the differences in enterprise value result from the different basis of earnings and capitalisation rates applied by each and KPMG Corporate Finance preparing a valuation on a control basis and FTI Consulting preparing a valuation not on a control basis.

If creditors would like to view the KPMG Corporate Finance Report, it is expected to be disclosed to ASX in due course and will be available at <http://www.boartlongyear.com/>

## 10. REASONS FOR AND AGAINST THE BLY CREDITOR SCHEMES

This section 10 sets out the potential advantages and disadvantages of the BLY Creditor Schemes.

Except where indicated to the contrary, the advantages and disadvantages detailed below relate to both the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

### 10.1 Reasons to consider voting for the BLY Creditor Schemes

The reasons why the Secured Scheme Creditors may consider voting in favour of the Secured Creditors' Scheme and the Unsecured Scheme Creditors may consider voting in favour of the Unsecured Creditors' Scheme include:

#### (a) Debt for equity swap and potential for uplift in value from ownership of Shares when compared to insolvency process

##### (i) Secured Creditors' Scheme

If the Secured Creditors' Scheme is approved, the Secured Scheme Creditors will release the Obligors from all their respective obligations to pay the Secured Debt to the Secured Scheme Creditors under the Creditors' Schemes Finance Documents and in consideration for such a release will receive the New Common Equity from BLY in the amount equal to:

- (A) the TLA Secured Equity Entitlement;
- (B) the TLB Secured Equity Entitlement; and
- (C) the SSN Secured Equity Entitlement.

As security holders, the Secured Scheme Creditors may have the opportunity to realise the value of their converted debt through any increase in the value of the Shares (or CDIs if the Members' Scheme is implemented) on sale, transfer or exercise. The Secured Scheme Creditors may consider that the potential to recover value through sale, transfer or exercise of the Shares (or CDIs if the Members' Scheme is implemented) is an advantage when compared to the likely crystallisation of loss that would occur for some or all Secured Scheme Creditors on an insolvency event.

Further, Secured Scheme Creditors may consider that a formal insolvency process is likely to be destructive to the realisable value of the Scheme Companies' business and assets, which may further diminish the recoverable value of the Secured Debt owed to them.

##### (ii) Unsecured Creditors' Scheme

If the Unsecured Creditors' Scheme is approved, the Unsecured Scheme Creditors will release the Obligors from all their respective obligations to pay the Unsecured Debt to the Unsecured Scheme Creditors under the Creditors' Schemes Finance Documents and in consideration for such a release will receive:

- (A) the New Common Equity from BLY in the amount equal to:
  - (aa) the TLA Unsecured Equity Entitlement;
  - (bb) the TLB Unsecured Equity Entitlement;

(cc) the SSN Unsecured Equity Entitlement; and

(dd) the SUN Equity Entitlement; and

(B) in the case of the SUN Noteholders, the New Warrants from BLY.

As security holders, the Unsecured Scheme Creditors may have the opportunity to realise the value of their converted debt through any increase in the value of the Shares (or CDIs if the Members' Scheme is implemented) or New Warrants on sale, transfer or exercise. The Unsecured Scheme Creditors may consider that the potential to recover value through sale, transfer or exercise of the Shares (or CDIs if the Members' Scheme is implemented) or New Warrants is an advantage when compared to the likely crystallisation of loss that would occur for some or all Unsecured Scheme Creditors on an insolvency event.

Further, Unsecured Scheme Creditors may consider that a formal insolvency process is likely to be destructive to the realisable value of the Scheme Companies' business and assets, which may further diminish the recoverable value of the Unsecured Debt owed to them.

**(b) Avoidance of uncertainties associated with insolvency**

The BLY Creditor Schemes will provide a means by which the respective debt owed to the Secured Scheme Creditors and Unsecured Scheme Creditors under the Creditors' Schemes Finance Documents will be restructured without the appointment of a voluntary administrator, liquidator or receiver and manager to the Scheme Companies or the Obligors.

The BLY Creditor Schemes will minimise disruption to the business and the diminution of value that would almost certainly occur as a consequence of such appointments. Any appointment of an administrator, liquidator or receiver and manager may result in certain counterparties being entitled to terminate contracts with the Scheme Companies. This would be detrimental to the ongoing businesses of the Scheme Companies, particularly with respect to the Scheme Companies' relationships with its key customers, and would affect the value that could be realised out of a sale of the assets of the Scheme Companies and the Group.

Given the global nature of the Scheme Companies, an insolvency proceeding in Australia could lead to a number of similar protections being sought in a number of other countries worldwide.

**(c) Avoidance of insolvency expenses**

The legal, administrative and funding costs associated with the administration, liquidation or receivership and management of the Scheme Companies would be avoided if the BLY Creditor Schemes are approved and implemented. By way of example, FTI Consulting have assumed in the FTI Consulting Report that liquidator and professional fees would total approximately US\$38.3 million in an Uncontrolled Insolvency Scenario<sup>22</sup> (including fees related to the appointed liquidators, as well as their respective legal and financial advisors).

**(d) Transaction certainty**

Effecting the proposed restructuring by way of the BLY Creditor Schemes will provide greater transaction certainty for the Secured Scheme Creditors, the Unsecured

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<sup>22</sup> As defined in the FTI Consulting Report.

Scheme Creditors and the Scheme Companies (which will continue to operate the business) than could be achieved without the BLY Creditor Schemes in circumstances in which the Secured Scheme Creditors and the Unsecured Scheme Creditors do not unanimously consent to the proposed restructuring.

In the event that the Court makes orders approving the BLY Creditor Schemes and those orders are lodged with ASIC (and subject to satisfaction of the conditions precedent), the steps that give effect to the proposed restructuring will have the force of law.

(e) **Ability for Scheme Companies to continue to trade and raise additional funds**

If the BLY Creditor Schemes are implemented, subject to market conditions, the potential for the Scheme Companies to continue to trade and operate their businesses will be improved by a lower debt burden and enhanced liquidity through a reduced cash interest burden.

The decrease in overall debt (and corresponding effect on the Scheme Companies' balance sheets) arising from the release of obligations to pay under the Creditors' Schemes Finance Documents and the refinancing of the Incremental Finance Facility and Existing Backstop ABL may enable the Scheme Companies to explore further fund raising opportunities in the future for the purpose of business growth and expansion.

Further, Secured Scheme Creditors and Unsecured Scheme Creditors may consider that a formal insolvency process is likely to be destructive to the realisable value of the Scheme Companies' business and assets, which may further diminish the recoverable value of the Secured Debt and Unsecured Debt owed to them.

(f) **Statutory protections for BLY Shareholders**

As BLY is a public company, the BLY Shareholders will have certain statutory protections, details of which are set out in section 8.14. Further, if the Members' Scheme is implemented, the holders of CDIs in respect of shares in New BLY Parent will have the statutory protections as also set out in section 8.14.

In addition, as the Shares (or CDIs if the Members' Scheme is approved) are listed on ASX, those securities may be more readily sold or transferred by the Secured Scheme Creditors and Unsecured Scheme Creditors in the future when compared to both distressed debt and securities in an unlisted company.

(g) **Limit on Subordinate Claims**

If the Unsecured Creditors' Scheme is implemented, the rights of Subordinate Claim Holders to bring Subordinate Claims against BLY will be limited, reducing its potential exposure to the risks associated with such claims.

(h) **Opportunity to participate in Creditor Share Purchase Option**

As the Creditor Share Purchase Option forms part of the BLY Creditor Schemes, it is conditional on the BLY Creditor Schemes being approved by Requisite Majority and approved by the Court. Secured Scheme Creditors and Unsecured Scheme Creditors may consider there is additional value in being able to participate in the Creditor Share Purchase Option to acquire additional Shares. Further, the proceeds received by BLY from the Creditor Share Purchase Option are intended to be applied towards reducing the amount outstanding under the Existing PNC ABL, thereby further reducing the Group's debt and consequently providing additional liquidity for the Group to take advantage of new projects and other business opportunities.

These potential advantages of the BLY Creditor Schemes must be considered in light of the potential disadvantages of the BLY Creditor Schemes, which are discussed in section 10.2 below.

Secured Scheme Creditors and Unsecured Scheme Creditors are encouraged to obtain independent legal, financial and taxation advice in relation to their own individual circumstances.

Secured Scheme Creditors and Unsecured Scheme Creditors are not obliged to follow the recommendation of the Directors of the Scheme Companies and may decide to vote against the BLY Creditor Schemes (as applicable).

## 10.2 **Reasons to consider voting against the BLY Creditor Schemes**

The reasons why the Secured Scheme Creditors may consider voting against the Secured Creditors' Scheme and the Unsecured Scheme Creditors may consider voting against the Unsecured Creditors' Scheme include:

### (a) **Insolvency return**

Secured Scheme Creditors and Unsecured Scheme Creditors may consider voting against the Secured Creditors' Scheme and the Unsecured Creditors' Scheme (as applicable) if they consider there is potential for a better return to them under a formal solvency process.

If the BLY Creditor Schemes are not implemented, it is likely that an insolvency event will occur in relation to the Scheme Companies. In that circumstance, some Secured Scheme Creditors and/or Unsecured Scheme Creditors may consider that there would be a better return to them than the return available under the respective BLY Creditor Scheme.

Secured Scheme Creditors and Unsecured Scheme Creditors should have regard to the opinions in the FTI Consulting Report in this regard (summarised in section 9).

### (b) **Future Performance and qualifications in the FTI Consulting Report**

The future performance of BLY is uncertain and dependent in part on external factors.

The FTI Consulting Report notes that the Group's Long Term Forecast<sup>23</sup> cash flow indicates it to have month end liquidity of not less than US\$29.9 million over the course of FY21 to FY23. Whilst FTI Consulting consider the Long Term Forecast to appear reasonable, they note that:

- (i) the ability of the Group to meet its debts as and when they fall due, and remain solvent, is tied to its ability to:
  - (A) achieve the EBITDA forecast assumed in the FY21 RF1 Budget<sup>24</sup> and Long Term Forecast;
  - (B) continue to realise US\$3 million of surplus assets each year;
  - (C) manage the collection of its debts across the global operational and not suffer any material deterioration in customer terms;

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<sup>23</sup> The FTI Consulting Report defines 'Long Term Forecast' to mean '*the Group Three-Year Forecast Model (2021 to 2023) – Transaction Completed*'.

<sup>24</sup> The FTI Consulting Report defines 'FY21 RF1 Budget' to mean '*the 2021 Group Budget Forecast Model (RF1)*'.

- (D) manage the payment of its trade suppliers month to month to match its liquidity position;
  - (E) fund the capital expenditure required to sustain the existing drilling fleet in line with the FY21 RF1 Budget and Long Term Forecast; and
  - (F) manage unexpected material interruptions to its business owing to weather, adverse movements in underlying commodity prices or other unforeseen events, over and above those that are able to be managed within its minimum liquidity balance of US\$25 million; and
- (ii) further, any material adverse outcome in relation to the CRA tax disputes (discussed in section 7.3(b)(iii) of this Explanatory Statement and detailed at section 4.2.2 of the FTI Consulting Report) that would require payment to be made prior to 31 August 2022 or shortly thereafter, or any material adverse issues arising in relation to potential tax risks disclosed in section 2.9 of this Explanatory Statement, would impact upon the Group's solvency.

On this basis, BLY may not perform consistently with its future projections.

Further details in relation to the FTI Consulting Report, including its conclusions, can be found in section 9 of this Explanatory Statement and a copy of the FTI Consulting Report is at Annexure C.

(c) **Release of Secured Debt owed to Secured Scheme Creditors and Unsecured Debt owed to Unsecured Scheme Creditors**

(i) **Secured Creditors' Scheme**

As a result of implementation of the Secured Creditors' Scheme, and subject to any limitations set out in the Secured Creditors' Scheme, the Secured Scheme Creditors will release the Scheme Companies and the Obligors from all Claims and obligations under the Creditors' Schemes Finance Documents to the extent of the Secured Debt and, following that release, will have no further right to recover the Secured Debt as a debt from the Scheme Companies or any of the Obligors.

The total Secured Debt as at 12 May 2021 is estimated to be US\$493.6 million.

(ii) **Unsecured Creditors' Scheme**

As a result of implementation of the Unsecured Creditors' Scheme, and subject to any limitations set out in the Unsecured Creditors' Scheme, the Unsecured Scheme Creditors will release the Scheme Companies and the Obligors from all Claims and obligations under the Creditors' Schemes Finance Documents to the extent of the Unsecured Debt and, following that release, will have no further right to recover the Unsecured Debt as a debt from the Scheme Companies or any of the Obligors.

The total Unsecured Debt as at 12 May 2021 is estimated to be US\$302.5 million.

The release of the Secured Debt under the Secured Creditors' Scheme and the Unsecured Debt under the Unsecured Creditors' Scheme, and the loss of rights to recover those amounts as debts from the Scheme Companies and the Obligors, should be considered in light of the conclusions set out in the FTI Consulting Report, which estimate that Secured Scheme Creditors and Unsecured Scheme Creditors would recover less by way of dividend in the event that the Scheme Companies are



subject to a formal insolvency process (either controlled or uncontrolled), compared to the Implied Value respectively available to Secured Scheme Creditors and Unsecured Scheme Creditors if the BLY Creditor Schemes are effectuated as proposed.

(d) **Release of directors and officers of the Scheme Companies and Obligors**

(i) **Secured Creditors' Scheme**

The Secured Creditors' Scheme provides for the Secured Scheme Creditors to waive, release and discharge each and every Claim which the Secured Scheme Creditors may have against, amongst others, the Obligors and the Released Individuals, in each case, in relation to or in connection with or in any way arising out of the:

- (A) the Secured Scheme Claims and any of the facts, matters, circumstances and events that arose, occurred in respect of or gave rise to the Secured Scheme Claims;
- (B) the Creditors' Schemes Finance Documents;
- (C) the preparation, negotiation, approval or implementation of the RSA and/or the Secured Creditors' Scheme and/or the Unsecured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents and/or the Incremental Finance Documents and/or the Existing Backstop ABL; and
- (D) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms.

For further information in relation to these waivers, releases and discharges please refer to section 8.11 of this Explanatory Statement.

Secured Scheme Creditors may consider that they have a potential Claim against one or more of the Obligors or Released Individuals, which would result in a recovery in favour of the Secured Scheme Creditors and may, accordingly, wish to vote against the Secured Creditors' Scheme and pursue that Claim, whether by placing the Scheme Companies or the Obligors or any of them into external administration or otherwise (although the Scheme Companies are not aware of any potential Claims that may be available against any of those people).

(ii) **Unsecured Creditors' Scheme**

The Unsecured Creditors' Scheme provides for the Unsecured Scheme Creditors to waive, release and discharge each and every Claim which the Unsecured Scheme Creditors may have against, amongst others, the Obligors and the Released Individuals, in each case, in relation to or in connection with or in any way arising out of the:

- (A) the Unsecured Scheme Claims and any of the facts, matters, circumstances and events that arose, occurred in respect of or gave rise to the Unsecured Scheme Claims;
- (B) the Creditors' Schemes Finance Documents;

- (C) the preparation, negotiation, approval or implementation of the RSA and/or the Unsecured Creditors' Scheme and/or the Secured Creditors' Scheme and/or Members' Scheme and/or the Restructuring Documents and/or the Incremental Finance Documents and/or the Existing Backstop ABL; and
- (D) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms.

For further information in relation to these waivers, releases and discharges please refer to section 8.11 of this Explanatory Statement.

Unsecured Scheme Creditors may consider that they have a potential Claim against one or more of the Obligors or Released Individuals, which would result in a recovery in favour of the Unsecured Scheme Creditors and may, accordingly, wish to vote against the Unsecured Creditors' Scheme and pursue that Claim, whether by placing the Scheme Companies or the Obligors or any of them into external administration or otherwise (although the Scheme Companies are not aware of any potential Claims that may be available against any of those people).

**(e) Benefits obtained by Centerbridge**

If the Recapitalisation Transactions are implemented:

- (i) The entities making up Centerbridge will between them continue to be the largest shareholder in BLY (or holder of CDIs if the Members' Scheme is approved) holding a percentage of the Shares (or CDIs) on issue of approximately 45.6% (pre-dilution resulting from issuing additional Shares under the Share Purchase Plan and Creditor Share Purchase Option, and any cancelled shares under the Selective Buy-Back); and
- (ii) under the CBP Director Nomination Agreement, Centerbridge will be entitled to exercise a right to nominate up to 5 directors for appointment to the board of BLY (or New BLY Parent). Please see section 6.8 above in relation to Centerbridge's director appointment rights. Currently, Centerbridge has nominated two directors on the Board of BLY.

Secured Scheme Creditors and Unsecured Scheme Creditors should bear in mind that Centerbridge holds 100% of the Term Loan A, the Term Loan B and a portion of the SSN Indenture Notes and its rights to receive its respective proportion of the Secured Scheme Consideration and Unsecured Scheme Consideration are the same as the rights of other Secured Scheme Creditors and Unsecured Scheme Creditors.

**(f) Benefits obtained by the Ad Hoc Group under the Recapitalisation Transactions**

If the Recapitalisation Transactions are implemented:

- (i) the entities making up the Ad Hoc Group will between them collectively hold a percentage of Shares (or CDIs, if the Members' Scheme is approved) on issue of approximately 53.6% (pre-dilution resulting from issuing additional Shares under the Share Purchase Plan and Creditor Share Purchase Option, and any cancelled shares under the Selective Buy-Back); and
- (ii) under the AHG Director Nomination Agreements, the Ad Hoc Group will be entitled to exercise a right to nominate up to three directors to be appointed

to the board of BLY (or New BLY Parent) from time to time. Please see section 6.8 above in relation to the Ad Hoc Group's director appointment rights.

Secured Scheme Creditors and Unsecured Scheme Creditors should bear in mind that the Ad Hoc Group holds:

- (i) 91.1% of the SSN Indenture Notes; and
- (ii) 94.0% of the SUN Indenture Notes,

and the Ad Hoc Group's rights to receive their respective proportion of the Secured Scheme Consideration and Unsecured Scheme Consideration are the same as the rights of other Secured Scheme Creditors and Unsecured Scheme Creditors.

**(g) Shares and New Warrants in BLY (or New BLY Parent)**

**(i) Secured Creditors' Scheme**

The Secured Creditors' Scheme, if implemented, will result in the Secured Scheme Creditors holding Shares.

The Claims of the Secured Scheme Creditors as BLY Shareholders (or holders of CDIs) will rank behind the Claims of any secured or unsecured creditors of BLY (or New BLY Parent). As a BLY Shareholder (or holder of CDIs), any returns (in the form of dividends or capital returns) are dependent on the financial performance of BLY (or New BLY Parent) and the amount which the BLY Board (or board of New BLY Parent) determines should be distributed to BLY Shareholders (or the holders of CDIs). As debt holders, the return to the Secured Scheme Creditors under the Secured Debt is in the form of interest, which is a contractual right which takes priority over the rights of BLY Shareholders (or the holders of CDIs).

In addition, some of the Secured Scheme Creditors may be subject to prudential requirements which impose obligations and requirements in connection with holding Shares (or CDIs) which would not apply to the holding of debt.

**(ii) Unsecured Creditors' Scheme**

The Unsecured Creditors' Scheme, if implemented, will result in the Unsecured Scheme Creditors holding Shares (or CDIs) and, in respect of the SUN Noteholders, New Warrants.

The Claims of the Unsecured Scheme Creditors as BLY Shareholders (or holders of CDIs) will rank behind the Claims of any secured or unsecured creditors of BLY (or New BLY Parent). As a BLY Shareholder (or holder of CDIs), any returns (in the form of dividends or capital returns) are dependent on the financial performance of BLY (or New BLY Parent) and the amount which the BLY Board (or board of New BLY Parent) determines should be distributed to BLY Shareholders (or the holders of CDIs). As debt holders, the return to the Unsecured Scheme Creditors under the Unsecured Debt is in the form of interest, which is a contractual right which takes priority over the rights of BLY Shareholders (or holders of CDIs).

In respect of a SUN Noteholder who receives New Warrants, it will not be issued with Shares (or CDIs) in connection with the New Warrants unless and until it decides to exercise its right under the New Warrants to buy Shares (or CDIs) at the relevant exercise price set out in the New Warrant. Accordingly,

the SUN Noteholders will not be entitled to any returns (in the form of dividends or capital returns in relation to owning Share (or CDIs)) in relation to the New Warrants unless and until it exercises its right to buy Shares (or CDIs). Further, the exercise price in the New Warrant will be set in accordance with the terms of the New Warrants, while the price of the Shares (or CDIs) may fluctuate over time so a SUN Noteholders may not consider there to be any economic value in exercising its right to buy Shares (or CDIs) at a particular point in time.

In addition, some of the Unsecured Scheme Creditors may be subject to prudential requirements which impose obligations and requirements in connection with holding Shares and/or New Warrants (if applicable) which would not apply to the holding of debt.

(h) **BLY's business**

There are risks associated with holding equity securities in BLY. No assurances can be given in respect of the future performance or prospects of BLY, the value of, or return on, Shares in BLY or the ability of any BLY Shareholder to sell their Shares in the future.

(i) **Takeover restrictions**

BLY is an ASX listed public company and, as such, is subject to the takeover regulations imposed by Chapter 6 of the Corporations Act. Chapter 6 imposes certain restrictions on the acquisition of "relevant interests" in Shares which will apply to:

- (i) the shareholdings of the Secured Scheme Creditors should the Secured Creditors' Scheme be implemented; and
- (ii) the shareholdings of the Unsecured Scheme Creditors should the Unsecured Creditors' Scheme be implemented.

These include the restrictions set out below.

**Australia**

Under Chapter 6 of the Corporations Act, the following restrictions apply to the acquisition of "relevant interests" in Shares:

- (i) a person cannot acquire a relevant interest in Shares if, because of that acquisition, that person's (or another person's) voting power in BLY increases:
  - (A) from 20% or below, to more than 20%; or
  - (B) from a starting point that is above 20% and below 90%,  
other than by the permitted exceptions under the Corporations Act (the **Takeover Prohibitions**); and
- (ii) becoming associated with other BLY Shareholders, in relation to matters such as voting Shares and determining appointments to the BLY Board, where the aggregated shareholdings of the associated BLY Shareholders would breach the Takeovers Prohibition.

A "relevant interest" under the Corporations Act is a broad concept which focuses on the person's ability to control shares in a company rather than on direct ownership. Generally speaking, a person will have a relevant interest in securities where they

are the holder of the securities, where they can exercise or control the voting rights attached to those securities or dispose of, or control the disposal of, those securities.

Importantly, in the context of the Takeover Prohibitions, a person's "voting power" in BLY is calculated by aggregating the number of Shares in which that person has a relevant interest with the number of Shares in which each person who is an "associate" of that person has a relevant interest. Generally speaking, two or more persons will be taken to be associates in relation to BLY if:

- (i) they are body corporates belonging to the same corporate group;
- (ii) they have entered into an agreement, arrangement or understanding for the purpose of controlling or influencing the composition of the BLY Board or the conduct of BLY's affairs; or
- (iii) they are acting, or proposing to act, "in concert" in relation to BLY's affairs.

While the acquisitions of the Shares by:

- (i) the Secured Scheme Creditors pursuant to the Secured Creditors' Scheme; and
- (ii) the Unsecured Scheme Creditors pursuant to the Unsecured Creditors' Scheme;

fall within exceptions to the Takeover Prohibitions (see items 7 and 17 of section 611 of the Corporations Act), the restrictions and other legal considerations outlined above will apply in respect of any increases to the voting power of any such person following implementation of the Secured Creditors' Scheme or Unsecured Creditors' Scheme (as applicable), except where such increase is permitted by the exceptions to the Takeover Prohibitions outlined in section 611 of the Corporations Act. An example of where these restrictions would apply is to the exercise of a warrant by any such person.

Where the Members' Scheme is approved and implemented, restrictions in relation to the acquisition of CDIs in respect of shares in New BLY Parent will differ to those under Australian law. The restrictions will be governed by Canadian law, which are also summarised below.

### **Canada**

A take-over bid is defined in National Instrument 62-104 – Take-Over Bids and Issuer Bids (**NI 62-104**) as an offer to acquire the outstanding voting securities or equity securities of a class made to one or more persons or companies in a local jurisdiction (being a jurisdiction of Canada) or whose last address on the books of the target company is in the local jurisdiction, where the securities subject to the offer, together with the offeror's securities, constitute 20% or more of the outstanding securities of the class at the date of the offer to acquire, but does not include a step in an amalgamation, merger, reorganisation or plan of arrangement that requires approval by a vote of security holders.

The definition of take-over bid is broad and applies to offers for:

- voting securities, which are securities (other than debt securities) of an issuer that carry a voting right under all circumstances or under some circumstances that have occurred and are continuing; and

- equity securities, which are securities of an issuer that carry a residual right to participate in the earnings of an issuer and, on liquidation or winding up of the issuer, in its assets.

A take-over bid under Canadian securities legislation includes offers to purchase, solicitations of offers to sell, and acceptances of offers to sell (whether or not such offers have been solicited).

Subject to certain exemptions, the takeover bid rules require, among other things, the mailing of a takeover bid circular to shareholders of the target company and extensive disclosure requirements, beginning with 'early warning' disclosure required when an acquirer crosses a 10% ownership threshold with further disclosure required for additional purchases of 2% or more.

Takeover bids must treat all shareholders alike and must not involve any collateral agreements, with certain exceptions for employment compensation arrangements. Takeover bids must remain open for a minimum of 105 days from the date of the mailing of the takeover bid circular, after which time if at least 50% of the outstanding securities that are subject to the bid have been deposited and not withdrawn, then the all securities deposited under the offer may be taken up and the offer must be extended for a further 10 days.

(j) **Notification Requirements**

As BLY Shareholders, Secured Scheme Creditors and Unsecured Scheme Creditors will be subject to certain ongoing notification requirements. These include:

- (i) (*Australia*) the notifications required by the Corporations Act; and
- (ii) (*Canada*) where the Members' Scheme is approved and implemented, the notifications that may be required if and when New BLY Parent becomes a reporting issuer under applicable Canadian securities laws,

in each case as summarised in the following table:

Item	Australia	Canada
<b>Notice of Initial Substantial Shareholder</b>	In circumstances where they (together with their associates) have relevant interests in voting Shares or interests representing <b>5% or more</b> of the total votes of BLY, (or if the person has made a takeover bid for voting Shares or interests in BLY) (this is called a <b>Substantial Holding</b> ), by lodging an ASIC Form 603 "Notice of Initial Substantial Shareholder" with BLY and ASX	Early warning rules require an offeror who acquires beneficial ownership of, or control or direction over, voting or equity securities of any class of a reporting issuer (or securities convertible into voting or equity securities) that together with the acquiror's securities of that class, constitutes 10% or more of the outstanding securities of a class must promptly and in no event later than the opening of trading on the following business day issue and file a news release containing prescribed information and then file within 2 business days of the acquisition an early warning report under section 3.1 of

Item	Australia	Canada
		National Instrument 62-103 – The Early Warning Systems and Related Take-Over Bid and Insider Reporting Requirements.  An acquiror must not acquire any additional securities until at least one business day after the early warning report is filed.
<b>Notice of Change of Interests of Substantial Shareholder</b>	For <b>each 1% (or more) change</b> in their Substantial Holding, by lodging a Form 604 "Notice of Change of Interests of Substantial Shareholder" with BLY and ASX	Generally, further disclosure and early warning reports are required for additional purchases or dispositions of 2% or more of the outstanding security for which such early warning disclosure is required.
<b>Notice of Ceasing to be a Substantial Shareholder</b>	If they cease to have a Substantial Holding (that is, their relevant interest in voting Shares or interests in the total votes of BLY, <b>falls below 5%</b> ), by lodging a Form 605 "Notice of Ceasing to be a Substantial Shareholder" with BLY and ASX.	An acquiror's obligations to file a news release and an early warning report ceases once the acquiror's holdings have decreased below 10% and such decrease was addressed in a news release and early warning report.
<b>Timing</b>	Generally speaking, the forms set out above must be lodged within two Business Days after the Secured Scheme Creditor (or their associate, as the case may be) or Unsecured Scheme Creditor (or their associate, as the case may be) becomes aware of either the transaction effecting the change or the change in percentage holding itself.	See above for timing requirements for news release and early warning filings.

Secured Scheme Creditors and Unsecured Scheme Creditors should seek their own independent legal advice on the effect of the Corporations Act on the Scheme Companies and, if the Members' Scheme is approved, the Canadian law equivalent.

These potential disadvantages of the BLY Creditor Schemes must be considered in light of the potential advantages of the BLY Creditor Schemes, which are discussed in section 10.1 above.

Secured Scheme Creditors and Unsecured Scheme Creditors are encouraged to obtain independent legal, financial and taxation advice in relation to their own individual circumstances.

Secured Scheme Creditors and Unsecured Scheme Creditors are not obliged to follow the recommendation of the Directors of the Scheme Companies and may decide to vote against the BLY Creditor Schemes (as applicable).



## 11. ADDITIONAL INFORMATION

### 11.1 Material interests of Directors

The current directors of the Scheme Companies are set out in the table below (together the **Directors**).

Director	BLY	BLA	BLI	BLY Issuer	Votraint	BCM	BLY US
Jeffrey Olsen	✓	✓	✓	✓	✓	✓	✓
Jason Ireland	✓						
Robert Smith	✓						
James Kern	✓						
Rubin McDougal	✓						
Tye Burt	✓						
Kevin McArthur	✓						
Conor Tochilin	✓						
Shannon Emrick		✓	✓	✓	✓		
Samuel McMillan		✓	✓	✓	✓		
Nora Pincus		✓	✓	✓	✓	✓	✓
Kari Plaster						✓	✓
Miguel Desdin						✓	✓

Except as disclosed below or elsewhere in this Explanatory Statement, as at the date of this Explanatory Statement, no Director of either of the Scheme Companies has any interest, whether as a Director, member or creditor of the Scheme Companies or otherwise, that is material in relation to the BLY Creditor Schemes, and the BLY Creditor Schemes have no

effect on the interests of any Director of the Scheme Companies that is different to the effect on the like interests of other persons.

The current ownership of Shares by each Director is disclosed and regularly updated on BLY's ASX website. All the Directors currently hold Shares in BLY, with the exception of:

- (a) Conor Tochilin (who is employed by an entity related to the CBP parties and does not receive director fees and holds no Shares);
- (b) Shannon Emrick;
- (c) Samuel McMillan; and
- (d) Nora Pincus.

The number, description and amount of BLY marketable securities controlled or held by, or on behalf of, each of the Directors as at the date of this Explanatory Statement are set out the following table:

Director	Number Of Shares	Number of rights and options
<b>Mr Jeffrey Olsen</b> President and Chief Executive Officer	271,872	1,081 BLY Options
<b>Mr Kevin McArthur</b> Non-Executive Chairman	428,796	None
<b>Mr Tye Burt</b> Non-Executive Director	260,851	None
<b>Mr James Kern</b> Non-Executive Director	202,602	None
<b>Mr Rubin McDougal</b> Non-Executive Director	165,835	None
<b>Mr Jason Ireland</b> Non-Executive Director	23,731	None
<b>Mr Robert Smith</b> Non-Executive Director	23,731	None
<b>Mr Conor Tochilin</b> Non-Executive Director	None	None

The Directors' Shares will be subject to the same dilution and treated as any other individual BLY Shareholder in the proposed restructuring.

No director of any Scheme Company (excluding BLY) holds any shares in any Scheme Company (excluding BLY).

On implementation of the BLY Creditor Schemes, and in accordance with the terms of the AHG Director Nomination Agreements and CBP Director Nomination Agreement, the number of Directors will be nine including the Managing Director. Each AHG Member will be entitled to nominate three AHG Nominee Directors and CBP will nominate five CBP Nominee Directors.

If the BLY Creditor Schemes are implemented, each Secured Scheme Creditor and Unsecured Scheme Creditor will release certain people who were Directors or officers of any Obligor (being those Directors or officers who sign a Released Individuals Deed Poll in the form of Schedule 8 to the Secured Creditors' Scheme and in the form of Schedule 9 to the Unsecured Creditors' Scheme) from Claims as outlined in section 8.11 above.

### 11.2 **Material interests of Scheme Administrators**

The Scheme Administrators will be entitled to remuneration for their services as explained in section 8.18. The hourly rates which will apply for the Scheme Administrators' services are set out at Annexure F.

### 11.3 **Rights and liabilities of Shares**

The Shares proposed to be issued to Secured Scheme Creditors and Unsecured Scheme Creditors will be of the same class and will, once issued, rank equally in all respects with existing Shares (including equal voting rights and equal rights to dividends, profits and capital). The rights and liabilities attaching to the Shares are identical in all material respects to the terms of the existing Shares.

If the Members' Scheme is approved and implemented, all shares held by the Secured Scheme Creditors and Unsecured Scheme Creditors (including the Shares) will be exchanged for New BLY Parent CDIs, except where that creditor is an Ineligible Foreign Shareholder (as discussed in section 7.1 above). The CDIs issued to Secured Scheme Creditors and Unsecured Scheme Creditors will be of the same class and will, once issued, rank equally in all respects (including equal voting rights and equal rights to dividends, profits and capital). The rights and liabilities attaching to the CDIs are identical in all material respects.

The key rights in relation to the Shares or New BLY Parent CDIs will be governed by:

- (a) (*Australia*) – where the Members' Scheme is not implemented, rights as determined under BLY's Constitution, the Corporations Act, and the ASX Listing Rules; or
- (b) (*Canada*) - where the Members' Scheme is approved and implemented, the New BLY Parent's Constitution and Canadian law,

in each case summarised in the following table. This summary is not exhaustive nor does it constitute a definitive statement of the rights and liabilities of Shareholders under the current BLY Constitution or the constitution adopted by the New BLY Parent (the **New BLY Parent Constitution**). The BLY Constitution is available on BLY's website (<https://www.boartlongyear.com/wp-content/uploads/Constitution-of-Boart-Longyear-Limited1.pdf>). The New BLY Parent's constituting documents are available on request and will contain rights as summarised below.

<b>Item</b>	<b>Australia</b> <i>(relevant where the Members' Scheme is <u>not</u> approved)</i>	<b>Canada</b> <i>(relevant where the Members' Scheme is approved and implemented)</i>
<b>Voting Rights</b>	Subject to any rights or restrictions for the time being attached to any class or classes of Shares, every BLY Shareholder present in person or by proxy at a general meeting of BLY has one vote on a show of hands and one vote per Share held on a poll.	Subject to any rights or restrictions for the time being attached to any class or classes of New BLY Parent Shares, every New BLY Parent Shareholder present in person or by proxy at a meeting of New BLY Parent Shareholders will have one vote per New BLY Parent Share by a show of hands, except where a ballot is demanded by a Shareholder or proxyholder entitled to vote at the meeting.
<b>Meetings and notices</b>	<p>Each BLY Shareholder is entitled to receive notice of and to attend and vote at general meetings of BLY and to receive all notices, accounts and other documents required to be sent to BLY Shareholders under the Constitution, the Corporations Act or the ASX Listing Rules.</p> <p>The quorum for a meeting of members is two BLY Shareholders.</p>	<p>Each New BLY Parent Shareholder will be entitled to receive notice of and to attend and vote at general meetings of New BLY Parent Shareholders and to receive all notices, financial statements and other documents required to be sent to New BLY Parent Shareholders under its constating documents, the OBCA or the ASX Listing Rules.</p> <p>The quorum for a meeting of New BLY Parent Shareholders is New BLY Parent Shareholders holding in the aggregate at least 25% of the voting rights attached to the issued New BLY Parent Shares entitled to be voted at the meeting are present in person or by proxy.</p>
<b>Transfers</b>	<p>Subject to the Constitution, the Corporations Act, the ASX Settlement Rules and the ASX Listing Rules, a BLY Shareholder may transfer all or any Shares by:</p> <p>(a) a written transfer in the usual or common form or in any form the directors of BLY may prescribe or in a particular case accept, properly stamped (if necessary) and delivered to BLY.</p> <p>(b) a proper ASX Settlement Pty Limited transfer, which is to</p>	<p>Subject to the articles and by-laws of New BLY Parent, the OBCA, the ASX Settlement Rules and the ASX Listing Rules, a New BLY Parent Shareholder may transfer all or any New BLY Parent Shares (represented by New BLY Parent CDIs) by:</p> <p>(a) a written transfer in the usual or common form or in any form the directors of New BLY Parent may prescribe or in a particular case accept, properly stamped (if</p>

<b>Item</b>	<b>Australia</b> (relevant where the Members' Scheme is <u>not</u> approved)	<b>Canada</b> (relevant where the Members' Scheme is approved and implemented)
	<p>be in the form required or permitted by the Corporations Act or the ASX Settlement Rules; or</p> <p>(c) any other electronic system established or recognised by the ASX Listing Rules in which BLY participates in accordance with the rules of that system.</p>	<p>necessary) and delivered to New BLY Parent.</p> <p>(b) a proper ASX Settlement and Transfer Corporation Pty Ltd transfer, which is to be in the form required or permitted by the OBCA or the ASX Settlement Rules; or</p> <p>(c) any other electronic system established or recognised by the ASX Listing Rules in which New BLY Parent participates in accordance with the rules of that system.</p>
<b>Powers of Directors</b>	The BLY Constitution provides that the directors will manage, or cause the management of, the business of BLY. The directors may exercise, or cause to be exercised, all powers of BLY that are not, by the Corporations Act or by the Constitution, required to be exercised by BLY in general meeting.	The OBCA and the New BLY Parent constating documents provide that the directors must manage or supervise the management of the business and affairs of New BLY Parent.
<b>Shareholder Liability</b>	As the Shares being offered pursuant to the BLY Creditor Schemes are fully paid shares in BLY, they are not subject to any calls for money by the BLY Board.	The New BLY Parent Shares will be fully paid and non-assessable shares in New BLY Parent.
<b>Alteration of the Constitution</b>	The Constitution can only be amended by a special resolution passed by at least 75% of the total number of votes cast by BLY Shareholders voting in person, by proxy, by attorney or in the case of corporate BLY Shareholders, by corporate representative.	The articles of New BLY Parent can only be amended by a special resolution passed by at least 66 2/3 <sup>rd</sup> % of the total number of votes cast by New BLY Parent Shareholders voting in person or by proxy.

#### 11.4 Certified copy of Financial Statements

Certified copies of the financial statements in respect of the Scheme Companies to be lodged with ASIC as required by paragraph 8203(b) of Schedule 8 of the Corporations Regulations are set out at Annexure D to this Explanatory Statement.

#### **11.5 Report On Company Activities and Property – ASIC Form 507**

The report and information in respect of the Scheme Companies required by ASIC Form 507 and paragraph 8203(a) of Schedule 8 of the Corporations Regulations is set out at Annexure E to this Explanatory Statement.

#### **11.6 ASX Spread Requirements**

The value and number of registered shareholdings in BLY will be affected by certain of the Recapitalisation Transactions including the Selective Buy-Back, if it proceeds. Some of those transactions may increase the value of a registered shareholding, such as participation in the Share Purchase Plan. Other transactions may reduce the value or the number of registered shareholdings, such as the issue of shares under the BLY Creditor Schemes or participation by a holder in the Selective Buy-Back.

If in the view of ASX, including as a consequence of those transactions, there is not an orderly and liquid market in Shares then ASX may require BLY to obtain sufficient 'spread' so that an orderly and liquid market does exist, or take other action such as to suspend the quotation on ASX of the Shares. To the extent BLY has a discretion, for example in the allocation of Shares under the Share Purchase Plan, BLY intends, to the extent necessary, to exercise that discretion so as to help achieve an orderly and liquid market in the Shares.

#### **11.7 Certain ongoing litigation**

Certain of BLY's subsidiaries are defendants to ongoing litigation in Australia in connection with alleged patent infringement. The Group is actively defending this litigation and denies the allegations made by the various plaintiffs. In the event that the Group is unsuccessful in defending the litigation, the Group does not expect that outcome will have any material impact to its financial position and has made appropriate provisions.

## 12. **THE MEETINGS FOR THE BLY CREDITOR SCHEMES AND VOTING PROCEDURES**

This section 12 of this Explanatory Statement contains detailed information in relation to the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting (together, the **Scheme Meetings**), including the procedures for voting at the respective Scheme Meetings.

Except where indicated to the contrary, the information set out below relates to both Scheme Meetings.

### 12.1 **Time and place**

#### (a) **Secured Creditors' Scheme Meeting**

The Secured Creditors' Scheme Meeting will be held to consider and, if thought fit, approve the Secured Creditors' Scheme at:

**10.30 am on 31 August 2021**

at

**Ashurst Australia, 5 Martin Place, Sydney, NSW 2000, Australia**

Secured Scheme Creditors (and their proxies, attorneys and corporate representatives, as applicable) who are unable to, or do not wish to, attend the Secured Creditors' Scheme Meeting in person may participate online through an online platform. Further details in relation to the online platform are set out at section 12.6 below.

#### (b) **Unsecured Creditors' Scheme Meeting**

The Unsecured Creditors' Scheme Meeting will be held to consider and, if thought fit, approve the Unsecured Creditors' Scheme at:

**11.30 am on 31 August 2021**

at

**Ashurst Australia, 5 Martin Place, Sydney, NSW 2000, Australia**

Unsecured Scheme Creditors (and their proxies, attorneys and corporate representatives, as applicable) who are unable to, or do not wish to, attend the Unsecured Creditors' Scheme Meeting in person may participate online through an online platform. Further details in relation to the online platform are set out at section 12.6 below.

### 12.2 **Chairperson**

It is intended that both Scheme Meetings will be chaired by Jason Ireland, or such other person as the Court may specify when making its orders under section 411(1) of the Corporations Act.

### 12.3 **Agenda for the Scheme Meetings**

The proposed agenda for both Scheme Meetings is as follows:

- (a) the Chairperson will address those present at the respective Scheme Meeting, providing an explanation of the background to and purpose of the Scheme Meeting;

- (b) there will be a general presentation in relation to the applicable proposed BLY Creditor Scheme (i.e. the Secured Creditors' Scheme or the Unsecured Creditors' Scheme) and attendees will be given a reasonable opportunity to ask questions in relation to the applicable proposed BLY Creditor Scheme;
- (c) the procedure for voting on the applicable proposed BLY Creditor Scheme will be explained; and
- (d) the resolution to approve the applicable proposed BLY Creditor Scheme will be put to the Secured Scheme Creditors or Unsecured Scheme Creditors (as applicable) present in person or by proxy, attorney or corporate representative at the relevant Scheme Meeting for a vote.

#### 12.4 **Classes of creditors**

##### (a) **Secured Creditors' Scheme Meeting**

In making its orders under section 411(1) of the Corporations Act to convene the Secured Creditors' Scheme Meeting, the Court did not order that the Secured Scheme Creditors be divided into separate classes. As such, all Secured Scheme Creditors will vote as one class.

##### (b) **Unsecured Creditors' Scheme Meeting**

In making its orders under section 411(1) of the Corporations Act to convene the Unsecured Creditors' Scheme Meeting, the Court did not order that the Unsecured Scheme Creditors be divided into separate classes. As such, all Unsecured Scheme Creditors will vote as one class.

#### 12.5 **Eligibility and entitlement to vote**

##### (a) **Secured Creditors' Scheme Meeting**

Only Secured Scheme Creditors as at the Voting Entitlement Record Date are eligible to vote at the Secured Creditors' Scheme Meeting.

For the purposes of determining admitted claims as part of the Requisite Majority calculations at the Secured Creditors' Scheme Meeting, the Chairperson will have regard only to Secured Debt owed to those Secured Scheme Creditors present and voting (i.e. not any Unsecured Debt owed to those Secured Scheme Creditors), specifically:

- (i) in respect of TLA Purchasers present and voting, their respective TLA Secured Debt;
- (ii) in respect of TLB Purchasers present and voting, their respective TLB Secured Debt; and
- (iii) in respect of SSN Noteholders present and voting, their respective SSN Secured Debt.

Please note that Secured Scheme Creditors who hold multiple forms of Secured Debt as at the Voting Entitlement Record Date (e.g. combinations of TLA Secured Debt, TLB Secured Debt and/or SSN Secured Debt) must ensure they complete all of the steps set out below and return all of the proof of debt forms and/or account holder letters referred to below (as applicable) for each type of Secured Debt held, in order to be eligible to vote at the Secured Creditors' Scheme Meeting in relation to the entirety of their Secured Debt.



(b) **Unsecured Creditors' Scheme Meeting**

Only Unsecured Scheme Creditors as at the Voting Entitlement Record Date are eligible to vote at the Unsecured Creditors' Scheme Meeting.

For the purposes of determining admitted claims as part of the Requisite Majority calculations at the Unsecured Creditors' Scheme Meeting, the Chairperson will have regard only to Unsecured Debt owed to those Unsecured Scheme Creditors present and voting (i.e. not any Secured Debt owed to those Unsecured Scheme Creditors), specifically:

- (i) in respect of TLA Purchasers present and voting, their respective TLA Unsecured Debt;
- (ii) in respect of TLB Purchasers present and voting, their respective TLB Unsecured Debt;
- (iii) in respect of SSN Noteholders present and voting, their respective SSN Unsecured Debt; and
- (iv) in respect of SUN Noteholders present and voting, their respective SUN Debt.

Please note that Unsecured Scheme Creditors who hold multiple forms of Unsecured Debt as at the Voting Entitlement Record Date (e.g. combinations of TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt and/or SUN Debt) must ensure they complete all of the steps set out below and return all of the proof of debt forms and/or account holder letters referred to below (as applicable) for each type of Unsecured Debt held, in order to be eligible to vote at the Unsecured Creditors' Scheme Meeting in relation to the entirety of their Unsecured Debt.

(c) **Both Scheme Meetings**

Voting at both Scheme Meetings will be conducted by poll.

Voting is not compulsory. However:

- (i) Secured Scheme Creditors who do not vote at the Secured Creditors' Scheme Meeting will be bound by the Secured Creditors' Scheme, provided that the Secured Creditors' Scheme is agreed to by the Requisite Majority and approved by the Court; and
- (ii) Unsecured Scheme Creditors who do not vote at the Unsecured Creditors' Scheme Meeting will be bound by the Unsecured Creditors' Scheme, provided that the Unsecured Creditors' Scheme is agreed to by the Requisite Majority and approved by the Court.

DTC (and its nominee, Cede & Co.) is included as a Secured Scheme Creditor and Unsecured Scheme Creditor to obtain the benefit of certain provisions of the BLY Creditor Schemes and for technical reasons. DTC (through its nominee, Cede & Co.) is the registered holder of the SSN Indenture Notes and SUN Indenture Notes. Accordingly, if the BLY Creditor Schemes become Effective, DTC will be a Secured Scheme Creditor (solely in that capacity, for the purposes of the Secured Creditors' Scheme) and an Unsecured Scheme Creditor (solely in that capacity, for the purposes of the Unsecured Creditors' Scheme), as it receives principal and interest on the SSN Indenture Notes and SUN Indenture Notes.

To avoid double counting of interests in the SSN Indenture Notes at the Secured Creditors' Scheme Meeting and in the SSN Indenture Notes and SUN Indenture Notes

at the Unsecured Creditors' Scheme Meeting, the voting procedure will be based on Cede & Co., in its capacity as nominee of DTC, in accordance with its usual procedures, appointing the Account Holders as its proxies under the SSN Omnibus Proxy and SUN Omnibus Proxy in respect of the amount of the SSN Indenture Notes and SUN Indenture Notes shown on its records maintained in book-entry form as being held by them as at the Voting Entitlement Record Date.

## 12.6 **Attending Scheme Meetings**

### (a) **Attending in person**

If Secured Scheme Creditors or Unsecured Scheme Creditors (or their proxies, attorneys or corporate representatives, as applicable) plan to attend the Secured Creditors' Scheme Meeting and/or Unsecured Creditors' Scheme Meeting in person, they should arrive at the venue at least 30 minutes before the scheduled time for commencement of the applicable Scheme Meeting (details of which are set out above at section 12.1).

As a result of the potential health risks and the government's restrictions in response to the COVID-19 pandemic from time to time, the Scheme Companies encourage Secured Scheme Creditors and Unsecured Scheme Creditors to attend the Scheme Meetings online or lodge proxies in advance of the Scheme Meetings, rather than attending the Scheme Meetings in person.

For the health and safety of all attendees, the Scheme Companies will be observing social distancing and any other government requirements that apply at the time of the Scheme Meetings. The Scheme Companies will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the Scheme Meetings will be held or conducted, information will be provided on BLY's website at <http://www.boartlongyear.com/> and lodged with ASX.

### (b) **Attending online**

Secured Scheme Creditors and Unsecured Scheme Creditors (or their proxies, attorneys or corporate representatives, as applicable) who are unable to, or do not wish to, attend the applicable Scheme Meetings physically will be able to participate online from their computer or mobile device.

Any Secured Scheme Creditor or Unsecured Scheme Creditor who wishes to exercise this option must e-mail the Information Agent (at [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)) in advance of the Scheme Meetings, notifying the Information Agent of their desire to participate in (or, if applicable, for their proxies, attorneys or corporate representatives to participate in) the applicable Scheme Meeting(s) through the online platform.

Upon receipt of such e-mail notification, the Information Agent will provide the Secured Scheme Creditor or Unsecured Scheme Creditor with:

- (i) a URL link and password for the applicable Scheme Meeting (noting that there will be separate URL links and passwords for the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting respectively); and
- (ii) further instructions as to how, and when, to register for online access to the applicable Scheme Meeting.

Any Secured Scheme Creditor or Unsecured Scheme Creditor who intends to attend the Secured Creditors' Scheme Meeting and/or Unsecured Creditors' Scheme Meeting via the online platform must register their intention to do so beforehand.

Registration for each Scheme Meeting will open no later than ten (10) days prior to the start of each Scheme Meeting.

Participating in the Scheme Meetings via the online platform will allow Secured Scheme Creditors and Unsecured Scheme Creditors (or their proxies, attorneys or corporate representatives, as applicable) to listen to the applicable Scheme Meetings live, ask questions and vote directly through the online platform in real time.

We recommend logging on to the online platform at least fifteen (15) minutes prior to the scheduled start time of the applicable Scheme Meeting.

More information regarding online participation at the Scheme Meetings (including how to vote and ask questions online during the Scheme Meetings) is available at [cases.primeclerk.com/boart2021](https://cases.primeclerk.com/boart2021).

If you experience any technical difficulties whilst seeking to use the online platform, please contact the Information Agent via e-mail (at [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)) or call 877-965-7990 (toll-free) or 929-203-3308 (international).

## **12.7 How to vote at both Scheme Meetings – TLA Purchasers and TLB Purchasers**

### **(a) Secured Creditors' Scheme Meeting**

TLA Purchasers and TLB Purchasers who constitute Secured Scheme Creditors as at the Voting Entitlement Record Date are eligible to vote at the Secured Creditors' Scheme Meeting in relation to their TLA Secured Debt and TLB Secured Debt (as applicable).

In each case set out at sections 12.7(c)(i) (*Voting in person*) and 12.7(c)(ii) (*Voting by proxy, attorney or corporate representative*) below, such TLA Purchasers and TLB Purchasers must complete a TLA Proof of Debt Form (set out in Annexure H to this Explanatory Statement) or TLB Proof of Debt Form (set out in Annexure J to this Explanatory Statement) (as applicable) in accordance with the instructions set out in the TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable) and ensure that it is received by the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time) in order to establish the amount of the relevant TLA Purchaser's or TLB Purchaser's Claim against the Scheme Companies in relation to their respective outstanding TLA Secured Debt and/or TLB Secured Debt for voting purposes.

TLA Purchasers and TLB Purchasers should also consider section 12.10 below in relation to the adjudication of TLA Proof of Debt Forms and TLB Proof of Debt Forms by the Chairperson.

### **(b) Unsecured Creditors' Scheme Meeting**

TLA Purchasers and TLB Purchasers who constitute Unsecured Scheme Creditors as at the Voting Entitlement Record Date are eligible to vote at the Unsecured Creditors' Scheme Meeting in relation to their TLA Unsecured Debt and TLB Unsecured Debt (as applicable).

In each case set out at sections 12.7(c)(i) (*Voting in person*) and 12.7(c)(ii) (*Voting by proxy, attorney or corporate representative*) below, such TLA Purchasers and TLB Purchasers must complete a TLA Proof of Debt Form (set out in Annexure H to this Explanatory Statement) or TLB Proof of Debt Form (set out in Annexure J to this Explanatory Statement) (as applicable) in accordance with the instructions set out in the TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable) and ensure that it is received by the Information Agent by no later than 4.00 pm on 25 August

2021 (New York City Time) in order to establish the amount of the relevant TLA Purchaser's or TLB Purchaser's Claim against the Scheme Companies in relation to their respective outstanding TLA Unsecured Debt and/or TLB Unsecured Debt for voting purposes.

TLA Purchasers and TLB Purchasers should also consider section 12.10 below in relation to the adjudication of TLA Proof of Debt Forms and TLB Proof of Debt Forms by the Chairperson.

(c) **Both Scheme Meetings**

(i) **Voting in person**

A TLA Purchaser or TLB Purchaser who wishes to vote in person on the BLY Creditor Schemes should attend both Scheme Meetings, either physically or online.

As discussed at section 12.7(c)(ii) below, a TLA Purchaser or TLB Purchaser may appoint a proxy, attorney or (if it is a corporation) a corporate representative to attend the Scheme Meetings on its behalf.

(ii) **Voting by proxy, attorney or corporate representative**

If a TLA Purchaser or TLB Purchaser cannot or does not wish to attend the Scheme Meetings, but still wishes to vote, they may vote by proxy (which can be the Chairperson or another person), attorney or, in the case of a corporate TLA Purchaser or TLB Purchaser, by corporate representative.

If a TLA Purchaser or TLB Purchaser appoints a proxy, they will need to complete and lodge a TLA Proxy Form or TLB Proxy Form (as applicable) in relation to the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting (as set out in Annexures G and I), in accordance with the instructions on the respective forms, so that they are received by the Information Agent by 4.00 pm on 25 August 2021 (New York City Time).

Any attorney or corporate representative attending Scheme Meetings in person should bring to the Scheme Meetings evidence of his or her appointment including evidence of the authority under which the appointment was made. Any attorney or corporate representative attending Scheme Meetings through the online platform should e-mail such evidence to the Information Agent (at [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)) prior to the Scheme Meetings.

**12.8 How to vote at both Scheme Meetings – SSN Noteholders**

SSN Noteholders who constitute Secured Scheme Creditors as at the Voting Entitlement Record Date are eligible to vote at the Secured Creditors' Scheme Meeting in relation to their SSN Secured Debt.

SSN Noteholders who constitute Unsecured Scheme Creditors as at the Voting Entitlement Record Date are eligible to vote at the Unsecured Creditors' Scheme Meeting in relation to their SSN Unsecured Debt.

Such SSN Noteholders who wish to vote at both Scheme Meetings must ensure that they instruct their Account Holder to:

- (a) complete a SSN Account Holder Letter (set out in Annexure K to this Explanatory Statement) on their behalf and in accordance with their instructions; and

- (b) lodge the SSN Account Holder Letter with the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time) in order to establish:
  - (i) for the purposes of the Secured Creditors' Scheme Meeting, the amount of the relevant SSN Noteholder's Claim against the Scheme Companies in relation to their outstanding SSN Secured Debt for voting purposes; and
  - (ii) for the purposes of the Unsecured Creditors' Scheme Meeting, the amount of the relevant SSN Noteholder's Claim against the Scheme Companies in relation to their outstanding SSN Unsecured Debt for voting purposes.

SSN Noteholders should also consider section 12.10 below in relation to the adjudication of SSN Account Holder Letters by the Chairperson.

(a) **Voting in person**

Any SSN Noteholder who wishes to vote in person on the BLY Creditor Schemes will need to instruct their Account Holder to confirm this in the SSN Account Holder Letter to be lodged with the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time).

As discussed at section 12.1 above, SSN Noteholders may attend the Scheme Meetings in person or online.

As discussed at section 12.8(b) below, a SSN Noteholder may also appoint a proxy, attorney or (if it is a corporation) a corporate representative to attend the Scheme Meetings on its behalf.

(b) **Voting by proxy, attorney or corporate representative**

If a SSN Noteholder cannot or does not wish to attend the Scheme Meetings, but still wishes to vote, they will need to instruct their Account Holder to confirm in the SSN Account Holder Letter that the SSN Noteholder either:

- (i) appoints the Chairperson or another person as proxy; or
- (ii) appoints an attorney or (if it is a corporation) a corporate representative;

to attend and vote at the Scheme Meetings on behalf of the SSN Noteholder and as directed by the SSN Noteholder.

As stated above at section 12.8(b), SSN Account Holder Letters must be lodged with the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time).

Any attorney or corporate representative attending Scheme Meetings in person should bring to the Scheme Meetings evidence of his or her appointment including evidence of the authority under which the appointment was made. Any attorney or corporate representative attending Scheme Meetings through the online platform should e-mail such evidence to the Information Agent (at [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)) prior to the Scheme Meetings.

## 12.9 **How to vote at Unsecured Creditors' Scheme Meeting – SUN Noteholders**

SUN Noteholders who constitute Unsecured Scheme Creditors as at the Voting Entitlement Record Date are eligible to vote at the Unsecured Creditors' Scheme Meeting in relation to their SUN Debt.

Such SUN Noteholders who wish to vote at the at Unsecured Creditors' Scheme Meeting must ensure that they instruct their Account Holder to:

- (a) complete a SUN Account Holder Letter (set out in Annexure L to this Explanatory Statement) on their behalf and in accordance with their instructions; and
- (b) lodge the SUN Account Holder Letter with the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time) in order to establish for the purposes of the Unsecured Creditors' Scheme Meeting the amount of the relevant SUN Noteholder's Claim against the Scheme Companies in relation to their outstanding SUN Debt for voting purposes.

SUN Noteholders should also consider section 12.10 below in relation to the adjudication of SUN Account Holder Letters by the Chairperson.

(c) **Voting in person**

Any SUN Noteholder who wishes to vote in person on the Unsecured Creditors' Scheme will need to instruct their Account Holder to confirm this in the SUN Account Holder Letter to be lodged with the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time).

As discussed at section 12.1 above, SUN Noteholders may attend the Unsecured Creditors' Scheme Meetings in person or online.

As discussed at section 12.9(d) below, a SUN Noteholder may appoint a proxy, attorney or (if it is a corporation) a corporate representative to attend the Unsecured Creditors' Scheme Meeting on its behalf.

(d) **Voting by proxy, attorney or corporate representative**

If a SUN Noteholder cannot or does not wish to attend the Unsecured Creditors' Scheme Meeting, but still wishes to vote, they will need to instruct their Account Holder to confirm in the SUN Account Holder Letter that the SUN Noteholder either:

- (i) appoints the Chairperson or another person as proxy; or
- (ii) appoints an attorney or (if it is a corporation) a corporate representative;

to attend and vote at the Unsecured Creditors' Scheme Meeting on behalf of the SUN Noteholder and as directed by the SUN Noteholder.

As stated above at section 12.9(b), SUN Account Holder Letters must be lodged with the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time).

Any attorney or corporate representative attending Scheme Meetings in person should bring to the Scheme Meetings evidence of his or her appointment including evidence of the authority under which the appointment was made. Any attorney or corporate representative attending Scheme Meetings through the online platform should e-mail such evidence to the Information Agent (at [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)) prior to the Scheme Meetings.

#### **12.10 Adjudication of TLA Proof of Debt Forms, TLB Proof of Debt Forms, SSN Account Holder Letters and SUN Account Holder Letters**

The Chairperson has power to admit (wholly or in part) or reject a Claim made in a TLA Proof of Debt Form, a TLB Proof of Debt Form, a SSN Account Holder Letter or a SUN Account Holder Letter, for the purposes of voting at the applicable Scheme Meetings.

The Chairperson will adjudicate upon the Secured Scheme Creditor's or Unsecured Scheme Creditor's Claim as set out in a TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter based on the information contained in or provided with the relevant form or letter, as well as the information known to the Chairperson and Information Agent. This may result in the Secured Scheme Creditor's or Unsecured Scheme Creditor's Claim being rejected, in whole or in part, or admitted for a higher or lower amount.

Any Secured Scheme Creditor or Unsecured Scheme Creditor who is aggrieved by the Chairperson's decision to admit or reject (in whole or in part) a Claim made in a TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter for voting purposes may appeal the decision in Court by application to the Court filed within 48 hours of the decision. Such applications are to be heard at the time and place scheduled for the Second Court Hearing.

The admission of a Secured Scheme Creditor's or Unsecured Scheme Creditor's Claim is for voting purposes only and does not constitute an admission of the existence or amount of the Claim against the Scheme Companies or any other person, and will not bind the Scheme Companies, the Secured Scheme Creditors or Unsecured Scheme Creditors concerned for any other purpose.

In the event of voluntary administration or liquidation of the Scheme Companies, the voluntary administrator or liquidator may adjudicate upon the Secured Scheme Creditor's or Unsecured Scheme Creditor's Claim, if any, on a different basis than that which is used to adjudicate on the Claim for the purpose of voting at the applicable Scheme Meeting, and therefore may admit Claims for a higher or lower amount. Secured Scheme Creditors and Unsecured Scheme Creditors are encouraged to obtain their own advice regarding the possible treatment of their Claims in a voluntary administration or liquidation scenario.

#### **12.11 Modification of BLY Creditor Schemes**

Secured Scheme Creditors may propose modifications to the Secured Creditors' Scheme at the Secured Creditors' Scheme Meeting.

Unsecured Scheme Creditors may propose modifications to the Unsecured Creditors' Scheme at the Unsecured Creditors' Scheme Meeting.

However, Secured Scheme Creditors and Unsecured Scheme Creditors should be aware that there are risks associated with modifying the terms of the Secured Creditors' Scheme or Unsecured Creditors' Scheme at the relevant Scheme Meetings. For more detail on these risks, refer to section 8.17 of this Explanatory Statement.

#### **12.12 Participating in the Creditor Share Purchase Option**

SUN Noteholders who wish to apply for new Shares under the Creditor Share Purchase Option must ensure that they complete the relevant section titled 'Creditor Share Purchase Option' in the SUN Account Holder Letter (set out in Annexure L to this Explanatory Statement) in accordance with the instructions set out in the SUN Account Holder Letter and ensure that it is received by the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time) in order to establish their election to participate in the Creditor Share Purchase Option.

TLA Purchasers, TLB Purchasers and SSN Noteholders who wish to apply for New Shares under the Creditor Share Purchase Option must ensure that they:

- (a) in respect of the TLA Purchasers and TLB Purchasers, complete the relevant section titled 'Creditor Share Purchase Option' in the TLA Proof of Debt Form or TLB Proof of Debt Form, as applicable (set out in Annexure H and Annexure J respectively to this Explanatory Statement) in accordance with the instructions set out in the TLA Proof of Debt Form or TLB Proof of Debt Form and ensure that it is received by the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time) in order to establish their election to participate in the Creditor Share Purchase Option; and
- (b) in respect of the SSN Noteholders, complete the relevant section titled 'Creditor Share Purchase Option' in the SSN Account Holder Letter (set out in Annexure K to this Explanatory Statement) in accordance with the instructions set out in the SSN Account Holder Letter and ensure that it is received by the Information Agent by no later than 4.00 pm on 25 August 2021 (New York City Time) in order to establish their election to participate in the Creditor Share Purchase Option.

By returning the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable), the relevant Participating SUN Noteholder or Other CSPO Participant will irrevocably agree to apply for, and pay the CSPO Issue Price for the Maximum Committed Securities indicated in the relevant TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) on the terms of this Explanatory Statement and the relevant form or letter (as applicable). This commitment is separate and additional to any other application to acquire Shares that such a Participating SUN Noteholder or Other CSPO Participant may make and any such other acquisition will not reduce the number of Maximum Committed Securities for which the relevant Participating SUN Noteholder or Other CSPO Participant may be required to apply.

Each relevant Participating SUN Noteholder or Other CSPO Participant who elects to participate in the Creditor Share Purchase Option will be sent an Allocation Confirmation following 4.00 pm on 17 September 2021 (New York City Time) based on each such Scheme Creditors' Maximum Committed Securities and the CSPO Allocation Principles described in section 8.8. The Allocation Confirmation will include details of each such participant's settlement obligations.

If a Participating SUN Noteholder or Other CSPO Participant (or, in each case, their Permitted CSPO Nominee, if applicable) does not pay the CSPO Issue Price in respect of the amount confirmed by BLY in their Allocation Confirmation on or before the time outlined by BLY in that Allocation Confirmation, then they will not receive their allocation of Shares pursuant to the Creditor Share Purchase Option.

#### 12.13 **Lodgement of documents and further queries**

Complete TLA Proof of Debt Forms, TLB Proof of Debt Forms, TLA Proxy Forms, TLB Proxy Forms, SSN Account Holder Letters and SUN Account Holder Letters (as applicable) should be lodged in accordance with the instructions on those forms or letters.

If you have any questions in relation to the Secured Creditors' Scheme Meeting or Unsecured Creditors' Scheme Meeting, including completing and lodging the forms or letters, please contact:

**Attention:** Boart Longyear Scheme Processing  
c/o Prime Clerk LLC  
One Grand Central Place  
60 East 42nd Street, Suite 1440



New York, NY 10165

Email: [Boartscheme@primeclerk.com](mailto:Boartscheme@primeclerk.com)

Toll-Free: (877) 965-7990

Local/International: (929) 203-3308

Scheme Website: [cases.primeclerk.com/boart2021](https://cases.primeclerk.com/boart2021)

## 13. **INTERPRETATION AND GLOSSARY**

### 13.1 **Interpretation**

The following general interpretation guidelines are included to assist Secured Scheme Creditors and Unsecured Scheme Creditors in understanding this document.

- (a) Unless otherwise stated, all data contained in charts, graphs and tables is based on information available as at the date of this Explanatory Statement. All numbers are rounded unless otherwise indicated.
- (b) A reference to:
  - (i) AU\$, AUD or cents, is to Australian currency, unless otherwise stated; and
  - (ii) USD or US\$ is to the currency of the United States of America, unless otherwise stated.
- (c) All references to time are references to the time in Sydney, Australia, unless otherwise stated.
- (d) A reference to:
  - (i) a "section" or "paragraph" is to a section or paragraph of this Explanatory Statement;
  - (ii) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (iii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iv) a party to an agreement includes a successor in title, permitted substitute or a permitted assign of that party;
  - (v) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (vi) anything (including a right, obligation or concept) includes each part of it.
- (e) A singular word includes the plural, and vice versa.
- (f) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (g) A word which suggests one gender includes the other genders.
- (h) If an example is given of anything (including a right, obligation or concept), such as by saying that it includes something else, the example does not limit the scope of that thing.
- (i) A reference to a matter being **"to the knowledge"** of the Scheme Companies means that the matter is to the best of the knowledge and belief of the Directors as at the date of this Explanatory Statement, after making reasonable enquiries in the circumstances.

- (j) A reference to **"information"** is to information of any kind in any form or medium, whether formal or informal, written or unwritten.
- (k) The word **"agreement"** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (l) The expressions **"subsidiary"**, **"holding company"** and **"related body corporate"** have the same meanings as is given to those expressions in the Corporations Act.

## 13.2 Glossary of terms

Capitalised terms used in this Explanatory Statement have the meanings set out below.

Secured Scheme Creditors and Unsecured Scheme Creditors should be aware that some of the documents in the Annexures to this Explanatory Statement have their own defined terms, which are sometimes different from those in this Glossary.

**2017 Schemes** means:

- (a) the compromise or arrangement under Part 5.1 of the Corporations Act between the BLY Issuer, BLY, BLA, Votaint and Secured Scheme Creditors (as defined therein) which was approved by the Court on 22 August 2017; and
- (b) the compromise or arrangement under Part 5.1 of the Corporations Act between the BLY Issuer, BLY, BLA, Votaint, the 7% Scheme Creditors (as defined therein) and the Subordinate Claim Holders (as defined therein) which was approved by the Court on 22 August 2017.

**Account Holder** means a person recorded directly in the records of Cede & Co. and DTC as holding an interest in the SSN Indenture or SUN Indenture (as applicable) in an account held with DTC.

**Ad Hoc Group** or **AHG** means each entity listed in the table under the row "AHG" in schedule 1 to the RID, and their permitted transferees and assigns and **AHG Member** means any one of them.

**Administrative Agent** means:

- (a) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan B; and
- (c) any successor administrative agent under the Term Loan A or Term Loan B.

**Affiliate** has the meaning given to "affiliate" within the meaning of Rule 405 of the U.S. Securities Act.

**Agent** means the Administrative Agent or the Collateral Agent or both of them, as the context requires.

**Agent Deed Poll** means the deed poll substantially in the form set out in Schedule 5 of the Secured Creditors' Scheme and Schedule 5 of the Unsecured Creditors' Scheme.

**AHG Director Nomination Agreements** means each agreement between one or more AHG Members and BLY in relation to the nomination of the AHG Nominee Directors as directors of BLY to be entered into in conjunction with the BLY Creditor Schemes.

**AHG Nominee Directors** means those persons nominated by AHG to be appointed as a director of BLY pursuant to the AHG Director Nomination Agreements.

**AHG Permitted Assignee** means:

- (a) in respect of the Corre Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Corre Partners Management, LLC or any affiliate of it;
- (b) in respect of the Ares Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Ares Management LLC or any affiliate of it;
- (c) in respect of Ascribe, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Ascribe Management, LLC or any affiliate of it;
- (d) in respect of the FPA Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by First Pacific Advisors, LP or any affiliate of it; and
- (e) in respect of Nut Tree Master Fund, LP, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Nut Tree Capital Management or any affiliate of it.

**Allocated Aggregate Debt** means the aggregate outstanding amount of:

- (a) 25% of the outstanding amount of the TLA Unsecured RSA Date Debt;
- (b) 25% of the outstanding amount of the TLB Unsecured RSA Date Debt;
- (c) 25% of the outstanding amount of the SSN Unsecured RSA Date Debt;
- (d) 22.5% of the outstanding amount of the SUN RSA Date Debt;
- (e) 100% of the outstanding amount of the TLA Secured RSA Date Debt;
- (f) 100% of the outstanding amount of the TLB Secured RSA Date Debt;
- (g) 100% of the outstanding amount of the SSN Secured RSA Date Debt,

being an amount of US\$566,842,010.96.

**Allocation Confirmation** means the confirmation sent to each Participating SUN Noteholder and, if applicable, Other CSPO Participant setting out its allocation of Shares determined by BLY in accordance with the CSPO Allocation Principles to be issued under the Creditor Share Purchase Option provided that the Participating SUN Noteholder or Other CSPO Participant pays its subscription monies by the date required in such confirmation.

**Allocations Spreadsheet** means the spreadsheet prepared by BLY, and reasonably agreed to by each CBP Member and each AHG Member as soon as reasonably practicable after the BLY Creditor Schemes become Effective, as the allocations spreadsheet for the purpose of the BLY Creditor Schemes and the RID which sets out each party's relevant entitlement to the Creditor Schemes Transaction Securities issued under the applicable Restructuring

Document and distributed in accordance with the Implementation Steps, provided that it is consistent in all material respects with the terms of the BLY Creditor Schemes.

**Applicable Insurance Policy** means any available policy of insurance under which BLY is entitled to indemnity in respect of any Subordinate Claim.

**Ares** means Ares Management LLC, on behalf of its affiliated funds and accounts being ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company – U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.

**Ares Shareholders** means ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company – U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.

**Ascribe** means Ascribe II Investments LLC.

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the meaning given in section 12 of the Corporations Act as if BLY was the designated body.

**Assumption Deed Poll** means the deed poll of that name to be entered into by New BLY Parent in favour of the holders of the New Warrants, Existing Warrants, Existing Options and the Participants.

**ASX** means ASX Limited or the financial market operated by ASX Limited, as the context requires.

**ASX Listing Rules** means the listing rules of ASX, as waived or modified by ASX in respect of BLY, the BLY Creditor Schemes or otherwise.

**Authorised Nominee** means Chess Depositary Nominees Pty Limited ACN 071 346 506, Australian Financial Licence number 254514, an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.

**Backstop Agent** means Wilmington Trust, National Association in its capacity as agent under the Existing Backstop ABL and any successor agent under the Existing Backstop ABL.

**Backstop Collateral Agent** means Wilmington Trust, National Association in its capacity as collateral agent under the Existing Backstop ABL and any successor collateral agent for the Existing Backstop ABL.

**BCM** means BL Capital Management LLC, a limited liability company formed under the laws of Delaware.

**BLA** means Boart Longyear Australia Pty Limited ACN 000 401 025.

**BLI** means Boart Longyear Investments Pty Limited ACN 124 070 373.

**BLY** means Boart Longyear Limited ACN 123 052 728.

**BLY Board** means the board of directors of BLY.

**BLY's Counsel** has the meaning given to that term in the RSA.

**BLY Creditor Schemes** means the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**BLY Issuer** means Boart Longyear Management Pty Limited ACN 123 283 545.

**BLY Shareholder** means a person entered in the register of members of BLY as the holder of a Share.

**BLY US** means BLY US Holdings Inc., a corporation formed under the laws of the State of Utah.

**Book Entry Interest** means a beneficial interest in the SSN Indenture or SUN Indenture, as the context requires, held by or through an Account Holder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales and Adelaide, South Australia.

**Buyback Shareholders** means those Non-Associated Shareholders who sell their Shares to BLY pursuant to the Selective Buy-Back.

**CBP Director Nomination Agreement** means the agreement between BLY and affiliates of CBP in relation to the nomination of the CBP Nominee Directors as directors of BLY.

**CBP Nominee Directors** means those persons nominated by affiliates of CBP to be appointed as a director of BLY pursuant to the CBP Director Nomination Agreement.

**CDI** means a CHESS Depositary Interest, that being a unit of beneficial ownership in a fully paid ordinary share of New BLY Parent that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.

**Cede & Co** means Cede & Co. as the clearing house nominee for The Depository Trust Company.

**Centerbridge** or **CBP** means all or any of the entities listed in the table under the row "CBP" in Schedule 1 to the RID, and any of their affiliates, permitted transferees and assigns (as the context requires), and **CBP Member** means any one of them.

**Centerbridge Board Nominees** means a person nominated by Centerbridge for appointment to the BLY Board in accordance with the CBP Director Nomination Agreement.

**Centerbridge Permitted Assignee** means any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by any affiliate of Centerbridge Partners, L.P.

**Chairperson** means the chairperson of the Unsecured Creditors' Scheme Meeting and the chairperson of the Secured Creditors' Scheme Meeting, as the context requires.

**Change of Control Event** has the meaning given to that term in the Secured Creditors' Scheme and Unsecured Creditors' Scheme.

**Chapter 15 Order** means, in respect of the Creditors' Schemes Proceeding and the BLY Creditor Schemes, any recognition order from the U.S. Bankruptcy Court entered in the Chapter 15 Proceeding.

**Chapter 15 Proceeding** means cases commenced under chapter 15 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court seeking (i) recognition of the Creditors' Schemes Proceeding and (ii) recognition and enforcement of the BLY Creditor Schemes.

**Claim** means, in relation to a person, any claim, allegation, cause of action, proceeding, debt, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent or otherwise whether at law, in equity, under statute or otherwise.

**Collateral Agent** means:

- (f) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan A;
- (g) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan B; and
- (h) any successor collateral agent under the Term Loan A or Term Loan B.

**Commencement Date** has the meaning given to that term in the RSA.

**Competing Proposal** means any dissolution, winding up, liquidation, reorganisation, assignment for the benefit of creditors, merger, transaction, consolidation, business combination, joint venture, partnership sale of assets, financing (debt or equity), refinancing, or restructuring of BLY, other than the restructuring contemplated in the RSA, including, but not limited to, any proposal, agreement, arrangement or transaction, received in writing within the period from the Commencement Date to the Completion Date which, the BLY Board determines, in good faith and in consultation with BLY's Counsel if completed, would mean a third party (either alone or with any Associate (as defined in the Corporations Act) of that third party) may:

- (a) directly or indirectly acquire a Relevant Interest in 20% or more of the BLY Shares or 50% or more of the share capital of any Material BLY Subsidiary;
- (b) acquire Control of BLY;
- (c) directly or indirectly acquire a legal, beneficial or economic interest in, or Control of, all or a material part of BLY Group's business or assets or the business or assets of the BLY Group taken as a whole; or
- (d) otherwise directly or indirectly acquire or merge with BLY or acquire a Material BLY Subsidiary.

**Constitution** means the constitution of BLY, as amended from time to time.

**Control** has the meaning given in section 50AA of the Corporations Act.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Corporations Regulations** means the *Corporations Regulations 2001* (Cth).

**Corre** means Corre Partners Management, LLC and those entities affiliated with it including Corre Opportunities Qualified Master Fund, LP, Corre Horizon Fund, LP and Corre Horizon II Fund, LP.

**Corre Shareholders** means Corre Opportunities Qualified Master Fund, LP, Corre Horizon Fund, LP and Corre Horizon II Fund, LP.

**Costs** means costs, charges, fees and expenses.

**Counterproposal** has the meaning given to that term in section 5.2 of this Explanatory Statement.

**Court** means the Supreme Court of New South Wales.

**Creditor Schemes Transaction Securities** means the:

- (a) the New Common Equity;
- (b) the Shares to be issued by BLY in accordance with the Creditor Share Purchase Option; and
- (c) the New Warrants, as the context requires.

**Creditor Share Purchase Option** means the option for each TLA Purchaser, TLB Purchaser, SSN Noteholder and SUN Noteholder which is a Secured Scheme Creditor or an Unsecured Scheme Creditor to subscribe for Shares at the CSPO Issue Price with the Shares to be allocated by BLY in accordance with the CSPO Allocation Principles and issued in accordance with clause 12 (*Creditor Share Purchase Option*) of the Secured Creditors' Scheme and clause 12 (*Creditor Share Purchase Option*) of the Unsecured Creditors' Scheme, subject to a maximum cap on the amount to be raised by BLY from the issue of the Shares equal to the CSPO Cap Amount, as described in Section 8.8.

**Creditors' Scheme Finance Document** means:

- (a) each of the documents listed in Schedule 1 of the Secured Creditors' Scheme other than an Incremental Finance Document;
- (b) each of the documents listed in Schedule 1 of the Unsecured Creditors' Scheme other than an Incremental Finance Document;
- (c) any document entered into by a Scheme Company under which it has granted a security interest over its property to secure the Secured Money; and
- (d) any other document designated as:
  - (i) a Loan Document under the Term Loan A and Term Loan B; or
  - (ii) a Notes Document under the SSN Indenture.

**Creditors' Scheme Implementation Date** has the meaning given to that term in the RID.

**Creditors' Schemes Proceeding** means the proceeding filed in the Supreme Court of New South Wales seeking approval of the BLY Creditor Schemes.

**Creditors' Schemes Restructuring Effective Time** means the time at which all of the Implementation Steps in clauses 8(a) (*Issue of Shares and New Warrants*) to 8(h) (*Confirmation of Scheme Restructuring Effective Time*) of the RID have been completed.



**CSPO Allocation Principles** has the meaning given to that term in section 8.8.

**CSPO Cap Amount** has the meaning given to that term in section 8.8.

**CSPO Issue Price** has the meaning given to that term in section 8.8.

**Custody Instructions** means a custody instruction delivered to DTC to tender (as applicable):

- (a) SSN Indenture Notes identified in a SSN Account Holder Letter; or
- (b) SUN Indenture Notes identified in a SUN Account Holder Letter,

as being held at DTC through DTC's Automated Tender Offer Program.

**Deed Poll** means the Secured Scheme Administrators Deed Poll, the Unsecured Scheme Administrators Deed Poll, the Agent Deed Poll, TLB Collateral Agent Deed Poll, the Secured Scheme Creditors Deed Poll, the Unsecured Scheme Creditors Deed Poll, the SUN Trustee Deed Poll, the SSN Trustee Deed Polls, the Obligors Deed Polls or the Released Individuals Deed Poll as the context requires, and Deeds Poll means all of them or any combination of them, as the context requires.

**Depository Trust Company or DTC** means The Depository Trust Company, a central securities depository registered as a clearing agency with the Securities Exchange Commission.

**Designated Recipient** means any Permitted Assignee of a Secured Scheme Creditor or Unsecured Scheme Creditor who is not an Ineligible Person appointed under a validly completed and timely delivered TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) submitted to the Information Agent on behalf of a Secured Scheme Creditor or Unsecured Scheme Creditor to receive the consideration allocated to that Secured Scheme Creditor or Unsecured Scheme Creditor under the relevant BLY Creditor Scheme.

**Director Nomination Agreement** means each AHG Director Nomination Agreement and the CBP Director Nomination Agreement.

**Directors** means the directors appointed to the Scheme Companies as at the date of this Explanatory Statement.

**Effective** means:

- (a) when used in relation to a BLY Creditor Scheme, the coming into effect of the Second Court Orders pursuant to section 411(10) of the Corporations Act; and
- (b) when used in relation to the Members' Scheme, the coming into effect of the Court's orders approving the Members' Scheme pursuant to section 411(10) of the Corporations Act.

**Eligible SBB Shareholders** means a person who:

- (a) is the registered holder of Shares as at the SBB Record Date who has an aggregate value equal to less than AU\$3,000 (calculated by reference to the closing price of Shares on the ASX on the SBB Record Date);
- (b) is a Non-Associated Shareholder; and
- (c) is not an Excluded Foreign Person.

**Eligible SPP Shareholders** means a BLY Shareholder who:

- (a) is registered as a BLY Shareholder on the BLY share register on the SPP Record Date with a registered address in Australia or New Zealand;
- (b) is not in the United States and is not acting for the account or benefit of a person in the United States; and
- (c) is eligible under applicable securities law to receive an offer under and participate in the Share Purchase Plan.

**Excluded Foreign Person** means anyone who falls within any of the following exclusions:

- (a) persons who are (or who are acting on behalf of or for the account of a person who is) located in the United States, a US Person, or a resident of Canada;
- (b) any other BLY Shareholders to whom BLY would be prohibited, pursuant to any act, rule or regulation in any jurisdiction, from making payments;
- (c) persons who reside, or who are acting on behalf or for the account of a person who resides, in a jurisdiction other than Australia or New Zealand, unless BLY determines that:
  - (i) it would not be illegal for BLY to make an invitation to that person, or for that person to participate in the Selective Buy-Back under the laws of that jurisdiction; and
  - (ii) it would not be impractical for BLY to permit the person to participate in the Selective Buy-Back, having regard to the number of BLY Shareholders in the relevant jurisdiction and the requirements of the laws of that jurisdiction.

**Exercise Notice** means the notice which must be provided to BLY upon the exercise of a New Warrant by a holder of a New Warrant under the terms of the New Warrant Deed Poll.

**Existing Backstop ABL** means the Term Loan Securities Agreement dated as of 23 July 2017 (as amended by the First Amendment to Term Loan Securities Agreement dated as of 5 August 2017, the Second Amendment to Term Loan Securities Agreement dated as of 31 August 2017, the Third Amendment to Term Loan Securities Agreement dated as of 24 July 2019, the Fourth Amendment to Term Loan Securities Agreement dated as of 19 March 2020, the Fifth Amendment to Term Loan Securities Agreement dated as of 1 June 2021 and as further amended, varied or amended and restated from time to time), between, amongst others, BLY Issuer, the other guarantors party thereto, and Wilmington Trust, National Association, as administrative agent, providing for the issuance of term loan securities due 2022.

**Existing Options** means the unquoted executive options to purchase fully paid Shares given under BLY's 2014 option plan, 2015 option plan and 2016 option plan.

**Existing PNC ABL** means the Amended and Restated Revolving Credit and Security Agreement, dated 23 July 2017 between, amongst others, BLY Issuer, BLY, the other guarantors identified therein and PNC Bank, National Association, as administrative agent and collateral agent, as amended by the First Amendment to the Amended and Restated Revolving Credit and Security Agreement dated as of 30 August 2017, the Second Amendment to the Amended and Restated Revolving Credit and Security Agreement dated as of 30 March 2018, the Third Amendment to the Amended and Restated Revolving Credit and Security Agreement dated as of 18 September 2018, the Fourth Amendment to the Amended and Restated Revolving Credit and Security Agreement dated as of 22 October 2018, the Fifth Amendment to the Amended and Restated Revolving Credit and Security

Agreement dated as of 24 July 2019, the Sixth Amendment to the Amended and Restated Revolving Credit and Security Agreement dated as of 28 April 2020, the Seventh Amendment to the Amended and Restated Revolving Credit and Security Agreement dated as of 12 May 2021 and as further as amended, restated, supplemented, waived, refinanced or otherwise modified from time to time.

**Existing Warrants** has the meaning given to that term in the RID.

**Exit Financier** means each bank, fund or other financial institution who is designated a lender (howsoever described) pursuant to the terms of the Exit Financing Facility.

**Exit Financing Facility** means financing made available under a new money facility which shall:

- (a) be available for drawing by BLY US or another member of the Group;
- (b) be a five year term loan facility with a total aggregate commitment of US\$115,000,000 available for the purposes, amongst other things, of fully refinancing outstanding amounts (including, but not limited to, principal, interest and fees) under each of the Incremental Finance Facility and the Existing Backstop ABL; and
- (c) subject to certain conditions precedent, be available for drawing following completion of Step 1 and Step 2 (as set out in clause 8(a) and clause 8(b) (respectively) of the RID) in accordance with the RID.

**Explanatory Statement** means this document.

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

**FIRB** means Foreign Investment Review Board.

**First Court Hearing** means the hearing of an application for the First Court Orders, including any adjourned hearing.

**First Court Orders** means the orders of the Court convening the Scheme Meetings under section 411(1) of the Corporations Act.

**FPA** means First Pacific Advisors, LP and those entities affiliated with it including FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**FPA Shareholders** being FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**FTI Consulting** means FTI Consulting of Level 22, Gateway 1 Macquarie Place, Sydney NSW 2000, Australia.

**FTI Consulting Information** means the information in section 9 of this Explanatory Statement, the FTI Consulting Report and certain other information in this Explanatory Statement that is identified as having been provided by or attributed to FTI Consulting.

**FTI Consulting Report** means the independent expert report dated 27 July 2021 prepared by FTI Consulting, a copy of which is set out at Annexure C.

**Government Agency** means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister (including the Treasurer of the Commonwealth of Australia), ASIC, the Australian Competition and Consumer Commission, the Australian Taxation Office, ASX and any regulatory organisation established under statute or any stock exchange.

**Group** means BLY and each of its Subsidiaries.

**Implementation Steps** means each of the steps set out in clause 8 of the RID.

**Implied Value** has the meaning given to that term in the FTI Consulting Report.

**Incremental Agent** means Wilmington Trust, National Association, in its capacity as agent under the Incremental Finance Facility and any successor agent under the Incremental Finance Facility.

**Incremental Collateral Agent** means U.S. Bank National Association, in its capacity as collateral agent for the Incremental Finance Facility and any successor collateral agent for the Incremental Finance Facility.

**Incremental Finance Documents** means together:

- (a) the Incremental Finance Facility; and
- (b) any Loan Document (as that term is defined in the Incremental Finance Facility).

**Incremental Finance Facility** means the Term Loan Securities Agreement, dated as of 1 June 2021 by and among BLY Issuer, as issuer, the guarantors party thereto, the purchasers party thereto, Wilmington Trust, National Association, as agent and U.S. Bank National Association, as collateral agent, and providing for the issuance of term loan securities with a final repayment date of 31 December 2021.

**Incremental Finance Facility Agreement** has the meaning given to that term in section 5.4 of this Explanatory Statement.

**Ineligible Foreign Shareholders** has the meaning given to that term in the Members' Scheme Explanatory Statement.

**Ineligible Jurisdiction** means any jurisdiction other than Australia, Canada, Bermuda, Cayman Islands, Ireland, Italy, Netherlands, Switzerland or the United States of America.

**Ineligible Person** means a person:

- (a) located in any jurisdiction other than Australia, Canada, Bermuda, Cayman Islands, Ireland, Italy, Netherlands, Switzerland, the United States of America or other jurisdiction as agreed to by BLY; or
- (b) to whom BLY considers it would be unlawful for BLY to make an offer of Shares or if applicable, New Warrants, in accordance with the laws of the jurisdiction in which the person is located.

**Information Agent** means Prime Clerk LLC.

**Initial Supporting Creditors** means affiliates of Centerbridge, Ascribe, Corre, FPA and Nut Tree in their capacity as beneficial holder, or investment adviser or manager for the account of beneficial holders, of obligations arising under the Existing Backstop ABL, Term Loan A, Term Loan B, SSN Indenture and/or SUN Indenture.

**Liability** means any debt, liability or obligation of a person whether it is present, future, prospective or contingent, whether or not it is fixed or undetermined, whether or not it involves the payment of money or performance of an act or obligation and whether it arises by contract, at common law, in equity, by statute or otherwise in Australia or any other jurisdiction, or in any manner whatsoever.

**Long Term Equity Incentive Plan** means the Boart Longyear Limited 2020 Long Term Incentive Plan approved at BLY's Annual General Meeting on 31 July 2020.

**Material BLY Subsidiary** has the meaning given to that term in the RSA.

**Maximum Committed Securities** means the maximum number of Shares the relevant Scheme Creditor (or its Permitted CSPO Nominee) is willing to subscribe for under the Creditor Share Purchase Option, as listed in its duly executed and delivered TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable).

**Members' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between BLY and the BLY Shareholders, pursuant to which BLY will become a wholly owned subsidiary of New BLY Parent by the transfer of all Shares to New BLY Parent in exchange for the issue of New BLY Parent CDIs to BLY Shareholders.

**Members' Scheme Approval** has the meaning given to that term in section 7.1 of this Explanatory Statement.

**Members' Scheme Consideration** means the consideration to be provided by New BLY Parent to each BLY Shareholder participating in the Members' Scheme, being (1) New BLY Parent Share in the form of a New BLY Parent CDI, for each (1) BLY Share held by a BLY Shareholder participating in the Members' Scheme as at the Members' Scheme Record Date.

**Members' Scheme Effective Time** means the time at which all of the Implementation Steps in clauses 8(i) (*Assumption Deed Poll*) to 8(j) (*Members' Scheme Implementation*) of the RID have been completed.

**Members' Scheme Explanatory Statement** means the explanatory statement prepared in accordance with the Corporations Act explaining the Members' Scheme.

**Members' Scheme Implementation Date** means the date on which each of the Implementation Steps in the Restructuring Implementation Deed to implement the Members' Scheme will be completed, which must be no later than 10 Business Days after the Creditors' Schemes Restructuring Effective Time.

**Members' Scheme Record Date** means 7:00 pm (Sydney time) on the day which is two business days after the date on which the Members' Scheme becomes Effective, expected to be 1 October 2021, or any other date (after the Members' Scheme becomes Effective) agreed by BLY and the New BLY Parent to be the record date to determine entitlements to receive Members' Scheme Consideration under the Members' Scheme.

**New BLY Parent** means Boart Longyear Ltd. (Ontario Corporation No. 002854330), a limited company incorporated in Ontario, Canada, with registered address Suite 2400, 333 Bay Street, Toronto, Canada, which is a newly incorporated company established for the purposes of the Members' Scheme.

**New BLY Parent CDI** means a CDI representing one (1) New BLY Parent Share.

**New BLY Parent Share** means one common share in the capital of New BLY Parent.

**New Common Equity** means the total number of new Shares to which Secured Scheme Creditors and Unsecured Scheme Creditors are entitled pursuant to the BLY Creditor Schemes (but excluding the Creditors Share Purchase Option) and allocated in accordance with the Allocations Spreadsheet determined by applying the following formula and adjusted as a result of any rounding required by clause 7(b) of the Secured Creditors' Scheme or clause 7(b) of the Unsecured Creditors' Scheme (as applicable):

$(\text{Pre-restructuring Share Capital} / 0.015) - \text{Pre-restructuring Share Capital}$

**New Warrant Certificate** means a certificate evidencing a person as a registered holder of any one or more New Warrants, and substantially in the form set out in Attachment 3 to the New Warrant Deed Poll.

**New Warrant Deed Poll** means the document entitled New Warrant Deed Poll substantially in the form set out in Schedule 11 of the Unsecured Creditors' Scheme to be executed by BLY which sets out the terms of issue of the New Warrants.

**New Warrants** means the warrants issued by BLY on the terms set out in Schedule 11 to the Unsecured Creditors' Scheme with a strike price of AU\$2.79.

**Non-Associated Shareholder** means a BLY Shareholder who is not any of the following:

- (a) a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder; or
- (b) an Associate of any of the persons referred to in paragraph (a).

**Notice of EGM Meeting** means the notice of meeting convening the meeting of Shareholders to vote on the Shareholders Resolutions.

**Notice of Secured Creditors' Scheme Meeting** means the notice of the Secured Creditors' Scheme Meeting at the beginning of this Explanatory Statement.

**Notice of Unsecured Creditors' Scheme Meeting** means the notice of the Unsecured Creditors' Scheme Meeting at the beginning of this Explanatory Statement.

**Nut Tree** means Nut Tree Capital Management and Nut Tree Master Fund, LP.

**Obligors** means each of:

- (a) BLY;
- (b) BLA;
- (c) BLI;
- (d) the BLY Issuer;
- (e) BCM;
- (f) BLY US;
- (g) Boart Longyear Canada;
- (h) Boart Longyear Chile Limitada;
- (i) Boart Longyear Company;
- (j) Boart Longyear Manufacturing and Distribution Inc.;

- (k) Boart Longyear Manufacturing Canada Ltd.;
- (l) Boart Longyear S.A.C.;
- (m) Boart Longyear Suisse Sarl;
- (n) Longyear Canada, ULC;
- (o) Longyear TM, Inc;
- (p) Votrant; and
- (q) BLY IP Inc.

**Obligors Deed Poll** means:

- (a) in respect of the Secured Creditors' Scheme, the deed poll executed by the Obligors substantially in the form set out in Schedule 9 of the Secured Creditors' Scheme; and
- (b) in respect of the Unsecured Creditors' Scheme, the deed poll executed by the Obligors substantially in the form set out in Schedule 10 of the Unsecured Creditors' Scheme.

**Other CSPO Participant** means TLA Purchasers, TLB Purchasers and SSN Noteholders who are either a Secured Scheme Creditor or an Unsecured Scheme Creditor who complete and return to the Information Agent a TLA Proof of Debt Form, TLB Proof of Debt Form or a SSN Account Holder Letter (as applicable) with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Participant** means each eligible participant to the Long Term Incentive Plan.

**Participating SUN Noteholder** means SUN Noteholders who are Unsecured Scheme Creditors and who complete and return to the Information Agent the SUN Account Holder Letter with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Permitted Assignee** means, in respect of a Secured Scheme Creditor or Unsecured Scheme Creditor, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by that Secured Scheme Creditor or Unsecured Scheme Creditor.

**Permitted CSPO Nominee** means a person (who is not an Ineligible Person) nominated by a Participating SUN Noteholder or Other CSPO Participant to take up their allocation of Shares under the Creditor Share Purchase Option provided that:

- (a) the nominee is a party to the RSA or accedes to the RSA; and
- (b) the Participating SUN Noteholder or Other CSPO Participant specifies the nominee's name and details in the relevant section titled 'Creditor Share Purchase Option' of their SUN Account Holder Letter, SSN Account Holder Letter, TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable).

**Pre-restructuring Share Capital** means the total number of Shares on issue by BLY immediately prior to the commencement of the Implementation Steps, with the number of Shares determined:

- (a) following the Share Consolidation to occur prior to the Creditors' Scheme Implementation Date;
- (b) before the buy-back of any Shares under the Selective Buy-Back;
- (c) before the issue of any Shares on the exercise of any New Warrants;
- (d) before the issue of any Shares on the exercise of Existing Warrants or Existing Options on or after the Creditors' Scheme Implementation Date;
- (e) before the issue of any Shares under the Long Term Equity Incentive Plan on or after the Creditors' Scheme Implementation Date; and
- (f) before the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option.

**Recapitalisation Transactions** means the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, the Exit Financing Facility, the Share Consolidation, the Share Purchase Plan and the Creditor Share Purchase Option.

**Released Individual** means each person who was, at any time between 23 August 2017 and the Creditors' Scheme Implementation Date inclusive, a director or officer of any Obligor who has executed, or at any time executes (including by way of joinder), a Released Individuals Deed Poll.

**Released Individuals Deed Poll** means the deed poll substantially in the form set out in Schedule 8 of the Secured Creditors' Scheme and Schedule 9 of the Unsecured Creditors' Scheme.

**Relevant Finance Documents** has the meaning given to that term in the RSA.

**Relevant AHG Shareholders** at a time means:

- (a) the Ares Shareholders;
- (b) Ascribe;
- (c) the Corre Shareholders;
- (d) the FPA Shareholders;
- (e) Nut Tree Master Fund, LP; and
- (f) any AHG Permitted Assignee,

that are the registered holders of Retained Shares at that time.

**Relevant Interest** has the meaning given in sections 608 and 609 of the Corporations Act.

**Relevant CBP Shareholders** at a time means:

- (a) the affiliates of Centerbridge who are party to the CBP Director Nomination Agreement; and



(b) any Centerbridge Permitted Assignee,

that are the registered holders of Retained Shares at that time.

**Representation Letter** means a letter to be delivered to BLY with the Exercise Notice where a New Warrant is exercised for cash by a holder of a New Warrant under the terms of the New Warrant Deed Poll.

**Requisite Majority** has the meaning given to that term in section 4.2 of this Explanatory Statement.

**Restructuring** means the proposed restructuring of the existing indebtedness and equity of the Group to be effected by completing the Implementation Steps.

**Restructuring Document** has the meaning given to that term in the RID.

**Retained Shares** means:

- (a) immediately following completion of Step 8 (*Confirmation of Scheme Restructuring Effective Time*) of the Implementation Steps, those Shares in which any one or more of the Relevant AHG Shareholders or the Relevant CBP Shareholders (as applicable) have a relevant interest at that time; or
- (b) if the Members' Scheme is implemented, those Shares in which any one or more of the Relevant AHG Shareholders or the Relevant CBP Shareholders (as applicable) has a relevant interest as at immediately following the implementation of the Members' Scheme,

and in which, at any relevant time, any one or more of the Relevant AHG Shareholders or Relevant CBP Shareholders (as applicable) holds a relevant interest.

**RID** or **Restructuring Implementation Deed** means the Restructuring Implementation Deed substantially in the form set out in Schedule 2 of the Secured Creditors' Scheme and Schedule 2 of the Unsecured Creditors' Scheme and to be executed by:

- (a) a Secured Scheme Administrator on behalf of the Secured Scheme Creditors as contemplated by clause 5.1 of this Secured Creditors' Scheme; and
- (b) an Unsecured Scheme Administrator on behalf of the Unsecured Scheme Creditors as contemplated by clause 5.1 of this Unsecured Creditors' Scheme.

**RSA** or **Restructuring Support Agreement** means the Restructuring Support Agreement entered into between, among others, BLY and BLY Issuer, dated 12 May 2021.

**RSA Date** means 12 May 2021, being the commencement date of the RSA.

**RSA Longstop Date** means 31 October 2021 (which may be amended or extended in accordance with the terms and conditions of the RSA).

**RSA Transactions** has the meaning given to the term "Transaction" in the RSA.

**SBB Record Date** means 7:00 pm (Sydney time) on 28 July 2021, being the trading day prior to announcement of the Selective Buy-Back.

**Scheme Administrators** means the Secured Scheme Administrators and the Unsecured Scheme Administrators.

**Scheme Companies** means BLY, BLA, BLI, BLY Issuer, Votrant, BCM and BLY US.

**Scheme Consideration Election Window** means the period on and from the date which is notified by BLY as the date being at least five (5) Business Days prior to the Scheme Effective Date in both BLY Creditor Schemes up to (but not including) the Scheme Effective Date in both BLY Creditor Schemes.

**Scheme Creditor** means each Secured Scheme Creditor and Unsecured Scheme Creditor.

**Scheme Effective Date** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme respectively.

**Scheme Meetings** means the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**Second Court Date** means the first day of the hearing of an application made to the Court for the Second Court Orders or, if the hearing of such application is adjourned for any reason, means the first day to which the hearing is adjourned.

**Second Court Hearing** means the hearing of an application made to the Court for the Second Court Orders, including any adjourned hearing.

**Second Court Orders** means the orders of the Court approving the BLY Creditor Schemes under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act.

**Secured Creditors** means, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Secured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Secured Debt;
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Secured Debt; and
  - (ii) SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co.

**Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors being the compromise or arrangement proposed by the Scheme Companies as set out in Annexure A of this Explanatory Statement.

**Secured Creditors' Scheme Meeting** means the meeting of Secured Scheme Creditors ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the Secured Creditors' Scheme, and includes any adjournment of that meeting.

**Secured Debt** means:

- (a) the TLA Secured Debt;
- (b) the TLB Secured Debt; and
- (c) the SSN Secured Debt.

**Secured Debt Cap** means:

- (a) in respect of the Term Loan A, indebtedness incurred as "Secured Obligations" (as defined in the Term Loan A) of up to US\$85,000,000 plus a pro rata portion of the

"Secured Term Loan Interest Amount" (as defined in the SUN Indenture) allocated to the Term Loan A if any; and

- (b) in respect of the Term Loan B, indebtedness incurred as "Secured Obligations" (as defined in the Term Loan B) of up to US\$105,000,000 plus a pro rata portion of the "Secured Term Loan Interest Amount" (as defined in the SUN Indenture) allocated to the Term Loan B if any.

**Secured Money** means all amounts (including damages) that are payable, owing but not payable, or that otherwise remain unpaid by a Scheme Company to an Secured Scheme Creditor, Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee on any account at any time under or in connection with the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture or any transaction contemplated by those documents:

- (a) whether present or future, actual or contingent;
- (b) whether incurred alone, jointly, severally or jointly and severally;
- (c) whether Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable on its own account or for the account of, or as surety for, another person and without regard to the capacity in which a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable;
- (d) whether due to a Scheme Company alone or with another person;
- (e) whether a Scheme Company is entitled for its own account or the account of another person;
- (f) whether arising from a banker and customer relationship or any other relationship;
- (g) whether originally contemplated by a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee or a Scheme Company or not;
- (h) whether a Scheme Company is the original person in whose favour the undertakings in the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture were given or an assignee and, if a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is an assignee:
  - (i) whether or not a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee consented to or knew of the assignment;
  - (ii) no matter when the assignment occurred; and
  - (iii) whether or not the entitlements of that original person were assigned with the security interests; and
- (i) if determined pursuant to any award, order or judgment against a Scheme Company, whether or not that Scheme Company was a party to the court proceedings, arbitration or other dispute resolution process in which that award, order or judgment was made.

**Secured Scheme Administrator** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Secured Creditors' Scheme, subject to section 411(7) of the

Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Secured Scheme Administrators Deed Poll.

**Secured Scheme Administrators Deed Poll** means the deed poll substantially in the form set out in Schedule 3 of the Secured Creditors' Scheme and executed by the Secured Scheme Administrators.

**Secured Scheme Claim** means a Claim in respect of any Liability of a Scheme Company, an Obligor or a Released Individual to any person arising out of:

- (a) the TLA Secured Debt, the TLB Secured Debt or the SSN Secured Debt; or
- (b) the relevant Creditors' Schemes Finance Documents,

in each case, arising on or before the Creditors' Scheme Implementation Date (including, for the avoidance of doubt, any interest accruing on such claims up to the Creditors' Scheme Implementation Date).

**Secured Scheme Consideration** means the Creditor Schemes Transaction Securities to be issued to Secured Scheme Creditors in accordance with Implementation Step 1 (*Issue of Shares and New Warrants*) of the RID.

**Secured Scheme Creditor Deed Poll** means the deed poll executed by a Secured Scheme Administrator as attorney and agent for the Secured Scheme Creditors pursuant to the Secured Creditors' Scheme in substantially the form set out in Schedule 4 of the Secured Creditors' Scheme.

**Secured Scheme Creditors** means:

- (a) for the purposes of receiving this Explanatory Statement and voting at the Secured Creditors' Scheme Meeting, the Secured Creditors as at the Voting Entitlement Record Date; and
- (b) for the purposes of being bound by the Secured Creditors' Scheme and Restructuring Implementation Deed, the Secured Creditors as at the Scheme Effective Date for the Secured Creditors' Scheme.

**Selective Buy-Back** means selective buy-back described in the selective buy-back booklet dated on or about the date of this Explanatory Statement pursuant to which eligible BLY Shareholders holding parcels of Shares worth less than AU\$3,000 may offer to sell their Shares to BLY on the terms set out in the selective buy back booklet and subject to BLY's absolute discretion to decide whether to accept (in whole or in part) or reject any offers received from BLY Shareholders (and subject to the maximum amount that can be expended by BLY in purchasing the shares being limited to US\$500,000).

**Share Consolidation** means the conversion of every 20 Shares into 1 Share.

**Share Purchase Plan** means the share purchase plan offered to Eligible SPP Shareholders on the terms set out in the share purchase plan booklet dated on or about the date of this Explanatory Statement, pursuant to which Eligible SPP Shareholders may subscribe for up to AU\$30,000 worth of Shares, provided that the maximum amount to be raised by the share purchase plan is US\$2.5 million.

**Shareholder Meeting** means the general meeting of the BLY Shareholders to be held on or around 8 September 2021 to consider and vote on the Shareholder Resolutions, amongst other matters.

**Shareholder Resolutions** means resolutions of BLY Shareholders at a general meeting of the BLY Shareholders:

- (a) to grant approval for the purposes of ASX Listing Rule 7.1 to the extent required for BLY to give effect to the Transactions;
- (b) to grant approval for the purposes of ASX Listing Rule 10.11 to the extent required for BLY to give effect to the Transactions;
- (c) to grant approval for the purposes of item 7 of section 611 of the Corporations Act to the extent required for BLY to give effect to the Transactions, to permit any transfers of Creditor Schemes Transaction Securities between AHG Members from time to time and as BLY may additionally require;
- (d) to grant approval for the purposes of section 208 of the Corporations Act to the extent required for BLY to give any financial benefit to a related party by giving effect to the Transactions; and
- (e) to grant approval for the purposes of section 254H of the Corporations Act to give effect to the Share Consolidation.

**Shares** means fully paid ordinary shares in the capital of BLY.

**SPP Record Date** means 7:00 pm (Sydney time) on 28 July 2021, being the record date for the Share Purchase Plan.

**SPP Shortfall Amount** has the meaning given to that term in section 6.2 of this Explanatory Statement.

**SSN Account Holder Letter** means an account holder letter substantially in the form set out at Annexure K, to be completed and lodged with the Information Agent by the relevant Account Holder (pursuant to the instructions of the relevant SSN Noteholder) for the purpose of, among other things, enabling each relevant SSN Noteholder to, amongst other things:

- (a) vote at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting; and
- (b) appoint proxies to vote on their behalf at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**SSN Applicable Premium** has the meaning given to the term "Applicable Premium" in the SSN Indenture.

**SSN Indenture** means the indenture dated 27 September 2013, between, among others, the BLY Issuer, as issuer, BLY, as parent, BLA, BLI, Votraint, BCM and BLY US, as guarantors, amongst others, and U.S. Bank National Association, as trustee and collateral agent, in respect of the 12.00% / 10.00% secured notes, as amended by the first supplemental indenture dated 31 August 2017, the second supplemental indenture dated 18 September 2017, the third supplemental indenture dated 31 December 2018, the fourth supplemental indenture dated 17 July 2019, the fifth supplemental indenture dated 24 June 2020, and the sixth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SSN Indenture Notes** means the 12.0% / 10.0% secured notes issued under the SSN Indenture.

**SSN Noteholders** means each person with a Book Entry Interest in the SSN Indenture.

**SSN Notes Registered Holder** means the "Holder" or "Securityholder" as those terms are defined in the SSN Indenture, being Depository Trust Company.

**SSN Omnibus Proxy** means an omnibus proxy pursuant to which Cede & Co. (as nominee of DTC) is expected to appoint those Account Holders shown in the records of Cede & Co. and/or DTC as holding an interest in the SSN Indenture Notes held by DTC as its proxies in respect of the relevant SSN Indenture Notes shown on its records as being held by such Account Holders on the Voting Entitlement Record Date.

**SSN Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is secured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**SSN Secured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the SSN Noteholders pursuant to the Secured Creditors' Scheme, calculated by reference to the proportion that 100% of the outstanding amount of SSN Secured RSA Date Debt, being the amount of US\$303,567,773.87, bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

**SSN Secured RSA Date Debt** means the amount of SSN Secured Debt as at the RSA Date, being US\$303,567,773.87.

**SSN Trustee** means U.S. Bank National Association in its capacity as trustee and collateral agent under the SSN Indenture and any successor trustee or collateral agent under that document.

**SSN Trustee Deed Poll** means:

- (a) the deed poll substantially in the form set out in Schedule 7 of the Secured Creditors' Scheme and to be executed by the SSN Trustee as contemplated in clause 4.3 of the Secured Creditors' Scheme and clause 7(c)(iii) of the RID; or
- (b) the deed poll substantially in the form set out in Schedule 7 of the Unsecured Creditors' Scheme and to be executed by the SSN Trustee as contemplated in clause 4.3 of the Unsecured Creditors' Scheme and clause 7(c)(iii) of the RID,

as the context requires.

**SSN Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is unsecured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**SSN Unsecured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the SSN Noteholders pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 25% of the outstanding amount of SSN Unsecured RSA Date Debt, being the amount of US\$11,231,146.61, bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

**SSN Unsecured RSA Date Debt** means the amount of SSN Unsecured Debt as at the RSA Date, being US\$44,924,586.44.

**Standard Tax Conditions** means the "Standard" tax conditions" set out in Part D of the Foreign Investment Review Board Guidance note 12 (Tax Conditions) dated 18 December 2020.

**Standstill Period** has, in respect of the BLY Creditor Schemes, the meaning given to that term in section 8.7 of this Explanatory Statement.

**Subordinate Claim** means a "subordinate claim" within the meaning of subsection 563A(2) of the Corporations Act, against BLY in respect of any fact, matter, circumstance or event which has arisen or occurred at any time prior to the commencement of Implementation Step 7 (*Subordinate Claim Releases*) in clause 8 (*Implementation Steps*) of the RID.

**Subordinate Claim Holder** means any person who, as at immediately prior to the commencement of Implementation Step 7 (*Subordinate Claim Releases*) in clause 8 (*Implementation Steps*) in the RID, has or, but for the Unsecured Creditors' Scheme, would be entitled to make, a Subordinate Claim.

**Subsidiaries** has the meaning given in the Corporations Act and, as applied to BLY, Subsidiary shall include the BLY Issuer, BLA, BLI, BCM, BLY US, Boart Longyear Canada, Boart Longyear Chile Limitada, Boart Longyear Company, Boart Longyear Manufacturing and Distribution Inc., Boart Longyear Manufacturing Canada Ltd., Boart Longyear S.A.C., Boart Longyear Suisse Sarl, Longyear Canada, ULC, Longyear Holdings Inc., Votraint and BLY IP Inc.

**SUN Account Holder Letter** means an account holder letter substantially in the form set out at Annexure L, to be completed and lodged with the Information Agent by the relevant Account Holder (pursuant to the instructions of the relevant SUN Noteholder) for the purpose of, among other things, enabling each relevant SUN Noteholder to, amongst other things:

- (a) vote at the Unsecured Creditors' Scheme Meeting; and
- (b) appoint proxies to vote on their behalf at the Unsecured Creditors' Scheme Meeting.

**SUN Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SUN Noteholders under the relevant Creditors' Schemes Finance Documents.

**SUN Designated Senior Indebtedness** has the meaning given to the term "Designated Senior Indebtedness" in the SUN Indenture.

**SUN Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the SUN Noteholders pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 22.5% of the outstanding amount of SUN RSA Date Debt, being the amount of US\$21,137,517.61, bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

**SUN Indenture** means the indenture dated 28 March 2011 between the BLY Issuer, as issuer, BLY, as guarantor, and Delaware Trust Company as trustee, amongst others, as amended by the first supplemental indenture dated 14 June 2013, the second supplemental indenture dated 27 September 2013, the third supplemental indenture dated 2 April 2017, the fourth supplemental indenture dated 31 August 2017, the fifth supplemental indenture dated 18 September 2017, the sixth supplemental indenture dated 31 December 2018, the seventh supplemental indenture dated 17 July 2019, the eighth supplemental indenture dated 15 June 2020, and the ninth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SUN Indenture Notes** means the 1.5% pay in kind unsecured notes issued under the SUN Indenture.

**SUN Noteholders** means each person with a Book Entry Interest in the SUN Indenture.

**SUN Notes Registered Holder** means the "Holder" or "Securityholder" as that term is defined in the SUN Indenture, being Depository Trust Company.

**SUN Omnibus Proxy** means an omnibus proxy pursuant to which Cede & Co. (as nominee of DTC) is expected to appoint those Account Holders shown in the records of Cede & Co. and/or DTC as holding an interest in the SUN Indenture Notes held by DTC as its proxies in respect of the amount of the relevant SUN Indenture Notes shown on its records as being held by such Account Holders on the Voting Entitlement Record Date.

**SUN RSA Date Debt** means the amount of SUN Debt as at the RSA Date, being US\$93,944,522.71.

**SUN Trustee** means Delaware Trust Company in its capacity as trustee under the SUN Indenture and any successor trustee under that document.

**SUN Trustee Deed Poll** means the deed poll substantially in the form set out in Schedule 8 of this Scheme and to be executed by the SUN Trustee as contemplated in clause 4.4 of the Unsecured Creditors' Scheme and clause 7(c)(iv) of the RID.

**Sunset Date** means 31 December 2021.

**Superior Proposal** means a bona fide written Competing Proposal of the kind referred to in any of paragraphs (b) or (c) of the definition of Competing Proposal which the BLY Board, acting in good faith, and after receiving written legal advice from BLY's Counsel and written financial advice from its financial adviser, determines:

- (a) is reasonably capable of being valued and completed, taking into account all aspects of the Competing Proposal including any timing considerations, any conditions precedent, the identity, reputation and financial standing of the proponent, the current contractual rights of the Supporting Creditors under the Relevant Finance Documents, and any requirements set forth by the Supporting Creditors in their response to a Competing Proposal;
- (b) would, if completed substantially in accordance with its terms, be more favourable to BLY Shareholders (as a whole) and the creditors of BLY than the RSA Transactions (having regard to the fact that trade creditors will be paid in full under the RSA Transactions), taking into account all terms and conditions of the Competing Proposal; and
- (c) would reasonably be expected to require it by virtue of its directors' fiduciary or statutory duties under applicable law to respond to such Competing Proposal or to change, withdraw or modify its recommendation.

**Supporting Creditors** means those creditors of BLY who are party to the RSA.

**Term Loan A** means the Term Loan A Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votaint and BLY US, as guarantors, the TLA Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan A Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan A Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan A Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**Term Loan B** means the Term Loan B Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votaint and BLY US, as guarantors, the TLB Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were



issued, as amended by the First Amendment to Term Loan B Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**TLA Proof of Debt Form** means a proof of debt form substantially in the form set out at Annexure H which may be lodged with the Information Agent by TLA Purchasers for the purpose of, amongst other things, voting at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**TLA Proxy Form** means the form used by TLA Purchasers to appoint a proxy to vote on their behalf at the Secured Creditors' Scheme Meeting and Unsecured Creditors' Scheme Meeting, substantially in the form set out at Annexure G

**TLA Purchasers** means the "Purchasers" as that term is defined in the Term Loan A.

**TLA Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is secured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLA Secured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLA Purchasers pursuant to the Secured Creditors' Scheme, calculated by reference to the proportion that 100% of the outstanding amount of TLA Secured RSA Date Debt, being the amount of US\$85,000,000.00, bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

**TLA Secured RSA Date Debt** means the amount of TLA Secured Debt as at the RSA Date, being US\$85,000,000.00.

**TLA Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is unsecured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLA Unsecured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLA Purchasers pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 25% of the outstanding amount of TLA Unsecured RSA Date Debt, being the amount of US\$18,834,246.22, bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

**TLA Unsecured RSA Date Debt** means the amount of TLA Unsecured Debt as at the RSA Date, being US\$75,336,984.87.

**TLB Collateral Agent** means U.S. Bank National Association in its capacity as collateral agent for the TLB Purchasers and any successor trustee or collateral agent.

**TLB Collateral Agent Deed Poll** means:

- (a) the deed poll substantially in the form set out in Schedule 6 of the Secured Creditors' Scheme and to be executed by the TLB Collateral Agent as contemplated in clause 4.2 of the Secured Creditors' Scheme and clause 7(c)(ii) of the RID; or
- (b) the deed poll substantially in the form set out in Schedule 6 of the Unsecured Creditors' Scheme and to be executed by the TLB Collateral Agent as contemplated in clause 4.2 of the Unsecured Creditors' Scheme and clause 7(c)(ii) of the RID,

as the context requires.

**TLB Proof of Debt Form** means a proof of debt form substantially in the form set out at Annexure J which may be lodged with the Information Agent by TLB Purchasers for the purpose of, amongst other things, voting at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**TLB Proxy Form** means the form used by TLB Purchasers to appoint a proxy to vote on their behalf at the Secured Creditors' Scheme Meeting and Unsecured Creditors' Scheme Meeting, substantially in the form set out at Annexure I.

**TLB Purchasers** means the "Purchasers" as that term is defined in the Term Loan B.

**TLB Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is secured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLB Secured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLB Purchasers pursuant to the Secured Creditors' Scheme, calculated by reference to the proportion that 100% of the outstanding amount of TLB Secured RSA Date Debt, being the amount of US\$105,000,000.00, bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

**TLB Secured RSA Date Debt** means the amount of TLB Secured RSA Date Debt as at the RSA Date, being US\$105,000,000.00.

**TLB Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is unsecured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLB Unsecured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLB Purchasers pursuant to the Unsecured Creditors' Scheme, calculated by reference to the proportion that 25% of the outstanding amount of TLB Unsecured RSA Date Debt, being the amount of US\$22,071,326.65, bears to the aggregate outstanding amount of Allocated Aggregate Debt, and each such amount shall be set out in the Allocations Spreadsheet.

**TLB Unsecured RSA Date Debt** means the amount of TLB Unsecured Debt as at the RSA Date, being US\$88,285,306.60.

**Total New Warrants** means the total number of New Warrants to be issued to the SUN Noteholders (or their Designated Recipient) pursuant to the Unsecured Creditors' Scheme, and in accordance with the RID, which is calculated such that the total number of Shares that can be purchased using the total number of New Warrants issued would result in the SUN Noteholders (or their Designated Recipients), assuming all New Warrants were exercised, holding 10% of the total Shares on issue, with the total Shares on issue for the purposes of this calculation determined:

- (a) following the Share Consolidation to occur prior to the Creditors' Scheme Implementation Date;
- (b) following completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID;
- (c) before the buy-back of any Shares under the Selective Buy-Back;
- (d) before the issue of any Shares on the exercise of Existing Warrants or Existing Options on or after the Creditors' Scheme Implementation Date;

- (e) before the issue of any Shares under the Long Term Equity Incentive Plan on or after the Creditors' Scheme Implementation Date;
  - (f) before the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option; and
  - (g) including the new Shares that would be issued on exercise of the New Warrants,
- being a total number of New Warrants of 32,782,148.

**Transactions** means the restructuring of BLY and certain of its subsidiaries as summarised in the Restructuring Term Sheet which is schedule 2 of the RSA.

**Treasurer** has the same meaning as it has for the purposes of the FATA.

**Undertakings** means:

- (a) the undertaking given by the Agent to execute the Agent Deed Poll in accordance with the Secured Creditors' Scheme and the Unsecured Creditors' Scheme;
- (b) the undertaking given by the TLB Collateral Agent to execute the TLB Collateral Agent Deed Poll in accordance with the Secured Creditors' Scheme and the Unsecured Creditors' Scheme;
- (c) the undertaking given by the SSN Trustee to execute the SSN Trustee Deed Poll in accordance with the Secured Creditors' Scheme and the Unsecured Creditors' Scheme; and
- (d) the undertaking given by the SUN Trustee to execute the SUN Trustee Deed Poll in accordance with the Unsecured Creditors' Scheme.

**Unidentified Secured Scheme Creditors** has the meaning given to that term in the Secured Creditors' Scheme.

**Unidentified Unsecured Scheme Creditors** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Unsecured Creditors** means, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Unsecured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Unsecured Debt;
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Unsecured Debt; and
  - (ii) SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co;
- (d) the SUN Indenture:
  - (i) each SUN Noteholder with SUN Debt; and
  - (ii) SUN Notes Registered Holder, and the SUN Notes Registered Holder's nominee Cede & Co.

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors

and the Subordinate Claim Holders, being the compromise or arrangement proposed by the Scheme Companies as set out in Annexure B of this Explanatory Statement.

**Unsecured Creditors' Scheme Meeting** means the meeting of the Unsecured Scheme Creditors ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the Unsecured Creditors' Scheme, and includes any adjournment of that meeting.

**Unsecured Debt** means:

- (a) the TLA Unsecured Debt;
- (b) the TLB Unsecured Debt;
- (c) the SSN Unsecured Debt; and
- (d) the SUN Debt.

**Unsecured Scheme Administrators** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Unsecured Creditors' Scheme, subject to section 411(7) of the Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Unsecured Scheme Administrators Deed Poll.

**Unsecured Scheme Administrators Deed Poll** means the deed poll substantially in the form set out in Schedule 3 of the Unsecured Creditors' Scheme and executed by the Unsecured Scheme Administrators.

**Unsecured Scheme Consideration** means the Creditor Schemes Transaction Securities to be issued to Unsecured Scheme Creditors in accordance with Implementation Step 1 (*Issue of Shares and New Warrants*) of the Restructuring Implementation Deed.

**Unsecured Scheme Claim** means a Claim in respect of any Liability of a Scheme Company, an Obligor or a Released Individual to any person arising out of:

- (a) the TLA Unsecured Debt, the TLB Unsecured Debt, the SSN Unsecured Debt or the SUN Debt; or
- (b) the Creditors' Schemes Finance Documents,

in each case, arising on or before the Creditors' Scheme Implementation Date (including, for the avoidance of doubt, any interest accruing on such claims up to the Creditors' Scheme Implementation Date).

**Unsecured Scheme Creditors** means:

- (a) for the purposes of receiving this Explanatory Statement and voting at the Unsecured Creditors' Scheme Meeting, the Unsecured Creditors as at the Voting Entitlement Record Date; and
- (b) for the purposes of being bound by the Unsecured Creditors' Scheme and Restructuring Implementation Deed, the Unsecured Creditors as at the Scheme Effective Date for the Unsecured Creditors' Scheme.

**U.S. Bankruptcy Code** means Title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (as amended).

**U.S. Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of New York.

**U.S. Securities Act** means the U.S. Securities Act of 1933, as amended.

**Voting Entitlement Record Date** means 3:00 pm (Sydney) on 2 August 2021.

**Votrant** means Votraint No. 1609 Pty Limited ACN 119 244 272.

**Warranties** means any warranties given by the Scheme Companies in favour of the Secured Scheme Creditors and Unsecured Scheme Creditors under the RSA and any warranties given by the Secured Scheme Creditors and Unsecured Scheme Creditors in favour of each other or the Scheme Companies under the RSA in contemplation of the transactions to be effected by, or in connection with, the BLY Creditor Schemes.

**Warrants** means warrants issued by BLY.

**Warrant Shares** means the Shares to be issued to a holder of a New Warrant on exercise of the New Warrants.

## **ANNEXURE A**

### **Secured Creditors' Scheme of Arrangement**



## Scheme of Arrangement

**Boart Longyear Limited**

ACN 123 052 728

and

**Boart Longyear Management Pty Limited**

ACN 123 283 545

and

**Boart Longyear Australia Pty Limited**

ACN 000 401 025

and

**Boart Longyear Investments Pty Limited**

ACN 124 070 373

and

**Votraint No. 1609 Pty Limited**

ACN 119 244 272

and

**BL Capital Management LLC**

ARBN 649 445 321

and

**BLY US Holdings Inc.**

ARBN 649 445 394

and

**The Secured Scheme Creditors**

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**BETWEEN:**

- (1) **Boart Longyear Limited** ACN 123 052 728 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLY**);
  - (2) **Boart Longyear Management Pty Limited** ACN 123 283 545 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLY Issuer**);
  - (3) **Boart Longyear Australia Pty Ltd** ACN 000 401 025 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLA**);
  - (4) **Boart Longyear Investments Pty Limited** ACN 124 070 373 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLI**);
  - (5) **Votrant No. 1609 Pty Limited** ACN 119 244 272 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**Votrant**);
  - (6) **BL Capital Management LLC** ARBN 649 445 321 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BCM**);
  - (7) **BLY US Holdings Inc.** ARBN 649 445 394 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLY US**);
- ((1) to (7) together being the **Scheme Companies**); and
- (8) the **Secured Scheme Creditors**.

**RECITALS:**

- (A) This Scheme is proposed in connection with Claims against the Scheme Companies and other Obligors by the Secured Scheme Creditors under the Creditors' Schemes Finance Documents.
- (B) Pursuant to this Scheme and the Unsecured Creditors' Scheme and as set out in the Explanatory Statement, BLY has also agreed to offer the Creditor Share Purchase Option to SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders in accordance with the terms set out in this Scheme and the Unsecured Creditors' Scheme.
- (C) This Scheme contemplates the Secured Scheme Creditors entering into the Secured Creditors' Scheme Deed Poll and the RID.
- (D) This Scheme attributes actions to persons other than the Scheme Companies and the Secured Scheme Creditors, being the Agent, the TLB Collateral Agent, the SSN Trustee, each other Obligor, each Released Individual, and each Secured Scheme Administrator.
- (E) Each of the Agent, the TLB Collateral Agent and the SSN Trustee have undertaken that, immediately after they have received the instructions referred to in, or contemplated by, clause 7 (*Pre-Implementation Steps*) of the RID, each of the Agent, the TLB Collateral Agent and the SSN Trustee will, pursuant to the Agent Deed Poll, the TLB Collateral Agent Deed Poll and the SSN Trustee Deed Poll, respectively, perform all actions attributed to them under this Scheme.
- (F) Each Obligor, pursuant to the Obligors Deed Poll, has consented to this Scheme, agreed to be bound by this Scheme as if it were a party to this Scheme and undertaken to perform all obligations and actions attributed to it under this Scheme once this Scheme becomes Effective.

- (G) Each Released Individual pursuant to the Released Individuals Deed Poll, has consented to this Scheme, agreed to be bound by this Scheme as if it were a party to this Scheme and undertaken to perform all obligations and actions attributed to it under this Scheme once this Scheme becomes Effective.
- (H) The Secured Scheme Administrators, pursuant to the Secured Scheme Administrators Deed Poll, have consented to act as Secured Scheme Administrators, consented to this Scheme, agreed to be bound by this Scheme as if they were a party to this Scheme and undertaken to perform all obligations and actions attributed to the Secured Scheme Administrators under this Scheme once this Scheme becomes Effective.

## THE PARTIES AGREE AS FOLLOWS:

### 1. INTERPRETATION

#### 1.1 Definitions

In this Scheme, the following words, expressions and abbreviations have the following meanings, unless the context otherwise requires:

**Account Holder** means a person recorded directly in the records of Cede & Co. and DTC as holding an interest in the SSN Indenture or SUN Indenture (as applicable) in an account held with DTC.

**Administrative Agent** means:

- (a) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan B; and
- (c) any successor administrative agent under the Term Loan A or Term Loan B.

**Agent** means the Administrative Agent or the Collateral Agent or both of them, as the context requires.

**Agent Deed Poll** means the deed poll substantially in the form set out in Schedule 5 of this Scheme and to be executed by the Agents as contemplated in clause 4.1(a) of this Scheme and clause 7(c)(i) of the RID.

**AHG** means each entity listed in the table under the row "AHG" in schedule 1 to the RID, and their permitted transferees and assigns and **AHG Member** means any one of them.

**AHG Director Nomination Agreements** means each agreement between one or more AHG Members and BLY in relation to the nomination of the AHG Nominee Directors as directors of BLY to be entered into in conjunction with this Scheme.

**AHG Nominee Directors** means those persons nominated by AHG to be appointed as a director of BLY pursuant to the AHG Director Nomination Agreements.

**Allocated Aggregate Debt** means the aggregate outstanding amount of:

- (a) 25% of the outstanding amount of the TLA Unsecured RSA Date Debt;
- (b) 25% of the outstanding amount of the TLB Unsecured RSA Date Debt;
- (c) 25% of the outstanding amount of the SSN Unsecured RSA Date Debt;

- (d) 22.5% of the outstanding amount of the SUN RSA Date Debt;
- (e) 100% of the outstanding amount of the TLA Secured RSA Date Debt;
- (f) 100% of the outstanding amount of the TLB Secured RSA Date Debt; and
- (g) 100% of the outstanding amount of the SSN Secured RSA Date Debt,

being an amount of US\$566,842,010.96.

**Allocation Confirmation** means the confirmation sent to each Participating SUN Noteholder and, if applicable, Other CSPO Participant setting out its allocation of Shares determined by BLY in accordance with the CSPO Allocation Principles to be issued under the Creditor Share Purchase Option provided that the Participating SUN Noteholder or Other CSPO Participant pays its subscription monies by the date required in such confirmation.

**Allocations Spreadsheet** means the spreadsheet prepared by BLY, and reasonably agreed to by each CBP Member and each AHG Member as soon as reasonably practicable after this Scheme becomes Effective, as the allocations spreadsheet for the purpose of this document and the RID which sets out each party's relevant entitlement to the Transaction Securities issued under the applicable Restructuring Document and distributed in accordance with the Implementation Steps, provided that it is consistent in all material respects with the terms of this Scheme and the Unsecured Creditors' Scheme.

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

**ASX Settlement Operating Rules** means the settlement operating rules of ASX Settlement.

**Authorised Nominee** means Chess Depository Nominees Pty Limited ACN 071 346 506, Australian Financial Licence number 254514, an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.

**BLY Creditors' Schemes** means collectively, this Scheme and the Unsecured Creditors' Scheme.

**BLY Shareholder** means a person entered in the register of members of BLY as the holder of a Share.

**Book Entry Interest** means a beneficial interest in the SSN Indenture or SUN Indenture, as the context requires, held by or through an Account Holder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales and Adelaide, South Australia.

**CBP** means each entity listed in the table under the row "CBP" in schedule 1 to the RID and any of their permitted transferees and assigns, and **CBP Member** means any one of them.

**CBP Director Nomination Agreement** means the agreement between BLY and affiliates of CBP in relation to the nomination of the CBP Nominee Directors as directors of BLY.

**CBP Nominee Directors** means those persons nominated by affiliates of CBP to be appointed as a director of BLY pursuant to the CBP Director Nomination Agreement.

**CDI** means a CHESS Depository Interest, that being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX

Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.

**Change of Control Event** has the meaning given in clause 14.3(c).

**Claim** means, in relation to a person, any claim, allegation, cause of action, proceeding, debt, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent or otherwise whether at law, in equity, under statute or otherwise.

**Collateral Agent** means:

- (a) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan B;
- (c) any successor collateral agent under the Term Loan A or Term Loan B.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Costs** means costs, charges, fees and expenses.

**Court** means the Supreme Court of New South Wales.

**Creditor Share Purchase Option** means the option for each TLA Purchaser, TLB Purchaser, SSN Noteholder and SUN Noteholder which is a Secured Scheme Creditor or an Unsecured Scheme Creditor to subscribe for Shares at the CSPO Issue Price with the Shares to be allocated by BLY in accordance with the CSPO Allocation Principles and issued in accordance with clause 12 (*Creditor Share Purchase Option*) of this Scheme and clause 12 (*Creditor Share Purchase Option*) of the Unsecured Creditors' Scheme, subject to a maximum cap on the amount to be raised by BLY from the issue of the Shares equal to the CSPO Cap Amount.

**Creditors' Scheme Implementation Date** has the meaning given to that term in the RID.

**Creditors' Schemes Finance Document** means:

- (a) each of the documents listed in Schedule 1 to this Scheme other than an Incremental Finance Document;
- (b) any document entered into by a Scheme Company under which it has granted a security interest over its property to secure the Secured Money; and
- (c) any other document designated as:
  - (i) a Loan Document under the Term Loan A and Term Loan B; or
  - (ii) a Notes Document under the SSN Indenture.

**Creditors' Schemes Restructuring Effective Time** means the time at which all of the Implementation Steps in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) to 8(h) (*Step 8 (Confirmation of Scheme Restructuring Effective Time)*) of the RID have been completed.

**CSPO Allocation Principles** means the principles set out below pursuant to which Shares will be allocated by BLY under the Creditor Share Purchase Option and adjusted as a result of any rounding required by clause 12(b):

- (a) **(Firstly, allocations to Participating SUN Noteholders):** Shares will first be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on the following basis:
  - (i) *(Initial pro rata allocation to Participating SUN Noteholders)* the Shares available under the CSPO Cap Amount will initially be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Participating SUN Noteholder as at the Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Participating SUN Noteholders as at the Voting Entitlement Record Date, provided that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
  - (ii) *(Allocation of undersubscriptions to other Participating SUN Noteholders)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the initial pro rata allocation to Participating SUN Noteholders (or their Permitted CSPO Nominee) under paragraph (a)(i) above, the remaining available Shares will be allocated to the Participating SUN Noteholders (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (a)(i) above **(Oversubscribing Participating SUN Noteholders)** on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Oversubscribing SUN Noteholder as at the Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Oversubscribing Participating SUN Noteholders as at the Voting Entitlement Record Date, provided always that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:
    - (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
    - (B) each Participating SUN Noteholder (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
- (b) **(Secondly, allocations to Other CSPO Participants):** If the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocation of Shares to Participating SUN Noteholders (or their Permitted CSPO Nominees) under paragraph (a) above, then the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on the following basis:
  - (i) *(Initial pro rata allocation to Other CSPO Participants)* the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Other CSPO Participant under the

BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Other CSPO Participants under the BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option), provided that the maximum number of Shares that will be allocated to Other CSPO Participants (or their Permitted CSPO Nominees) pursuant to the Creditor Share Purchase Option will be the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter; and

- (ii) *(Allocation of undersubscriptions to Other CSPO Participants)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocations under paragraphs (a) and (b)(i) above, the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (b)(i) above (**Oversubscribing Other CSPO Participants**) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Oversubscribing Other CSPO Participant under the BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Oversubscribing Other CSPO Participants under the BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option), provided always that the maximum number of Shares that will be allocated to an Other CSPO Participant (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:

- (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
- (B) each Other CSPO Participant (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter.

**CSPO Cap Amount** means an amount equal to the aggregate of US\$2.5 million plus any unsubscribed amount under the Share Purchase Plan.

**CSPO Issue Price** means the issue price of the Shares to be issued under the Creditor Share Purchase Option, being A\$2.48 per Share.

**Custody Instructions** means a custody instruction delivered to DTC to tender SSN Indenture notes identified in a SSN Account Holder Letter as being held at DTC through DTC's Automated Tender Offer Program.

**Deed Poll** means the Secured Scheme Administrators Deed Poll, the Agent Deed Poll, the TLB Collateral Agent Deed Poll, the SSN Trustee Deed Poll, the Secured Creditors' Scheme Deed Poll, the Obligors Deed Poll or the Released Individuals Deed Poll, as the context requires, and **Deeds Poll** means all of them or any combination of them, as the context requires.

**Demands** has the meaning given in clause 6.5(c).

**Depository Trust Company** or **DTC** means The Depository Trust Company, a central securities depository registered as a clearing agency with the Securities Exchange Commission.

**Designated Recipient** means any Permitted Assignee of a Secured Scheme Creditor who is not an Ineligible Person appointed under a validly completed and timely delivered TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter (as applicable) submitted to the Information Agent on behalf of a Secured Scheme Creditor to receive the consideration allocated to that Secured Scheme Creditor under this Scheme.

**Director Nomination Agreement** means each AHG Director Nomination Agreement and the CBP Director Nomination Agreement.

**Effective** means, when used in relation to this Scheme, the coming into effect of the Second Court Orders pursuant to section 411(10) of the Corporations Act.

**Eligible SPP Shareholders** means a BLY Shareholder who:

- (a) is registered as a BLY Shareholder on the BLY share register on the SPP Record Date with a registered address in Australia or New Zealand;
- (b) is not in the United States and is not acting for the account or benefit of a person in the United States; and
- (c) is eligible under applicable securities law to receive an offer under and participate in the Share Purchase Plan.

**Existing Backstop ABL** means the Term Loan Securities Agreement dated as of 23 July 2017 (as amended by the First Amendment to Term Loan Securities Agreement dated as of 5 August 2017, the Second Amendment to Term Loan Securities Agreement dated as of 31 August 2017, the Third Amendment to Term Loan Securities Agreement dated as of 24 July 2019, the Fourth Amendment to Term Loan Securities Agreement dated as of 19 March 2020, the Fifth Amendment to Term Loan Securities Agreement dated as of 1 June 2021 and as further amended, varied or amended and restated from time to time), between, amongst others, BLY Issuer, the other guarantors party thereto, and Wilmington Trust, National Association, as administrative agent, providing for the issuance of term loan securities with a final repayment date of the earlier of 22 October 2022 and 90 days following the final repayment date under the Existing PNC ABL.

**Existing Options** has the meaning given to that term in the RID.

**Existing PNC ABL** means the Amended and Restated Revolving Credit and Security Agreement, originally dated as of July 23, 2017, among PNC Bank National Association as lender and as agent, BLY Issuer as a borrower and the guarantors party thereto as amended by the document titled "Seventh Amendment to Amended and Restated Revolving Credit and Security Agreement" among PNC Bank National Association as lender and as agent and BLY Issuer as borrower.

**Existing Warrants** has the meaning given to that term in the RID.

**Exit Financier** has the meaning given to that term in the RID.

**Exit Financing Facility** means financing made available under a new money facility which shall:

- (a) be available for drawing by BLY US or another member of the Group;
- (b) be a five year term loan facility with a total aggregate commitment of US\$115,000,000 available for the purposes, amongst other things, of fully refinancing outstanding amounts (including, but not limited to, principal, interest and fees) under each of the Incremental Finance Facility and the Existing Backstop ABL; and



- (c) subject to certain conditions precedent, be available for drawing following completion of Step 1 and Step 2 (as set out in clause 8(a) and clause 8(b) (respectively) of the RID) in accordance with the RID.

**Explanatory Statement** means the explanatory statement to this Scheme and the Unsecured Creditors' Scheme prepared in accordance with the Corporations Act.

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

**Government Agency** means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister (including the Treasurer of the Commonwealth of Australia), ASIC, the Australian Competition and Consumer Commission, the Australian Taxation Office, ASX and any regulatory organisation established under statute or any stock exchange.

**Group** means BLY and its subsidiaries.

**Implementation Steps** has the meaning given to that term in the RID.

**Incremental Finance Documents** means together:

- (a) the Incremental Finance Facility; and
- (b) any Loan Document (as that term is defined in the Incremental Finance Facility).

**Incremental Finance Facility** means the Term Loan Securities Agreement, dated as of 1 June 2021 by and among BLY Issuer, as issuer, the guarantors party thereto, the purchasers party thereto, Wilmington Trust, National Association, as agent and U.S. Bank National Association, as collateral agent, and providing for the issuance of term loan securities with a final repayment date of 31 December 2021.

**Indemnified Liabilities** has the meaning given in clause 6.5(a).

**Ineligible Person** means a person:

- (a) located in any jurisdiction other than Australia, Canada, Bermuda, Cayman Islands, Ireland, Italy, Netherlands, Switzerland, the United States of America or other jurisdiction as agreed to by BLY; or
- (b) to whom BLY considers it would be unlawful for BLY to make an offer of Shares or, if applicable, New Warrants, in accordance with the laws of the jurisdiction in which the person is located.

**Information Agent** means Prime Clerk LLC.

**Liability** means any debt, liability or obligation of a person whether it is present, future, prospective or contingent, whether or not it is fixed or undetermined, whether or not it involves the payment of money or performance of an act or obligation and whether it arises by contract, at common law, in equity, by statute or otherwise in Australia or any other jurisdiction, or in any manner whatsoever.

**Long Term Equity Incentive Plan** means the Boart Longyear Limited 2020 Long Term Incentive Plan approved at BLY's Annual General Meeting on 31 July 2021.

**Losses** has the meaning given in clause 6.5(b).

**Maximum Committed Securities** means the maximum number of Shares the relevant Scheme Creditor (or its Permitted CSPO Nominee) is willing to subscribe for under the

Creditor Share Purchase Option, as listed in its duly executed and delivered TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable).

**Members' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between BLY and the BLY Shareholders, pursuant to which BLY will become a wholly owned subsidiary of New BLY Parent by the transfer of all Shares to New BLY Parent in exchange for the issue of New BLY Parent CDIs to BLY Shareholders.

**Members' Scheme Effective Time** means the time at which all of the Implementation Steps in clauses 8(i) (*Step 9 (Assumption Deed Poll)*) to 8(j) (*Step 10 (Members' Scheme Implementation)*) of the RID have been completed.

**New BLY Parent** means Boart Longyear Ltd. (Ontario Corporation No. 002854330), a limited company incorporated in Ontario, Canada, with registered address Suite 2400, 333 Bay Street, Toronto, Canada, which is a newly incorporated company established for the purposes of the Members' Scheme.

**New BLY Parent CDI** means a CDI representing a beneficial interest in one New BLY Parent Share.

**New BLY Parent Share** means one common share in the capital of New BLY Parent.

**New Common Equity** means the total number of new Shares to which Secured Scheme Creditors and Unsecured Scheme Creditors are entitled pursuant to the BLY Creditors' Schemes (but excluding the Creditors Share Purchase Option) and allocated in accordance with the Allocations Spreadsheet determined by applying the following formula and adjusted as a result of any rounding required by clause 7(b):

$(\text{Pre-restructuring Share Capital} / 0.015) - \text{Pre-restructuring Share Capital}$

**New Warrants** means the warrants issued by BLY on the terms set out in Schedule 11 to the Unsecured Creditors' Scheme with a strike price of AU\$2.79.

**Nominee** has the meaning given to that term in clause 8.1(a).

**Obligors** means each of:

- (a) BLY;
- (b) BLY Issuer;
- (c) BLA;
- (d) BLI;
- (e) BCM;
- (f) BLY US;
- (g) Boart Longyear Canada;
- (h) Boart Longyear Chile Limitada;
- (i) Boart Longyear Company;
- (j) Boart Longyear Manufacturing and Distribution Inc.;
- (k) Boart Longyear Manufacturing Canada Ltd.;

- (l) Boart Longyear S.A.C.;
- (m) Boart Longyear Suisse Sarl;
- (n) Longyear Canada, ULC;
- (o) Longyear TM, Inc.;
- (p) Votraint; and
- (q) BLY IP Inc.

**Obligors Deed Poll** means the deed poll executed by the Obligors substantially in the form set out in Schedule 9 of this Scheme.

**Other CSPO Participant** means TLA Purchasers, TLB Purchasers and SSN Noteholders who are either a Secured Scheme Creditor or an Unsecured Scheme Creditor who complete and return to the Information Agent a TLA Proof of Debt Form, TLB Proof of Debt Form or a SSN Account Holder Letter (as applicable) with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Participating SUN Noteholder** means SUN Noteholders who are Unsecured Scheme Creditors and who complete and return to the Information Agent the SUN Account Holder Letter with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Permitted Assignee** means, in respect of a Secured Scheme Creditor, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by that Secured Scheme Creditor.

**Permitted CSPO Nominee** means a person (who is not an Ineligible Person) nominated by a Participating SUN Noteholder or Other CSPO Participant to take up their allocation of Shares under the Creditor Share Purchase Option provided that:

- (a) the nominee is a party to the RSA or accedes to the RSA; and
- (b) the Participating SUN Noteholder or Other CSPO Participant specifies the nominee's name and details in the relevant section titled 'Creditor Share Purchase Option' of their SUN Account Holder Letter, SSN Account Holder Letter, TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable).

**Pre-restructuring Share Capital** means the total number of Shares on issue by BLY immediately prior to the commencement of the Implementation Steps, with the number of Shares determined:

- (a) following the Share Consolidation to occur prior to the Creditors' Scheme Implementation Date;
- (b) before the buy-back of any Shares under the Selective Buy-Back;
- (c) before the issue of any Shares on the exercise of any New Warrants;
- (d) before the issue of any Shares on the exercise of Existing Warrants or Existing Options on or after the Creditors' Scheme Implementation Date;
- (e) before the issue of any Shares under the Long Term Equity Incentive Plan on or after the Creditors' Scheme Implementation Date; and

- (f) before the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option.

**Proposed AHG Acquisitions** has the meaning given to that term in clause 3.1(b).

**Proposed CBP Acquisitions** has the meaning given to that term in clause 3.1(a).

**Released Individual** means each person who was, at any time between 23 August 2017 and the Creditors' Scheme Implementation Date inclusive, a director or officer of any Obligor who has executed, or at any time executes (including by way of joinder), a Released Individuals Deed Poll.

**Released Individuals Deed Poll** means the deed poll substantially in the form set out in Schedule 8 of this Scheme.

**Restructuring Document** has the meaning given to that term in the RID.

**RID** means the Restructuring Implementation Deed substantially in the form set out in Schedule 2 of this Scheme and to be executed by a Secured Scheme Administrator on behalf of the Secured Scheme Creditors as contemplated by clause 5.1 of this Scheme.

**RSA** means the Restructuring Support Agreement entered into between, among others, BLY and BLY Issuer, dated 12 May 2021.

**RSA Date** means 12 May 2021, being the commencement date of the RSA.

**Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors as set out in this document, subject to any alterations or conditions made or required by the Court.

**Scheme Companies** is as defined in the recitals to this Scheme.

**Scheme Consideration Election Window** means the period on and from the date which is notified by BLY as the date being at least five (5) Business Days prior to the Scheme Effective Date up to (but not including) the Scheme Effective Date.

**Scheme Creditor** means each Secured Scheme Creditor and Unsecured Scheme Creditor.

**Scheme Effective Date** means the date on which each of the conditions precedent in clause 3.1 have been satisfied.

**Second Court Date** means the first day of the hearing of an application made to the Court for the Second Court Orders or, if the hearing of such application is adjourned for any reason, means the first day to which the hearing is adjourned.

**Second Court Orders** means the orders of the Court approving this Scheme under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act.

**Secured Creditors' Scheme Deed Poll** means the deed poll executed by the Secured Scheme Administrator as attorney and agent for the Secured Scheme Creditors as contemplated by clauses 5.2 of this Scheme and clause 7(a) of the RID in substantially the form set out in Schedule 4.

**Secured Creditors' Scheme Meeting** means the meeting of the Secured Scheme Creditors ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to this Scheme, and includes any adjournment of that meeting.

**Secured Money** means all amounts (including damages) that are payable, owing but not payable, or that otherwise remain unpaid by a Scheme Company to a Secured Scheme

Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee on any account at any time under or in connection with the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture or any transaction contemplated by those documents:

- (a) whether present or future, actual or contingent;
- (b) whether incurred alone, jointly, severally or jointly and severally;
- (c) whether a Secured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable on its own account or for the account of, or as surety for, another person and without regard to the capacity in which a Secured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable;
- (d) whether due to a Scheme Company alone or with another person;
- (e) whether a Scheme Company is entitled for its own account or the account of another person;
- (f) whether arising from a banker and customer relationship or any other relationship;
- (g) whether originally contemplated by a Secured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee or a Scheme Company or not;
- (h) whether a Scheme Company is the original person in whose favour the undertakings in the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture were given or an assignee and, if a Secured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is an assignee:
  - (i) whether or not a Secured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee consented to or knew of the assignment;
  - (ii) no matter when the assignment occurred; and
  - (iii) whether or not the entitlements of that original person were assigned with the security interests; and
- (i) if determined pursuant to any award, order or judgment against a Scheme Company, whether or not that Scheme Company was a party to the court proceedings, arbitration or other dispute resolution process in which that award, order or judgment was made.

**Secured Property** means all property that is subject to a security interest under the Creditors' Schemes Finance Documents.

**Secured Scheme Administrator** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of this Scheme, subject to section 411(7) of the Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Secured Scheme Administrators Deed Poll.

**Secured Scheme Administrators Deed Poll** means the deed poll substantially in the form set out in Schedule 3 of this Scheme and executed by the Secured Scheme Administrators.

**Secured Scheme Claim** means a Claim in respect of any Liability of a Scheme Company, an Obligor or a Released Individual to any person arising out of:

- (a) the TLA Secured Debt, the TLB Secured Debt or the SSN Secured Debt; or
- (b) the relevant Creditors' Schemes Finance Documents,

in each case, arising on or before the Creditors' Scheme Implementation Date (including, for the avoidance of doubt, any interest accruing on such claims up to the Creditors' Scheme Implementation Date).

**Secured Scheme Consideration** means the Transaction Securities to be issued to Secured Scheme Creditors in accordance with Implementation Step 1 (*Issue of Shares and New Warrants*) of the RID.

**Secured Scheme Creditors** means, as at the Scheme Effective Date, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Secured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Secured Debt;
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Secured Debt; and
  - (ii) SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co.

**Selective Buy-Back** means selective buy-back described in the selective buy-back booklet dated on or about the date of the Explanatory Statement pursuant to which eligible BLY Shareholders holding parcels of Shares worth less than AU\$3,000 may offer to sell their Shares to BLY on the terms set out in the selective buy-back booklet and subject to BLY's absolute discretion to decide whether to accept (in whole or in part) or reject any offers received from BLY Shareholders (and subject to the maximum amount that can be expended by BLY in purchasing the shares being limited to US\$500,000).

**Share Consolidation** means the conversion of every 20 Shares into 1 Share.

**Share Purchase Plan** means the share purchase plan offered to Eligible SPP Shareholders on the terms set out in the share purchase plan booklet dated on or about the date of the Explanatory Statement, pursuant to which Eligible SPP Shareholders may subscribe for up to A\$30,000 worth of Shares, provided that the maximum amount to be raised by the share purchase plan is US\$2.5 million.

**Shareholder Resolutions** means resolutions of BLY Shareholders at a general meeting of the BLY Shareholders:

- (a) to grant approval for the purposes of ASX Listing Rule 7.1 to the extent required for BLY to give effect to the Transactions;
- (b) to grant approval for the purposes of ASX Listing Rule 10.11 to the extent required for BLY to give effect to the Transactions;
- (c) to grant approval for the purposes of item 7 of section 611 of the Corporations Act to the extent required for BLY to give effect to the Transactions, to permit any transfers of Transaction Securities between AHG Members from time to time and as BLY may additionally require;
- (d) to grant approval for the purposes of section 208 of the Corporations Act to the extent required for BLY to give any financial benefit to a related party by giving effect to the Transactions; and

- (e) to grant approval for the purposes of section 254H of the Corporations Act to give effect to the Share Consolidation.

**Shares** means fully paid ordinary shares in the capital of BLY.

**SPP Record Date** means 7:00pm (Sydney time) on 28 July 2021.

**SSN Account Holder Letter** means an account holder letter substantially in the form set out at Annexure K to the Explanatory Statement, to be completed and lodged with the Information Agent by the relevant Account Holders (pursuant to the instructions of the relevant SSN Noteholder) for the purpose of, among other things, enabling each relevant SSN Noteholder to, amongst other things:

- (a) vote at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting; and
- (b) appoint proxies to vote on their behalf at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**SSN Indenture** means the indenture dated 27 September 2013, between, among others, the BLY Issuer, as issuer, BLY, as parent, BLA, BLI, Votaint, BCM and BLY US, as guarantors, amongst others, and U.S. Bank National Association, as trustee and collateral agent, in respect of the 12.00% / 10.00% secured notes, as amended by the first supplemental indenture dated 31 August 2017, the second supplemental indenture dated 18 September 2017, the third supplemental indenture dated 31 December 2018, the fourth supplemental indenture dated 17 July 2019, the fifth supplemental indenture dated 24 June 2020, and the sixth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SSN Noteholders** means each person with a Book Entry Interest in the SSN Indenture.

**SSN Notes Registered Holder** means the "Holder" or "Securityholder" as those terms are defined in the SSN Indenture, being Depository Trust Company.

**SSN Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is secured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**SSN Secured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the SSN Noteholders pursuant to this Scheme, calculated by reference to the proportion that 100% of the outstanding amount of SSN Secured RSA Date Debt, being the amount of US\$303,567,773.87, bears to the aggregate outstanding amount of Allocated Aggregate Debt and each such amount shall be set out in the Allocations Spreadsheet.

**SSN Secured RSA Date Debt** means the amount of SSN Secured Debt as at the RSA Date, being US\$303,567,773.87.

**SSN Trustee** means U.S. Bank National Association in its capacity as trustee and collateral agent under the SSN Indenture and any successor trustee or collateral agent under that document.

**SSN Trustee Deed Poll** means the deed poll substantially in the form set out in Schedule 7 of this Scheme and to be executed by the SSN Trustee as contemplated in clause 4.3 of this Scheme and clause 7(c)(iii) of the RID.

**SSN Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is unsecured pursuant to the terms of the relevant Creditors' Scheme Finance Documents.

**SSN Unsecured RSA Date Debt** means the amount of SSN Unsecured Debt as at the RSA Date, being US\$44,924,586.44.

**Stamp Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount in respect of the above.

**Standard Tax Conditions** means the "'Standard' tax conditions" set out in Part D of the Foreign Investment Review Board Guidance note 12 (Tax Conditions) dated 18 December 2020.

**Standstill Period** has the meaning given in clause 14.1(a).

**SUN Account Holder Letter** means an account holder letter substantially in the form set out at Annexure L to the Explanatory Statement, to be completed and lodged with the Information Agent by the relevant Account Holders (pursuant to the instructions of the relevant SUN Noteholder) for the purpose of, among other things, enabling each relevant SUN Noteholder to, amongst other things:

- (a) vote at the Unsecured Creditors' Scheme Meeting; and
- (b) appoint proxies to vote on their behalf at the Unsecured Creditors' Scheme Meeting.

**SUN Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SUN Noteholders under the relevant Creditors' Schemes Finance Documents.

**SUN Indenture** means the indenture dated 28 March 2011 between the BLY Issuer, as issuer, BLY, as guarantor, and Delaware Trust Company as trustee, amongst others, as amended by the first supplemental indenture dated 14 June 2013, the second supplemental indenture dated 27 September 2013, the third supplemental indenture dated 2 April 2017, the fourth supplemental indenture dated 31 August 2017, the fifth supplemental indenture dated 18 September 2017, the sixth supplemental indenture dated 31 December 2018, the seventh supplemental indenture dated 17 July 2019, the eighth supplemental indenture dated 15 June 2020, and the ninth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SUN Noteholders** means each person with a Book Entry Interest in the SUN Indenture.

**SUN RSA Date Debt** means the amount of SUN Debt as at the RSA Date, being US\$93,944,522.71.

**SUN Trustee** means Delaware Trust Company, in its capacity as trustee under the SUN Indenture and any successor trustee or collateral agent under that document.

**Sunset Date** means 31 December 2021.

**Term Loan A** means the Term Loan A Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votraint and BLY US, as guarantors, the TLA Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan A Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan A Securities Agreement dated 24 June 2020, and the Third Amendment to Term Loan A Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**Term Loan B** means the Term Loan B Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votraint and BLY US, as guarantors, the TLB Purchasers, and Wilmington Trust, National Association, as



administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan B Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated 24 June 2020, and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**TLA Proof of Debt Form** means a proof of debt form substantially in the form set out at Annexure H of the Explanatory Statement which may be lodged with the Information Agent by the TLA Purchasers for the purpose of, amongst other things, voting at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**TLA Proxy Form** means the TLA Proxy Form completed by a TLA Purchaser in accordance with and substantially in the form set out in the Explanatory Statement.

**TLA Purchasers** means the "Purchasers" as that term is defined in the Term Loan A.

**TLA Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is secured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLA Secured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLA Purchasers pursuant to this Scheme, calculated by reference to the proportion that 100% of the outstanding amount of TLA Secured RSA Date Debt, being the amount of US\$85,000,000.00, bears to the aggregate outstanding amount of Allocated Aggregate Debt and each such amount shall be set out in the Allocations Spreadsheet.

**TLA Secured RSA Date Debt** means the amount of TLA Secured Debt as at the RSA Date, being US\$85,000,000.00.

**TLA Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is unsecured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLA Unsecured RSA Date Debt** means the amount of TLA Unsecured Debt as at the RSA Date, being US\$75,336,984.87.

**TLB Collateral Agent** means U.S. Bank National Association in its capacity as collateral agent for the TLB Purchasers and any successor trustee or collateral agent.

**TLB Collateral Agent Deed Poll** means the deed poll substantially in the form set out in Schedule 6 of this Scheme and to be executed by the TLB Collateral Agent as contemplated in clause 4.2 of this Scheme and clause 7(c)(ii) of the RID.

**TLB Proof of Debt Form** means a proof of debt form substantially in the form set out at Annexure J of the Explanatory Statement which may be lodged with the Information Agent by the TLB Purchasers for the purpose of, among other things, voting at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**TLB Proxy Form** means the TLB Proxy Form completed by a TLB Purchaser in accordance with and substantially in the form set out in the Explanatory Statement.

**TLB Purchasers** means the "Purchasers" as that term is defined in the Term Loan B.

**TLB Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is secured pursuant to the terms of the relevant Creditors' Scheme Finance Documents.

**TLB Secured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLB Purchasers pursuant to this Scheme, calculated by reference to the proportion that 100% of the outstanding amount of TLB Secured RSA Date Debt, being the amount of US\$105,000,000.00, bears to the aggregate outstanding amount of Allocated Aggregate Debt and each such amount shall be set out in the Allocations Spreadsheet.

**TLB Secured RSA Date Debt** means the amount of TLB Secured RSA Date Debt as at the RSA Date, being US\$105,000,000.00.

**TLB Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is unsecured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLB Unsecured RSA Date Debt** means the amount of TLB Unsecured Debt as at the RSA Date, being US\$88,285,306.60.

**Transaction Party** means the parties to the Term Loan A, the Term Loan B, the SSN Indenture and the SUN Indenture, as applicable.

**Transaction Securities** has the meaning given to that term in the RID.

**Transactions** means the restructuring of BLY and certain of its subsidiaries as summarised in the Restructuring Term Sheet which is schedule 2 of the RSA.

**Treasurer** has the same meaning as it has for the purposes of the FATA.

**Undertaking** means:

- (a) the undertaking given by the Agent to execute the Agent Deed Poll in accordance with this Scheme;
- (b) the undertaking given by the TLB Collateral Agent to execute the TLB Collateral Agent Deed Poll in accordance with this Scheme; and
- (c) the undertaking given by the SSN Trustee to execute the SSN Trustee Deed Poll in accordance with this Scheme,

as the context requires, and **Undertakings** means all of them or any combination of them, as the context requires.

**Unidentified Secured Scheme Creditors** has the meaning given to that term in clause 8.2(a).

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Unsecured Scheme Creditors (as defined in the Unsecured Creditors' Scheme), being the compromise or arrangement proposed by the Scheme Companies and approved by the Court at or around the time the Court approved this Scheme.

**Unsecured Creditors' Scheme Meeting** means the meeting of the Unsecured Scheme Creditors ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the Unsecured Creditors' Scheme, and includes any adjournment of that meeting.

**Unsecured Scheme Administrator** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Unsecured Creditors' Scheme, subject to section 411(7) of the

Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Unsecured Scheme Administrators Deed Poll.

**Unsecured Scheme Administrators Deed Poll** means the deed poll substantially in the form set out in Schedule 3 of the Unsecured Creditors' Scheme and executed by the Unsecured Scheme Administrators.

**Unsecured Scheme Creditors** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Voting Entitlement Record Date** means 3:00 pm (Sydney) on 2 August 2021.

## 1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

(a) A reference to:

- (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, restated, amended and restated, supplemented, replaced, novated, extended or otherwise modified from time to time;
- (iii) a party is a reference to a person who is bound by this Scheme, and any person who agrees to be bound whether by deed poll or otherwise;
- (iv) a person includes a natural person, partnership, joint venture, Government Agency, association, corporation or other body corporate;
- (v) a clause, term, schedule or attachment is a reference to a clause or term of, or, schedule or attachment to this Scheme;
- (vi) this Scheme includes all schedules and attachments to it;
- (vii) a law includes:
  - (A) any constitutional provision, treaty, decree, statute, regulation, by-law, ordinance or instrument;
  - (B) any order, direction, determination, approval requirement, licence or licence condition made, granted or imposed under any of them;
  - (C) any judgment; and
  - (D) any rule or principle of common law or equity,and is a reference to that law as amended, supplemented, consolidated, replaced, overruled or applied to new or different facts;
- (viii) an agreement other than this Scheme includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing;

- (ix) **"dollars"** or **"US\$"** or **"\$"** is to an amount in the currency of the United States of America unless otherwise indicated;
- (x) **"AU\$"** is to an amount in the currency of the Commonwealth of Australia;
- (xi) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing; and
- (xii) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) Unless expressly provided otherwise, an agreement on the part of two or more persons binds them severally.
- (g) Unless expressly provided otherwise, a reference to a date or time is to that date or time in Sydney, New South Wales.
- (h) The expressions subsidiary, holding company and related body corporate have the same meanings as in the Corporations Act.

### 1.3 **Non Business Days**

If the day on or by which a person must do something under this document is not a Business Day the person must do it on or by the next Business Day.

### 1.4 **Multiple parties**

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party, then unless otherwise specified in this document:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking relates to each of them separately.

### 1.5 **The rule about "contra proferentem"**

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision of it or because that party relies on a provision of this document to protect itself.

## 2. **CAPACITY OF THE AGENT, THE TLB COLLATERAL AGENT AND THE SSN TRUSTEE**

Any action taken (including the giving of any release) in connection with this Scheme by:

- (a) the Agent, or on its behalf, is done in its capacity as administrative agent or collateral agent, or both, under the Term Loan A or Term Loan B, as the context requires, and not in the Agent's personal capacity;
- (b) the TLB Collateral Agent, or on its behalf, is done in its capacity as collateral agent, for the TLB Purchasers and not in the TLB Collateral Agent's personal capacity or in its capacity as agent or collateral agent for any other person; and
- (c) the SSN Trustee, or on its behalf, is done in its capacity as trustee or collateral agent under the SSN Indenture and not in the SSN Trustee's personal capacity.

### 3. **CONDITIONS PRECEDENT**

#### 3.1 **Conditions**

This Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) **(FATA - CBP)** at or before 8.00 am on the Second Court Date, either:
  - (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any CBP Member (or any of their respective Permitted Assignees) directly or indirectly acquiring the New Common Equity and, if applicable, New Warrants pursuant to the Transactions (**Proposed CBP Acquisitions**) and such approval is not subject to any conditions other than the Standard Tax Conditions or any other condition which is acceptable to each CBP Member that is subject of it acting reasonably; or
  - (ii) following notice of the Proposed CBP Acquisitions having been given by CBP to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.
- (b) **(FATA - AHG)** at or before 8.00 am on the Second Court Date, either:
  - (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any AHG Member (or any of their respective Permitted Assignees) directly or indirectly acquiring the New Common Equity and, if applicable, New Warrants pursuant to the Transactions (**Proposed AHG Acquisitions**) and such approval is not subject to any conditions other than the Standard Tax Conditions or any other condition which is acceptable to each AHG Member that is the subject of it acting reasonably; or
  - (ii) following notice of the Proposed AHG Acquisitions having been given by AHG to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired;
- (c) **(Shareholder approval)** at or before 8.00 am on the Second Court Date, each of the Shareholder Resolutions are passed by the requisite majorities of BLY Shareholders;
- (d) **(ASX approval)** at or before 8.00 am on the Second Court Date, ASX provides written confirmation that the terms of the New Warrants are appropriate and

equitable for the purposes of ASX Listing Rule 6.1 or otherwise waives the requirement for the New Warrants to comply with ASX Listing Rule 6.1;

- (e) **(Director Nomination Agreements)** at or before 8.00 am on the Second Court Date, each Director Nomination Agreement has been executed by the parties to that Director Nomination Agreement;
- (f) **(deeds poll)** as at 8.00 am on the Second Court Date:
  - (i) the Secured Scheme Administrators Deed Poll and the Obligors Deed Poll have been executed by the Secured Scheme Administrators and the Obligors respectively and continue to benefit the beneficiaries named in those deeds poll in accordance with their terms; and
  - (ii) no such Deed Poll has been terminated;
- (g) **(undertaking)** as at 8.00 am on the Second Court Date:
  - (i) the Undertakings have been executed by the Agents, the TLB Collateral Agent and the SSN Trustee and continue to benefit the beneficiaries named in those Undertakings in accordance with their terms; and
  - (ii) no such Undertakings have been terminated;
- (h) **(Exit Financing Facility)** as at 8.00 am on the Second Court Date, the credit agreement for the Exit Financing Facility has been duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility have been satisfied, other than any conditions relating to:
  - (i) this Scheme and the Unsecured Creditors' Scheme becoming Effective;
  - (ii) no amendments, waivers or modifications to the RSA, RID, this Scheme or the Unsecured Creditors' Scheme having been made since 8:00 am on the Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);
  - (iii) each Implementation Step in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) and 8(b) (*Step 2 (Releases)*) of the RID having been completed in accordance with their terms; and
  - (iv) any conditions which the Exit Financier has agreed to waive or defer;
- (i) **(Regulatory Approvals)** as at 8.00 am on the Second Court Date, any approvals or consents, which are not otherwise described in this clause 3.1 but which are required by law or by any Government Agency to have been obtained by the Scheme Companies to implement this Scheme or the Unsecured Creditors' Scheme, have been obtained on an unconditional basis and remain in full force and effect;
- (j) **(RSA)** as at 8.00 am on the Second Court Date, the RSA has not been terminated in accordance with its terms and each of the conditions precedent in clause 5.1 (*Conditions*) of the RSA (other than condition 10 (*Court approval*) and condition 17 (*Exit Financing*)) have either been satisfied or waived in accordance with the terms of the RSA;
- (k) **(RID)** as at 8.00 am on the Second Court Date, the RID has been duly executed and delivered by all parties to the RID, save for each party to that document relying on

authorities or instructions given under, or in connection with, this Scheme or the Unsecured Creditors' Scheme;

- (l) **(Court approval)** the Court makes the Second Court Orders, including with such alterations or conditions required by the Court under section 411(6) of the Corporations Act and the alterations or conditions (if any) satisfy at least one of the following:
  - (i) they do not change the substance of this Scheme in any material respect or impose unduly onerous obligations on any of the parties, acting reasonably; or
  - (ii) they have the approval of at least 75% of the Secured Scheme Creditors who voted at the Secured Creditors' Scheme Meeting and each Obligor;
- (m) **(Secured Creditors' Scheme Effective)** this Scheme becomes Effective; and
- (n) **(Unsecured Creditors' Scheme)** the court order pursuant to section 411(4)(b), and if applicable section 411(6), of the Corporations Act in respect of the Unsecured Creditors' Scheme becomes effective pursuant to section 411(10) of the Corporations Act.

### 3.2 **Certificate**

The certificate provided by the Scheme Companies to the Court (or such other evidence as the Court requested) on the Second Court Date constitutes conclusive evidence, as between the parties, that the conditions precedent set out in clauses 3.1(a) to 3.1(k) have been satisfied.

## 4. **THE AGENT, THE TLB COLLATERAL AGENT AND THE SSN TRUSTEE**

### 4.1 **The Agent**

On and from the Scheme Effective Date, notwithstanding any term of any relevant document, the TLA Purchasers and the TLB Purchasers hereby:

- (a) direct the Agent to execute and do, and to instruct any other Transaction Party which it is entitled to instruct to execute and do, or otherwise procure to be executed and done, all such documents (including, without limitation, the applicable Deed Poll and the RID), acts or things as may be necessary or desirable to be executed or done by it for the purposes of giving effect to the terms of this Scheme and the RID; and
- (b) provide the Agent with all other instructions and consents that are necessary to enable the Agent to do anything that this Scheme or the RID requires or otherwise provides for the Agent to do.

### 4.2 **TLB Collateral Agent**

On and from the Scheme Effective Date, notwithstanding any term of any relevant document, the TLB Purchasers hereby:

- (a) direct the TLB Collateral Agent to execute and do, and to instruct any other Transaction Party which it is entitled to instruct to execute and do, or otherwise procure to be executed and done, all such documents (including, without limitation, the applicable Deed Poll and the RID), acts or things as may be necessary or desirable to be executed or done by it for the purposes of giving effect to the terms of this Scheme and the RID; and

- (b) provide the TLB Collateral Agent with all other instructions and consents that are necessary to enable the TLB Collateral Agent to do anything that this Scheme or the RID requires or otherwise provides for the TLB Collateral Agent to do.

#### 4.3 **SSN Trustee**

On and from the Scheme Effective Date, notwithstanding any term of any relevant document, the SSN Noteholders and the SSN Notes Registered Holder hereby:

- (a) direct the SSN Trustee to execute and do, and to instruct any other Transaction Party which it is entitled to instruct to execute and do, or otherwise procure to be executed and done, all such documents (including, without limitation, the applicable Deed Poll and the RID), acts or things as may be necessary or desirable to be executed or done by it for the purposes of giving effect to the terms of this Scheme and the RID; and
- (b) provide the SSN Trustee with all other instructions and consents that are necessary to enable the SSN Trustee to do anything that this Scheme or the RID requires or otherwise provides for the SSN Trustee to do.

#### 4.4 **Requirements of the Secured Scheme Administrator**

Each of the Agent, the TLB Collateral Agent and the SSN Trustee, each Secured Scheme Creditor and each Obligor will do such acts as may be required of it by the Secured Scheme Administrator to give the instructions, consents and notifications referred to above and failing which the Secured Scheme Administrator will do so on their behalf pursuant to clauses 5.1(a) to 5.1(d).

### 5. **GRANT OF AUTHORITY IN FAVOUR OF THE SECURED SCHEME ADMINISTRATOR**

#### 5.1 **General grant of authority**

- (a) The Agent, the TLB Collateral Agent and the SSN Trustee, each Secured Scheme Creditor and each Obligor irrevocably authorises each Secured Scheme Administrator to take all steps and do all other things necessary or advisable to give effect to this Scheme and the RID.
- (b) Without limitation to the generality of clause 5.1(a), on and from the Scheme Effective Date, each Secured Scheme Creditor and each Obligor irrevocably appoints each Secured Scheme Administrator as its agent and attorney to enter into, execute and deliver as a deed (or otherwise) any document and to take any step necessary, desirable or advisable to give effect to this Scheme.
- (c) Without limitation to the generality of clauses 5.1(a) and 5.1(b), on and from the Scheme Effective Date, each Secured Scheme Creditor:
  - (i) irrevocably appoints each Secured Scheme Administrator as its agent and attorney to enter into, execute and deliver as a deed (or otherwise) the RID; and
  - (ii) acknowledges and agrees that it shall be bound by, and shall comply with, each of its obligations under the RID upon the RID becoming effective in accordance with its terms.
- (d) The appointments and authorities granted under this clause 5 (*Grant of authority in favour of the Secured Scheme Administrator*) and clauses 4 (*The Agent, the TLB Collateral Agent and the SSN Trustee*) and 6 (*Secured Scheme Administrators*) shall be treated for all purposes as being fully effective and having been granted by deed poll. The authorities granted in favour of each Secured Scheme Administrator under this Scheme will terminate immediately on the retirement or resignation of each



Secured Scheme Administrator in accordance with clause 6 (*Secured Scheme Administrators*) of this Scheme.

## **5.2 Secured Creditors' Scheme Deed Poll**

Without limiting the generality of clause 5.1 (*General grant of authority*), on and from the Scheme Effective Date, each Secured Scheme Creditor irrevocably authorises the Secured Scheme Administrators to execute and deliver, as its attorney and agent, a deed poll substantially in the form of Schedule 4 (*Secured Creditors' Scheme Deed Poll*), as amended to include the list of Secured Scheme Creditors.

## **6. SECURED SCHEME ADMINISTRATORS**

### **6.1 Appointment of Secured Scheme Administrators**

Each Secured Scheme Administrator will, on and from the Scheme Effective Date, be appointed jointly and severally as scheme administrator of this Scheme.

### **6.2 Qualification, appointment and cessation**

- (a) A person shall only be appointed as a scheme administrator of this Scheme, or replace a Secured Scheme Administrator who ceases to be a scheme administrator of this Scheme (except by reason of resignation as the Secured Scheme Administrator under clause 6.8 (*Resignation of Secured Scheme Administrator*)) if the person:
  - (i) is not disqualified pursuant to section 411(7) of the Corporations Act;
  - (ii) consents to act as a scheme administrator; and
  - (iii) signs and delivers a deed poll substantially in the form of the Secured Scheme Administrators Deed Poll.
- (b) A person ceases to be a Secured Scheme Administrator if he or she:
  - (i) is disqualified pursuant to section 411(7) of the Corporations Act;
  - (ii) resigns from the position of Secured Scheme Administrator by not less than one month's notice in writing to the Scheme Companies;
  - (iii) is removed from the position of Secured Scheme Administrator by an order of the Court;
  - (iv) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (v) becomes bankrupt; or
  - (vi) dies.

### **6.3 Powers in relation to this Scheme**

Subject to clause 6.8 (*Resignation of Secured Scheme Administrator*), each Secured Scheme Administrator:

- (a) has the power to supervise, administer, implement and carry out its functions as set out in this Scheme;

- (b) has the power to do anything else that is necessary or advisable for the purposes of administering this Scheme; and
- (c) has the power to do anything that is incidental to the exercise of the powers conferred on him or her under clauses 6.3(a) and 6.3(b).

#### 6.4 **Exercise of Powers**

- (a) Each Secured Scheme Administrator shall be entitled to:
  - (i) employ its partners and staff to assist it in the performance or exercise of its duties, obligations, responsibilities and powers under this Scheme and the RID;
  - (ii) appoint agents to attend to any matter that the Secured Scheme Administrator might attend to under this Scheme and the RID and which the Secured Scheme Administrator is unable to attend to or which it is unreasonable to expect the Secured Scheme Administrator to attend to in person; and
  - (iii) appoint a solicitor, accountant, barrister or other professionally qualified person or persons to assist or advise the Secured Scheme Administrator.
- (b) Except as expressly provided in this Scheme, in exercising or performing any of its duties, obligations, responsibilities or powers under this Scheme and the RID, each Secured Scheme Administrator is taken not to act as, nor to have any of the duties of, a trustee.
- (c) Except where this Scheme or the RID expressly authorises a Secured Scheme Administrator to act as agent and attorney for a person in the execution of documents, the Secured Scheme Administrator does not act as agent or attorney for any party to, or person bound by, this Scheme or the RID and Claims or obligations of any kind whatsoever incurred in connection with its role as Secured Scheme Administrator are incurred by it personally.

#### 6.5 **Liability**

Subject to the Corporations Act, a Secured Scheme Administrator is not, in the performance or exercise of its powers, obligations, functions and duties under this Scheme, personally liable for:

- (a) any Claims or obligations of any kind whatsoever incurred by or on behalf of the Scheme Companies including, without limitation, any monies borrowed and interest thereon and any contracts adopted or otherwise agreed and any Stamp Duty payable on this Scheme and any tax liable to be remitted or otherwise paid (**Indemnified Liabilities**);
- (b) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Losses**); or
- (c) any actions, suits, proceedings, accounts, Claims or demands arising out of this Scheme which may be commenced, incurred by or made by any person and all Costs incurred in respect thereof (**Demands**),

whether before, during or after the Scheme Effective Date, unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.

## 6.6 Indemnity

- (a) The Scheme Companies shall indemnify each Secured Scheme Administrator for:
  - (i) all Indemnified Liabilities, Losses and Demands (as defined in clause 6.5 (*Liability*)); and
  - (ii) all personal liability that a Secured Scheme Administrator may incur in respect of his or her role as Secured Scheme Administrator of the Scheme Companies, unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.
- (b) The indemnity under clause 6.6(a) takes effect on and from the Scheme Effective Date and is without limitation as to time notwithstanding the removal of the Secured Scheme Administrator and the appointment of a replacement Secured Scheme Administrator, the resignation of the Secured Scheme Administrator or the termination of this Scheme for any reason whatsoever.
- (c) The indemnity under clause 6.6(a) shall not:
  - (i) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Secured Scheme Administrator and shall extend to all actions, suits, proceedings, accounts, Liabilities, Claims and Demands arising in any way out of any defect in the appointment of the Secured Scheme Administrator, the approval and implementation of this Scheme or otherwise; or
  - (ii) affect or prejudice all or any rights that the Secured Scheme Administrator may have against any other person to be indemnified against the Costs, Losses and Liabilities incurred by the Secured Scheme Administrator in, or incidental to the exercise or performance of any of the powers or authorities conferred on the Secured Scheme Administrator by or in connection with this Scheme.
- (d) This indemnity survives completion or termination of this Scheme.

## 6.7 Remuneration

Subject to the Corporations Act, each Secured Scheme Administrator shall be entitled to remuneration for its services together with reimbursement for its Costs, from, and in accordance with the terms of their letter of engagement with, the Scheme Companies.

## 6.8 Resignation of Secured Scheme Administrator

Immediately following the delivery of the register pursuant to clause 6.2(b) of the RID evidencing completion of the Implementation Steps, each Secured Scheme Administrator resigns as (and is taken to have resigned as) Secured Scheme Administrator.

## 6.9 Directors of the Scheme Companies remain in control

Subject to the terms of this Scheme:

- (a) the directors of each of the Scheme Companies:
  - (i) remain in control of each of the Scheme Companies with respect to the conduct of their respective business; and
  - (ii) remain in control of all of the assets of the Scheme Companies; and

- (b) the Secured Scheme Administrators do not have, and cannot exercise, any power in connection with the matters reserved to the directors of the Scheme Companies referred to in clause 6.9(a) above.

## 7. **SECURED SCHEME CREDITOR CONSIDERATION**

- (a) On the Creditors' Scheme Implementation Date, in accordance with the RID, and subject to clauses 8 (*Ineligible Persons and Unidentified Secured Scheme Creditors*) and 9 (*Entitlement to receive scheme consideration*):
  - (i) each Secured Scheme Creditor that is a TLA Purchaser shall be entitled to receive its applicable share of TLA Secured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLA Secured Debt held by the relevant TLA Purchaser bears to the aggregate outstanding amount of TLA Secured Debt held by all such TLA Purchasers in each case, as at the Voting Entitlement Record Date, and each such TLA Purchaser's definitive entitlement shall be set out in the Allocations Spreadsheet;
  - (ii) each Secured Scheme Creditor that is a TLB Purchaser shall be entitled to receive its applicable share of TLB Secured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLB Secured Debt held by the relevant TLB Purchaser bears to the aggregate outstanding amount of TLB Secured Debt held by all such TLB Purchasers, in each case, as at the Voting Entitlement Record Date and each such TLB Purchaser's definitive entitlement shall be set out in the Allocations Spreadsheet;
  - (iii) each Secured Scheme Creditor that is a SSN Noteholder shall be entitled to receive its applicable share of SSN Secured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of SSN Secured Debt held by the relevant SSN Noteholder bears to the aggregate outstanding amount of SSN Secured Debt held by all such SSN Noteholders in each case, as at the Voting Entitlement Record Date and each such SSN Noteholder's definitive entitlement shall be set out in the Allocations Spreadsheet; and
  - (iv) each Secured Scheme Creditor that is a TLA Purchaser, TLB Purchaser or SSN Noteholder shall be entitled to its rights and benefits under the Restructuring Documents to the extent that they relate to such Secured Scheme Creditor's Secured Scheme Claim.
- (b) Where a Secured Scheme Creditor (or its Designated Recipient) would receive a fractional number of Shares as a result of the operation of clause 7(a), then the number of Shares issued to that person will be rounded to the nearest whole number.

## 8. **INELIGIBLE PERSONS AND UNIDENTIFIED UNSECURED SCHEME CREDITORS**

### 8.1 **Ineligible Persons**

- (a) Secured Scheme Creditors who are Ineligible Persons and who have not appointed a Designated Recipient in accordance with clause 9 (*Entitlement to receive scheme consideration*) are not entitled to be issued the New Common Equity under clause 7 (*Secured scheme creditor consideration*) and in accordance with the RID. Instead, the New Common Equity that but for this clause 8.1, would be issued to the Secured Scheme Creditor who is an Ineligible Person will, on the Creditors' Scheme Implementation Date, in accordance with this Scheme and the RID, be issued to a nominee appointed by BLY (the **Nominee**).

- (b) Where the Nominee is issued New Common Equity under clause 8.1(a), BLY will cause the Nominee to:
  - (i) as soon as is reasonably practicable (but, in any case within one month after the Members' Scheme Effective Time or, if the Members' Scheme is not approved by the Court, the Creditors' Schemes Restructuring Effective Time) offer all such New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) for sale in the manner, at such price and on such other terms the Nominee thinks fit (and at the risk of the Secured Scheme Creditors who are Ineligible Persons); and
  - (ii) remit to BLY the proceeds of sale (after deducting any reasonable brokerage or other selling costs, taxes and charges).
- (c) Promptly after the last sale of New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) in accordance with clause 8.1(b), BLY must pay to each Secured Scheme Creditor who is an Ineligible Person the proportion of the net proceeds of sale received by BLY pursuant to clause 8.1(b)(ii) to which that Secured Scheme Creditor is entitled.

## 8.2 Unidentified Secured Scheme Creditors

- (a) If a Secured Scheme Creditor is not identified in BLY's records provided to the Secured Scheme Administrators in accordance with clause 7(e) of the RID or, in respect of a SSN Noteholder who is a Secured Scheme Creditor, has not procured delivery of the Custody Instructions to DTC and the Information Agent during the Scheme Consideration Election Window as described in the Explanatory Statement to facilitate the delivery of the Secured Scheme Consideration (**Unidentified Secured Scheme Creditors**), BLY must issue the New Common Equity to which that Secured Scheme Creditor is entitled to the Nominee on the Creditors' Scheme Implementation Date.
- (b) Where New Common Equity has been issued to the Nominee in accordance with clause 8.2(a), BLY will take commercially reasonable steps to seek to identify that Secured Scheme Creditor for a period of 6 months from the date of receiving the New Common Equity.
- (c) If at any time during the 6 month period referred to in clause 8.2(b) above the Unidentified Secured Scheme Creditor has been identified, then BLY will cause the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) and to which that Secured Scheme Creditor is entitled to be transferred to it (or its nominated Designated Recipient) provided that person is not an Ineligible Person, in which case:
  - (i) BLY will cause the Nominee to, as soon as is reasonably practicable, sell the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) at such price and on such other terms the Nominee thinks fit (and at the risk of the Secured Scheme Creditor) and remit the net proceeds of sale after deducting any reasonable brokerage or other selling costs, taxes and charges to BLY; and
  - (ii) promptly after the last sale of the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) in accordance with clause 8.2(c)(i), BLY must pay to each such Secured Scheme Creditor the proportion of the net proceeds of sale received by BLY pursuant to clause 8.2(c)(i) to which that Secured Scheme Creditor is entitled; or

- (d) If the Unidentified Secured Scheme Creditor is not identified by the end of the 6 month period referred to in clause 8.2(b), then BLY will cause the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) to which that Unidentified Secured Scheme Creditor is entitled to be sold by the Nominee and the proceeds to be donated by way of gift to a charity of BLY's choosing.

## **9. ENTITLEMENT TO RECEIVE SCHEME CONSIDERATION**

### **9.1 Appointment of Designated Recipient to receive scheme consideration**

- (a) Each Secured Scheme Creditor shall be entitled to appoint a Designated Recipient to receive the New Common Equity that it is entitled to under this Scheme by and in accordance with a duly completed TLA Proof of Debt Form, TLB Proof of Debt Form and/or SSN Account Holder Letter (as applicable).
- (b) Each Secured Scheme Creditor that appoints a Designated Recipient:
  - (i) must procure that such Designated Recipient complies with the terms of this Scheme, the RID and the Restructuring Documents (as applicable); and
  - (ii) is liable for such Designated Recipient breaching the terms of this Scheme, the RID and the Restructuring Documents (as applicable).

### **9.2 Entitlement to scheme consideration after Voting Entitlement Record Date**

- (a) Subject to clause 14.2 (*Transfers and assignments*), the Scheme Companies are under no obligation to recognise any assignment or transfer of interests in the TLA Secured Debt, TLB Secured Debt or SSN Secured Debt after the Voting Entitlement Record Date for the purpose of a person claiming to be entitled to receive New Common Equity or Shares pursuant to the Creditor Share Purchase Option (as applicable) under this Scheme and have no obligations under this Scheme to any person claiming to be a Secured Scheme Creditor to whom the relevant TLA Secured Debt, TLB Secured Debt or SSN Secured Debt was assigned or transferred, unless that person has:
  - (i) provided a duly completed TLA Proof of Debt Form, TLB Proof of Debt Form and/or SSN Account Holder Letter (as applicable) to the Information Agent in accordance with the instructions, other than the time by which the TLA Proof of Debt Form, TLB Proof of Debt Form and SSN Account Holder Letter (as applicable) must be returned to the Information Agent, as set out in the Explanatory Statement;
  - (ii) if the person assigning or transferring the TLA Secured Debt, TLB Secured Debt or SSN Secured Debt is a party to the RSA, complied with the terms of the RSA; and
  - (iii) if the person assigning or transferring the TLA Secured Debt, TLB Secured Debt or SSN Secured Debt is an Other CSPO Participant, complied with clause 9.2(a)(i) and the relevant TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter (as applicable) provided to the Information Agent has the relevant section titled 'Creditor Share Purchase Option' completed, whereby, among other things, the relevant transferee has elected to participate in the Creditor Share Purchase Option and has requested the same Maximum Committed Securities as the person assigning or transferring the TLA Secured Debt, TLB Secured Debt or SSN Secured Debt.
- (b) Any person to whom TLA Secured Debt, TLB Secured Debt or SSN Secured Debt was assigned or transferred after the Voting Entitlement Record Date and recognised by

the Scheme Companies in accordance with clause 9.2 (*Entitlement to scheme consideration after Voting Entitlement Record Date*) is deemed to have held the relevant TLA Secured Debt, TLB Secured Debt or SSN Secured Debt as at Voting Entitlement Record Date for the purpose of determining its entitlement to receive New Common Equity under clause 7 (*Secured scheme creditor consideration*) or Shares pursuant to the Creditor Share Purchase Option under clause 12 (*Creditor Share Purchase Option*).

## 10. RELEASES

### 10.1 Secured Scheme Creditor releases

- (a) Subject to clause 10.3 (*Limitations*) below, with effect on and from completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID:
  - (i) in consideration of the rights conferred on the Secured Scheme Creditors pursuant to this Scheme, each Secured Scheme Creditor (for the avoidance of doubt, solely in their capacity as a Secured Scheme Creditor), hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law:
    - (A) waives, releases and discharges all of its rights, title and interest in the Secured Scheme Claims; and
    - (B) waives, releases and discharges all Liabilities of the Scheme Companies, the Obligors, the Released Individuals, the Agent, the TLB Collateral Agent and the SSN Trustee to the Secured Scheme Creditors and each and every Claim which the Secured Scheme Creditors may have against the Scheme Companies, the Obligors, the Released Individuals, the Agent, the TLB Collateral Agent or the SSN Trustee, in each case, in relation to or in connection with or in any way arising out of:
      - (aa) the Secured Scheme Claims and any of the facts, matters, circumstances and events that arose, occurred in respect of or gave rise to the Secured Scheme Claims;
      - (bb) the Creditors' Schemes Finance Documents;
      - (cc) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Unsecured Creditors' Scheme and/or the Restructuring Documents and/or the Members' Scheme and/or the Incremental Finance Documents and/or the Existing Backstop ABL; and
      - (dd) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms;
  - (ii) in consideration of the rights conferred on the Secured Scheme Creditors, the Agent, the TLB Collateral Agent and the SSN Trustee pursuant to this Scheme, hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law discharge all the Secured Property under the relevant Creditors' Schemes Finance Documents solely in respect of the TLA Secured Debt, the TLB Secured Debt and the SSN Secured Debt;
  - (iii) in consideration of the rights conferred on the Obligors pursuant to this Scheme, each Obligor hereby irrevocably and unconditionally fully and

absolutely, to the fullest extent permitted by law waives, releases and discharges each Secured Scheme Creditor, the Agent, the TLB Collateral Agent and the SSN Trustee from any and all Claims and any and all other rights, title and interest in relation to or in connection with or in any way arising out of:

- (A) the Creditors' Schemes Finance Documents;
- (B) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Unsecured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents; and
- (C) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms;

(iv) in consideration of the rights conferred on the Released Individuals pursuant to this Scheme, each Released Individual hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law waives, releases and discharges each Obligor, each Secured Scheme Creditor, the Agent, the TLB Collateral Agent and the SSN Trustee from any and all Claims and any and all other rights, title and interest in relation to or in connection with or in any way arising out of:

- (A) the Creditors' Schemes Finance Documents;
- (B) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Unsecured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents; and
- (C) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms.

(v) in consideration of the rights conferred on the Agent, the TLB Collateral Agent and the SSN Trustee pursuant to this Scheme, the Agent, TLB Collateral Agent and SSN Trustee each hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law waives, releases and discharges each Obligor, each Secured Scheme Creditor and each Released Individual from any and all Claims and any and all other rights, title and interest in relation to or in connection with or in any way arising out of:

- (A) the Creditors' Schemes Finance Documents;
- (B) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Unsecured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents; and
- (C) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms.

(b) With effect on and from completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID, each of the Agent, the TLB Collateral Agent, the SSN Trustee and the Secured Scheme Creditors consents to the waivers, releases and discharges in this clause 10.1 and waives all rights that it may have to require that any person comply with any requirements relating to waiver or any other matter in any of the Creditors' Schemes Finance Documents to the extent necessary to effect the waivers, releases and discharges under this clause 10.1.



- (c) The releases in this clause 10.1 extend to Claims or Liabilities which are unknown to or not in the contemplation of the parties, their employees, agents, former employees or former agents, or their related bodies corporate, at the time the releases in this clause 10.1 take effect.
- (d) Subject to clause 10.3 (*Limitations*), with effect on and from the time at which the releases in this clause 10.1 take effect in accordance with clause 10.1(a) each of the Secured Scheme Creditors, Obligors, each Released Individual, the Agent, the TLB Collateral Agent and the SSN Trustee acknowledge and agree that the Creditors' Schemes Finance Documents are irrevocably and unconditionally terminated and, for the avoidance of doubt, the "Securities" (as defined in the SSN Indenture) issued under the SSN Indenture are cancelled.

## 10.2 **Covenant not to sue and bar to claim**

On and from the Scheme Effective Date, each party releasing a Claim or releasing any other party from an obligation owed to it by that party under this Scheme absolutely and irrevocably undertakes to that party, at and from the time each such release is expressed to take effect and subject to all conditions to that released Claim or released obligation (if any) having been satisfied in accordance with their terms, that it will not:

- (a) make any Claim in respect of the released Claim or obligation to the extent that the Claim or obligation has been released in accordance with this document;
- (b) instruct, direct authorise or assist or encourage any other person (including, in respect of the Secured Scheme Creditors, each of the Agent, the TLB Collateral Agent or the SSN Trustee) to commence or continue any proceeding against the Scheme Companies, any Obligor or any Released Individual and/or any other entity in the Group in relation to or in connection with or in any way arising out of the matters referred to in clauses 10.1 (*Secured Scheme Creditor releases*), or otherwise to assert any such claim against the Scheme Companies, any Obligor and/or any other entity in the Group,

and this document may be pleaded as a bar to any such Claim in any jurisdiction whatsoever.

## 10.3 **Limitations**

The releases, waivers and discharges effected by the terms of this clause 10 (*Releases*) shall not:

- (a) disentitle any Obligor, Secured Scheme Creditor, Released Individual, the Agent, the TLB Collateral Agent or the SSN Trustee from enforcing their respective rights under this Scheme, the Restructuring Documents or in respect of any transaction to be implemented or consummated in connection therewith and each party agrees that those releases, waivers and covenants will be limited to the extent necessary to permit each of them to enforce any such rights;
- (b) discharge any indemnity granted in favour of the Agent, TLB Collateral Agent or SSN Trustee pursuant to the terms of a Creditors' Schemes Finance Document or the RID which is expressly stated in that document to survive or continue in full force and effect;
- (c) prevent the Agent, TLB Collateral Agent or SSN Trustee from executing, doing, or instructing any other relevant person to so execute or do, any instructions, acts or things under this Scheme or the RID;
- (d) extend to any Claim to the extent that such Claim relates to the released party's obligations under the RSA that require performance subsequent to this Scheme

becoming Effective or to any terms of the RSA, or rights of any party to the RSA, that continue under or pursuant to the RSA; or

- (e) extend to any Claim by any party, to the extent that the relevant released party has engaged in fraud or wilful misconduct or been reckless, grossly negligent or dishonest in respect of the facts, matters, circumstances or events to which that Claim relates.

#### 10.4 Giving Effect to Releases

The Secured Scheme Creditors, the Agent, the TLB Collateral Agent and the SSN Trustee must:

- (a) on the Creditors' Scheme Implementation Date deliver to the Scheme Companies:
  - (i) duly signed forms required to record the waivers, releases and discharges given by this Scheme at all relevant Government Agencies; and
  - (ii) all documents of title in its possession relating to the Secured Property; and
- (b) within five Business Days after the Creditors' Schemes Restructuring Effective Time:
  - (i) register a financing change statement on the Personal Property Securities register to end any registration that perfects its security interest (as defined in the *Personal Property Securities Act 2009* (Cth)) in the Secured Property; and
  - (ii) register, file, lodge, or submit with any Government Agency any record, notice, statement or any other form of document required to fully discharge the Secured Property from any security interest given under a relevant Creditors' Schemes Finance Document, including filing any Uniform Commercial Code termination statements.

#### 11. TURNOVER

- (a) Each Secured Scheme Creditor must hold on trust for the benefit of the Scheme Companies, the Released Individuals, the Obligors and for the benefit of each other entity in the Group (as applicable) any recovery made against such person and received by such Secured Scheme Creditor after the Scheme Effective Date, pursuant to any Liability or Claim released pursuant to clause 10.1(a)(i) or in breach of clause 10.2 (*Covenant not to sue and bar to claim*), other than, in each case and for the avoidance of doubt, any recovery made under clause 7 (*Secured scheme creditor consideration*), and the Secured Scheme Creditor must turn over any such recovery to the Scheme Companies, the Released Individuals, the Obligors and each other entity in the Group (as applicable) without set-off, counterclaim or deduction.
- (b) To the extent that the asset comprising the recovery referred to in clause 11(a) cannot be held on trust by the Secured Scheme Creditor that received such recovery, such Secured Scheme Creditor must pay to the relevant Scheme Companies, the Released Individuals, the Obligors and each other entity in the Group (as applicable) an amount equal to that recovery immediately upon demand being made by the relevant Scheme Companies, the Released Individuals, the Obligors, the Released Individuals and each other entity in the Group (as applicable) without set-off, counterclaim or deduction.
- (c) Any amounts held on trust in accordance with clause 11(a) or required to be paid in accordance with clause 11(b) pursuant to any Liability or Claim released under clause 10.1(a)(i) or in breach of clause 10.2 (*Covenant not to sue and bar to claim*), must be held on trust for the benefit of, or paid to, the Scheme Companies, the

Released Individual, the Obligor, or a combination of one or more such persons, from whom such recovery was received by the Secured Scheme Creditor.

12. **CREDITOR SHARE PURCHASE OPTION**

- (a) On the Creditors' Scheme Implementation Date, in accordance with the RID, a Secured Scheme Creditor who:
- (i) is an Other CSPO Participant;
  - (ii) has complied with each of the requirements as set out in the TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter in the section entitled 'Creditor Share Purchase Option' and has been allocated Shares under the Creditor Share Purchase Option by BLY in accordance with the CSPO Allocation Principles; and
  - (iii) has paid, or its Permitted CSPO Nominee has paid, the aggregate CSPO Issue Price payable by that Secured Scheme Creditor for the Shares allocated by BLY to that Secured Scheme Creditor (or its Permitted CSPO Nominee) by the payment date specified in the final Allocation Confirmation provided by BLY to the Secured Scheme Creditor,

will be issued, or its Permitted CSPO Nominee will be issued, by BLY the number of Shares allocated by BLY to that Secured Scheme Creditor (or its Permitted CSPO Nominee) in its capacity as such under the Creditor Share Purchase Option in accordance with the CSPO Allocation Principles and each such Other CSPO Participant's definitive entitlement shall be set out in the Allocations Spreadsheet.

- (b) Where an Other CSPO Participant or a Permitted CSPO Nominee would receive a fractional number of Shares as a result of the operation of clause 12(a), then the number of Shares issued to that person will be rounded to the nearest whole number.

13. **NO INCONSISTENT ACTS**

The parties agree to treat themselves as bound by this Scheme for all purposes and not to act otherwise than in accordance with this Scheme.

14. **STANDSTILL, TRANSFERS AND CONSENTS**

14.1 **Standstill**

- (a) During the period on and from the Scheme Effective Date up to the Creditors' Schemes Restructuring Effective Time (the **Standstill Period**), the Agent, the TLB Collateral Agent, the SSN Trustee and each Secured Scheme Creditor must not, except for the purpose of enforcing the terms of this Scheme, or any Deed Poll or as otherwise expressly provided by this Scheme:
- (i) exercise any right or remedy it may have under or in connection with the documents governing their respective Claims against the Obligors, including any right to seek interest payments under any such document, or under any applicable United States, Australian, Canadian or foreign law or otherwise with respect to any defaults, events of default or default events, howsoever described, which may arise under such documents;
  - (ii) commence or continue any legal action, Claim or other proceedings against any Obligor or the assets of any Obligor, including but not limited to in connection with any rights arising out of an event of default, default or default event, howsoever described, under any Creditors' Schemes Finance Document applicable to it;

- (iii) exercise and, in the case of a TLA Purchaser or TLB Purchaser, not direct the Agent to exercise, and shall instruct the Agent to desist from exercising, any rights under any Creditors' Schemes Finance Documents applicable to it;
  - (iv) exercise and, in the case of the TLB Purchaser, not direct the TLB Collateral Agent to exercise, and shall instruct the TLB Collateral Agent to desist from exercising, any rights under the Creditors' Schemes Finance Documents applicable to it;
  - (v) exercise and, in the case of the SSN Noteholders and the SSN Notes Registered Holder, not direct the SSN Trustee to exercise, and shall instruct the SSN Trustee to desist from exercising, any rights under any Creditors' Schemes Finance Documents applicable to it;
  - (vi) take any step to enforce or make any demand under any guarantee, security or other right of recourse held by the Secured Scheme Creditors, the Agent, the TLB Collateral Agent or the SSN Trustee in respect of any Creditors' Schemes Finance Document;
  - (vii) take, or concur in the taking, of any step to wind up, appoint a liquidator, administrator, receiver, receiver and manager, or analogous officer over, or commence any other insolvency related or attachment proceedings against, any Obligor or the assets of any Obligor;
  - (viii) take any steps to demand or enforce payment of all or part of any money owing, whether actually or contingently, by any Obligor pursuant to a right under any Creditors' Schemes Finance Document;
  - (ix) declare any event of default, default or default event, howsoever described, under any Creditors' Schemes Finance Document, including in respect of any circumstances subsisting as at or prior to the Scheme Effective Date;
  - (x) ask or require any Obligor under any Creditors' Schemes Finance Document to make any payment in respect of any indebtedness, Liability or obligations (in each case, including at law) of such Obligor, including under or in connection with any Creditors' Schemes Finance Document or any transaction under, or contemplated by, any Creditors' Schemes Finance Document;
  - (xi) institute or prosecute any legal proceedings in relation to any Claim under any Creditors' Schemes Finance Document against any Obligor or any other person to be released under this Scheme to the extent that such Claim or obligation is to be released under this Scheme; or
  - (xii) exercise any rights against any Obligor which they may have on the occurrence of a breach, default, event of default, potential event of default or termination event (in each case, howsoever described or arising) under any Creditors' Schemes Finance Document.
- (b) For the avoidance of doubt, the forbearances in clause 14.1(a) do not constitute a waiver with respect to any defaults or events of default under the Creditors' Schemes Finance Documents, and shall not bar any Secured Scheme Creditor from filing a proof of debt or taking action to establish the amount of such Claim if this Scheme terminates and is of no further force or effect in accordance with clause 15 (*Termination*).

## 14.2 Transfers and assignments

- (a) Other than with the consent of the Scheme Companies, during the Standstill Period:

- (i) the Agent and each Secured Scheme Creditor that is a TLA Purchaser agrees not to dispose of or transfer any right under the Term Loan A and each such TLA Purchaser directs the Agent not to register any such disposal or transfer;
  - (ii) the Agent and each Secured Scheme Creditor that is a TLB Purchaser agrees not to dispose of or transfer any right under the Term Loan B and each such TLB Purchaser directs the Agent not to register any such disposal or transfer;
  - (iii) the TLB Collateral Agent and each Secured Scheme Creditor that is a TLB Purchaser agrees not to dispose of or transfer any right under the Term Loan B and each such TLB Purchaser directs the TLB Collateral Agent not to register any such disposal or transfer; and
  - (iv) the SSN Trustee and each Secured Scheme Creditor that is a SSN Noteholder agrees not to dispose of or transfer any right under the SSN Indenture and each such SSN Noteholder directs the SSN Trustee not to register any such disposal or transfer.
- (b) The Scheme Companies are under no obligation to recognise any assignment or transfer of interests in the TLA Secured Debt, TLB Secured Debt or SSN Secured Debt for the purposes of this Scheme after the Scheme Effective Date and have no obligations under this Scheme to any person other than the Secured Scheme Creditors, except that the Scheme Companies may, in their sole discretion and subject to the production of such other evidence in relation to such assignment or transfer as they may reasonably require (including an undertaking from the relevant transferee that it shall be bound by the terms of this Scheme as a Secured Scheme Creditor in relation to its interest in the TLA Secured Debt, TLB Secured Debt or SSN Secured Debt (as applicable)) and to any other terms and conditions which the Scheme Companies may consider necessary or desirable, agree to recognise such assignment or transfer for the purpose of this Scheme.

#### 14.3 **Consent, waiver and release**

The Agent, the TLB Collateral Agent, the SSN Trustee, each Secured Scheme Creditor and each Obligor whose consent or agreement is necessary under the Creditors' Schemes Finance Documents (as applicable) to give effect to this Scheme:

- (a) irrevocably consents and agrees to each Obligor:
  - (i) entering into, or otherwise becoming bound by, each Restructuring Document of which that Obligor is a party;
  - (ii) performing its respective obligations and transactions under, or as contemplated by those Restructuring Documents (including, but not limited to, Court applications for the purposes of this Scheme) of which that Obligor is a party; and
  - (iii) carrying out any step for the purposes of, or otherwise acting consistently with, those Restructuring Documents of which that Obligor is a party;
- (b) agrees that no breach, non-compliance, default, event of default or potential event of default or termination event (in each case, howsoever described) under any Creditors' Schemes Finance Document:
  - (i) has occurred (and agrees that it is taken to have not occurred), as a result of;
  - (ii) has been caused by (and agrees that it is taken to have not been caused by);

(iii) is continuing (and agrees that it is taken not to be continuing), as a result of;  
or

(iv) will or can occur, as a result of or be caused by,

any Obligor entering into or performing any Restructuring Document or the obligations or transactions under, or contemplated by, any Restructuring Document (including, but not limited to, any court applications for the purposes of this Scheme) or carrying out any step for the purposes of, or otherwise acting consistently with the Restructuring Documents, and if any such event is deemed to have occurred then it is expressly waived notwithstanding any requirements relating to waiver in the Creditors' Schemes Finance Documents;

- (c) without limiting any other clause in this Scheme, agrees that if any change of control, in each case howsoever described, (**Change of Control Event**) has occurred under any of the Creditors' Schemes Finance Documents at any time, up to and including the Creditors' Scheme Implementation Date, any rights arising out of or in connection with the Change of Control Event are waived notwithstanding any requirements relating to waiver in the Creditors' Schemes Finance Documents;
- (d) agrees and consents to any releases which are given, or disposals of rights or other property which are made or occur, by any Obligor under, or which are otherwise contemplated by, the Restructuring Documents; and
- (e) agrees that the Agent, the TLB Collateral Agent and the SSN Trustee have committed no breach, non-compliance or default under the relevant Creditors' Schemes Finance Documents by executing the Undertakings, and if any such event is deemed to have occurred then it is expressly waived notwithstanding any requirements relating to waiver in the Creditors' Schemes Finance Documents.

## 15. **TERMINATION**

### 15.1 **Sunset Date**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, then with effect from that time, this Scheme will not be capable of implementation and this Scheme will lapse, terminate and be of no further force or effect.

### 15.2 **Obligations on termination**

- (a) If this document is terminated, all obligations of the parties under this Scheme, other than clauses 6.5 (*Liability*), 16 (*Notices*) and 17 (*General Provisions*), immediately cease to be of further effect.
- (b) The termination of this Scheme does not affect any Claim that a party may have against another party where that Claim arose before this Scheme is terminated.

## 16. **NOTICES**

Any notice, consent or other communication under this Scheme must be given in accordance with clause 16 (*Notices*) of the RID as though that clause was reproduced in this Scheme in its entirety.

## **17. GENERAL PROVISIONS**

### **17.1 Further assurances**

The Secured Scheme Administrator, the Agent, the TLB Collateral Agent, the SSN Trustee, each Secured Scheme Creditor and each Obligor must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable (in the opinion of the Scheme Companies, acting in good faith) to give full effect to the terms of this Scheme and the transactions contemplated by it.

### **17.2 Binding effect of Scheme**

This Scheme binds the Scheme Companies and each Secured Scheme Creditor (including each Secured Scheme Creditor who did not attend the Secured Creditors' Scheme Meeting, who did not vote at the Secured Creditors' Scheme Meeting or who voted against this Scheme) and, to the extent of any inconsistency, overrides the terms of the Creditors' Schemes Finance Documents. This Scheme also binds any party who agrees to be bound by this Scheme pursuant to a Deed Poll.

### **17.3 Costs and Stamp Duty**

- (a) The Scheme Companies must pay in full all Costs incurred by them in connection with the negotiation, preparation and implementation of this Scheme as and when they arise. For the avoidance of doubt, this includes all Costs incurred by the Agent, the TLB Collateral Agent and the SSN Trustee (including legal costs).
- (b) The Scheme Companies are liable for, and must pay all Stamp Duty on or relating to the execution, delivery and performance of this Scheme, any instrument executed under or in connection with this Scheme or any transaction evidenced, effected or contemplated by this Scheme.
- (c) If a person other than the Scheme Companies pays any Stamp Duty on or relating to the execution, delivery and performance of this Scheme, any instrument executed under or in connection with this Scheme or any transaction evidenced, effected or contemplated by this Scheme, then the Scheme Companies must pay that amount to the paying party on demand.
- (d) This clause 17.3 survives completion of this Scheme.

### **17.4 Governing Law and jurisdiction**

- (a) This Scheme is governed by the laws of the State of New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of that State and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of the Scheme.

## SCHEDULE 1

### Creditors' Schemes Finance Documents

No.	Document	Parties	Date
<b>Term Loan A</b>			
<b>Facility Agreements</b>			
1.	Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	31 December 2018
2.	First Amendment to Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	17 July 2019
3.	Second Amendment to Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), Centerbridge Special Credit Partners II AIV III, L.P., Centerbridge Credit Partners Master AIV III, L.P., CCP II Acquisition Holdings, LLC ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	24 June 2020
4.	Third Amendment to Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Acquisition Holdings, LLC, Centerbridge Credit Partners Master AIV III, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	1 June 2021
<b>Security Agreements</b>			
5.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust,	10 April 2018



No.	Document	Parties	Date
		National Association ( <b>Collateral Agent</b> )	
6.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	11 September 2018
7.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	24 September 2018
8.	General Security Deed – Term Loan A	Wilmington Trust, National Association ( <b>Secured Party</b> ), Boart Longyear Limited (ACN 123 052 728), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Australia Pty Ltd (ACN 000 401 025), Votrant No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Investments Pty Limited (ACN 124 070 373) (each a <b>Grantor</b> )	31 December 2018
9.	US Security and Pledge Agreement for the Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein as a grantor(each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
10.	Canadian Security and Pledge Agreement for Term Loan A Securities Agreement	Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada, Ltd., Boart Longyear Manufacturing and Distribution Inc., Votrant No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
11.	Restatement Amendment Agreement relating to the Assignment Agreement – Term Loan A Securities Agreement	Boart Longyear Suisse SARL ( <b>Assignor</b> ), Wilmington Trust, National Association ( <b>Administrative Agent</b> )	31 December 2018
12.	Restatement Amendment Agreement relating to the Bank Account Assignment Agreement – Term Loan A Securities Agreement	Boart Longyear Suisse SARL ( <b>Assignor</b> ), Wilmington Trust, National Association ( <b>Administrative Agent</b> )	31 December 2018
13.	Pledge over Inventory - Term Loan A	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
14.	Pledge over Fixed Assets – Term Loan A	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018

No.	Document	Parties	Date
15.	Pledge over Assets	Boart Longyear S.A.C ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
16.	Pledge over Shares	Longyear Canada ULC ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of Notes Indenture Agreement</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
<b>Term Loan B</b>			
<b>Facility Agreement</b>			
17.	Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	31 December 2018
18.	First Amendment to Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	17 July 2019
19.	Second Amendment to Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), Centerbridge Special Credit Partners II AIV III, L.P., Centerbridge Credit Partners Master AIV III, L.P., CCP II Acquisition Holdings, LLC ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	24 June 2020
20.	Third Amendment to Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Acquisition	1 June 2021

No.	Document	Parties	Date
		Holdings, LLC, Centerbridge Credit Partners Master AIV III, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	
<b>Security Agreements</b>			
21.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	10 April 2018
22.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	11 September 2018
23.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	24 September 2018
24.	General Security Deed – Term Loan B	Wilmington Trust, National Association ( <b>Secured Party</b> ) and, amongst other, Boart Longyear Limited (ACN 123 052 728), Boart Longyear Management Pty Limited (ACN 123 283 545) and each other company listed therein (each a <b>Grantor</b> )	31 December 2018
25.	US Security and Pledge Agreement for the Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
26.	Canadian Security and Pledge Agreement for Term Loan B Securities Agreement	Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada, Ltd., Boart Longyear Manufacturing and Distribution Inc., Votaint No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
27.	Pledge over Inventory – Term Loan B Securities Agreement	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
28.	Pledge over Fixed Assets – Term Loan B Securities Agreement	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
29.	Pledge over Assets	Boart Longyear S.A.C ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust,	31 December 2018

No.	Document	Parties	Date
		National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	
30.	Pledge over Shares	Longyear Canada ULC ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of Notes Indenture Agreement</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
31.	Amended and Restated SSN Indenture, TLB and Incremental Financing U.S. Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent, Trustee</b> ), Wilmington Trust, National Association ( <b>Authorized Representative</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545) (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) (ACN 123 052 728) and the other grantors party thereto (each a <b>Grantor</b> )	1 June 2021
32.	Amended and Restated SSN Indenture, TLB and Incremental Financing Canadian Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent, Trustee</b> ), Wilmington Trust, National Association ( <b>Authorized Representative</b> ), Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada Ltd., Votaint No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> )	1 June 2021
<b>SSN Indenture</b>			
<b>Facility Agreements</b>			
33.	SSN Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) ( <b>Parent</b> ), Boart Longyear Australia Pty Ltd (ACN 000 401 025) and each other company party thereto, (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	27 September 2013
34.	First Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), BLY IP Inc., Boart Longyear Limited (ACN 123 052 728) and each other company party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	31 August 2017
35.	Second Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), BLY IP Inc., BL DDL NY Holdings Inc., Boart Longyear Limited (ACN 123 052 728), Boart Longyear Australia Pty Ltd (ACN 000 401 025) and each other company a party thereto(each a	18 September 2017

No.	Document	Parties	Date
		<b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	
36.	Third Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	31 December 2018
37.	Fourth Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	17 July 2019
38.	Fifth Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728), Boart Longyear Australia Pty Ltd (ACN 000 401 025) and each other company a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	24 June 2020
39.	Sixth Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company a party thereto (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	1 June 2021
<b>Security Agreements</b>			
40.	Amended and Restated SSN Indenture, TLB and Incremental Financing U.S. Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent</b> ) Boart Longyear Management Pty Limited (ACN 123 283 545) (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and the other grantors party thereto (each a <b>Grantor</b> )	1 June 2021
41.	Amended and Restated SSN Indenture, TLB and Incremental Financing Canadian Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent</b> )Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada Ltd., Votraint No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> )	1 June 2021
42.	SSN Indenture Amendment Security Deed to the General Security Deed dated 27 September 2013	U.S. Bank National Association ( <b>Secured Party</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728), Votraint No.	1 June 2021

No.	Document	Parties	Date
		1609 Pty Limited (ACN 119 244 272), Boart Longyear Australia Pty Ltd (ACN 000 401 025) (each a <b>Grantor</b> )	
43.	SSN Indenture Australian General Security Deed	U.S. Bank National Association ( <b>Secured Party</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728), Votrant No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Australia Pty Ltd (ACN 000 401 025) (each a <b>Grantor</b> )	27 September 2013
44.	Pledge over Assets – SSN Indenture	Boart Longyear S.A.C. ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent</b> )	19 December 2013
45.	Pledge over Shares in Boart Longyear S.A.C. – SSN Indenture	Longyear Canada, ULC ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent</b> )	19 December 2013
46.	Pledge over Inventory – SSN Indenture	Boart Longyear Chile Limitada ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ) Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	13 February 2015
47.	Pledge over Fixed Assets – SSN Indenture	Boart Longyear Chile Limitada ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ) Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	13 February 2015
48.	Pledge over Assets – SSN Indenture (First Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Agent in respect of Term Loan A and Term Loan B</b> )	12 March 2015
49.	Pledge over Shares in Boart Longyear S.A.C – SSN Indenture (First Amendment)	Longyear Canada, ULC ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Agent in respect of Term Loan A and Term Loan B</b> )	12 March 2015
50.	Pledge over Assets – SSN Indenture (Second Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Agent</b> ), Wilmington Trust, National	2 November 2016

No.	Document	Parties	Date
		Association ( <b>Agent in respect of Term Loan A and Term Loan B</b> )	
51.	Pledge over Assets – SSN Indenture (Third Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	2 March 2018
52.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	10 April 2018
53.	Pledge over Assets – SSN Indenture (Fourth Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	26 July 2018
54.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	11 September 2018
55.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	24 September 2018
56.	Pledge over Assets – SSN Indenture (Fifth Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), Bank of America N.A ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	10 December 2018
57.	SSN Indenture General Security Deed	U.S. Bank National Association ( <b>Secured Party</b> ), Boart Longyear Investments Pty Limited (ACN 124 070 373) ( <b>Grantor</b> )	1 June 2021
58.	Pledge over Assets – SSN Indenture (Sixth Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
59.	Pledge over Shares in Boart Longyear S.A.C – SSN Indenture (Second Amendment)	Longyear Canada, ULC ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018

No.	Document	Parties	Date
60.	Pledge over Assets – SSN Indenture	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	23 January 2020
<b>SUN Indenture</b>			
61.	SUN Indenture to the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	28 March 2011
62.	First Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Manufacturing USA Inc., Boart Longyear Manufacturing Canada Ltd. (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	14 June 2013
63.	Second Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Chile Limitada, Votraint No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Comercializadora Limitada (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	27 September 2013
64.	Third Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	2 April 2017
65.	Fourth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	31 August 2017
66.	Fifth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	18 September 2017



No.	Document	Parties	Date
67.	Sixth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	31 December 2018
68.	Seventh Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	17 July 2019
69.	Eighth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	15 June 2020
70.	Ninth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728), Boart Longyear Australia Pty Ltd (ACN 000 401 025), Boart Longyear Investments Pty Limited (ACN 124 070 373), Votraint No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Chile Limitada, Boart Longyear S.A.C., BLY US Holdings Inc., Boart Longyear Company, BL Capital Management LLC, Longyear TM, Inc., Boart Longyear Manufacturing and Distribution Inc., Boart Longyear Manufacturing Canada Ltd., Longyear Canada, ULC, Boart Longyear Canada, BLY IP Inc., Boart Longyear Suisse SARL (each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	1 June 2021

## **SCHEDULE 2**

### **Restructuring Implementation Deed**



## Restructuring Implementation Deed

2021

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**THIS DEED** is made on

2021

**BETWEEN:**

- (1) **Boart Longyear Limited** ACN 123 052 728 (**BLY**);
- (2) each other **Scheme Company** listed in the table under the row "Scheme Companies" in schedule 1;
- (3) the **Secured Scheme Creditors** (as defined in the Secured Creditors' Scheme (as defined below)) acting by the Secured Scheme Administrator pursuant to the authority conferred upon the Secured Scheme Administrator by the Secured Scheme Creditors under clause 5 of the Secured Creditors' Scheme;
- (4) the **Unsecured Scheme Creditors** (as defined in the Unsecured Creditors' Scheme (as defined below)) acting by the Unsecured Scheme Administrator pursuant to the authority conferred upon the Unsecured Scheme Administrator by the Unsecured Scheme Creditors under clause 5 of the Unsecured Creditors' Scheme;
- (5) **Christopher Clarke Hill** and **David Peter McGrath** of FTI Consulting, together being the Secured Scheme Administrators and Unsecured Scheme Administrators (**Scheme Administrators**);
- (6) **Wilmington Trust, National Association**, in its capacity as administrative agent and collateral agent under the Term Loan A and Term Loan B;
- (7) **U.S. Bank National Association**, in its capacity as trustee and collateral agent under the SSN Indenture (the **SSN Trustee**);
- (8) **U.S. Bank National Association**, in its capacity as collateral agent for the TLB Purchasers (the **TLB Collateral Agent**);
- (9) **Delaware Trust Company**, in its capacity as trustee under the SUN Indenture (the **SUN Trustee**);
- (10) **Boart Longyear Ltd.** (Ontario Corporation No. 002854330), a limited company incorporated in Ontario, Canada, with registered address Suite 2400, 333 Bay Street, Toronto, Canada (**New BLY Parent**);
- (11) each **Incremental Financier** listed in the table under the row "Incremental Financiers" in schedule 1;
- (12) **U.S. Bank National Association**, in its capacity as collateral agent under the Incremental Finance Facility (the **Incremental Collateral Agent**);
- (13) **Wilmington Trust, National Association**, in its capacity as agent under the Incremental Finance Facility (the **Incremental Agent**);
- (14) each **Existing Backstop ABL Financier** listed in the table under the row "Existing Backstop ABL Financiers" in schedule 1;
- (15) **Wilmington Trust, National Association**, in its capacity as collateral agent under the Existing Backstop ABL (the **Backstop Collateral Agent**); and
- (16) **Wilmington Trust, National Association**, in its capacity as agent under the Existing Backstop ABL (**Backstop Agent**).

## RECITALS:

- (A) The Scheme Companies have proposed a restructuring of BLY and its subsidiaries' financial indebtedness to be implemented in accordance with the BLY Creditors' Schemes, this document and the other Restructuring Documents.
- (B) This is the "Restructuring Implementation Deed" referred to in the RSA, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, the Creditors' Schemes Explanatory Statement, the Members' Scheme and the Members' Scheme Explanatory Statement.
- (C) The purpose of this document is to give effect to certain of the steps in the Restructuring Documents and to formalise the consents, instructions, directions, waivers, steps and timing required to implement the Restructuring.

## THE PARTIES AGREE AS FOLLOWS:

### 1. INTERPRETATION

#### 1.1 Definitions

In this document the following words, expressions and abbreviations have the following meanings, unless the context otherwise requires:

**Adviser** means each of the Scheme Companies' Advisers, AHG Advisers or the CBP Advisers (as applicable).

**Agent** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Agent Claim** has the meaning given to that term in clause 10.1(d)(ii).

**Agent Deed Poll** means the Agent Deed Poll set out in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme respectively and to be executed by the Agents in accordance with clause 7(b).

**Agent Demands** has the meaning given to that term in clause 10.1(d)(ii)(C).

**Agent Liabilities** has the meaning given to that term in clause 10.1(d)(ii)(A).

**Agent Losses** has the meaning given to that term in clause 10.1(d)(ii)(B).

**AHG** means each person listed in the table under the row "AHG" in schedule 1, or any of their permitted transferees or assignees and **AHG Member** means any one of them.

**AHG Advisers** means Paul Weiss Rifkind Wharton & Garrison LLP, Gilbert + Tobin and Clifford Chance, Sydney (as legal advisers).

**AHG Director Nomination Agreements** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Allocation Confirmation** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Allocations Spreadsheet** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Assumption Deed Poll** means the deed poll of that name to be entered into by New BLY Parent in favour of holders of the New Warrants, the holders of the Existing Warrants, the holders of the Existing Options and the participants in the Long Term Incentive Plan.

**ASX** means ASX Limited or the financial market operated by ASX Limited, as the context requires.

**Authorised Nominee** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Backstop ABL Outgoing Consideration** means an amount equal to all Obligations (other than contingent indemnification obligations) (as defined in the Existing Backstop ABL) outstanding as at the Creditors' Scheme Implementation Date.

**Backstop ABL Pay Out Letter** means the pay-out letter provided to the BLY Issuer by the Backstop Agent confirming the Backstop ABL Outgoing Consideration.

**Backstop Agent Claim** has the meaning given to that term in clause 10.5(d)(ii).

**Backstop Agent Demands** has the meaning given to that term in clause 10.5(d)(ii)(C).

**Backstop Agent Liabilities** has the meaning given to that term in clause 10.5(d)(ii)(A).

**Backstop Agent Losses** has the meaning given to that term in clause 10.5(d)(ii)(B).

**Backstop Collateral Agent Claim** has the meaning given to that term in clause 10.6(d)(ii).

**Backstop Collateral Agent Demands** has the meaning given to that term in clause 10.6(d)(ii)(C).

**Backstop Collateral Agent Liabilities** has the meaning given to that term in clause 10.6(d)(ii)(A).

**Backstop Collateral Agent Losses** has the meaning given to that term in clause 10.6(d)(ii)(B).

**Backstop Finance Documents** means together:

- (a) the Existing Backstop ABL;
- (b) any security granted by any or all of the members of the Group for the benefit of the Existing Backstop ABL Financiers; and
- (c) any document designated a Loan Document (as that term is defined in the Existing Backstop ABL).

**BLY Creditors' Schemes** means, collectively, the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**BLY Register** means the register of members of BLY.

**BLY Shareholder** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Business Day** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**CBP** means each person listed in the table under the row "CBP" in schedule 1, or any of their permitted transferees or assignees and **CBP Member** means any one of them.

**CBP Advisers** means Kirkland & Ellis LLP and MinterEllison (as legal advisers).



**CBP Director Nomination Agreement** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**CDI** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Claim** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Collateral Agent** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Costs** means costs, charges, fees and expenses.

**Court** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditor Share Purchase Option** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditors' Implementation Period** has the meaning given to that term in clause 4.2(b).

**Creditors' Scheme Implementation Date** means the Proposed Creditors' Scheme Implementation Date, unless another date is determined and notified by a Scheme Administrator in accordance with clause 4.1(a), in which case that new date will be the Creditors' Scheme Implementation Date.

**Creditors' Schemes Effective Date** means the date on which the Scheme Effective Date under both the Secured Creditors' Scheme and the Unsecured Creditors' Scheme has occurred.

**Creditors' Schemes Explanatory Statement** means the explanatory statement prepared in accordance with the Corporations Act explaining the BLY Creditors' Schemes.

**Creditors' Schemes Finance Documents** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditors' Schemes Restructuring Effective Time** means the time at which all of the Implementation Steps in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) to 8(h) (*Step 8 (Confirmation of Scheme Restructuring Effective Time)*) have been completed.

**CSPO Allocation Principles** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**CSPO Creditors** means each Participating SUN Noteholder and each Other CSPO Participant.

**CSPO Issue Price** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Demands** has the meaning given to that term in clause 11.1(c).

**Designated Recipient** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Effective** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**EGM** means the extraordinary general meeting of BLY Shareholders to consider and vote on the shareholder resolutions to approve the Restructuring.

**Execution Effective Date** has the meaning given to it in clause 3.

**Existing Backstop ABL** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Existing Backstop ABL Financiers** means each entity listed in the table under the row "Existing Backstop ABL Financiers" in schedule 1.

**Existing Options** means the options granted to eligible participants to purchase Shares in accordance with:

- (a) the 2014 option plan established by BLY entitled "Boart Longyear Limited Option Plan";
- (b) the 2015 option plan established by BLY entitled "Boart Longyear Limited Option Plan"; and
- (c) the 2016 option plan established by BLY entitled "Boart Longyear Limited Option Plan".

**Existing Warrants** means each of the following instruments:

- (a) the quoted ordinary warrants trading on ASX initially issued in September 2017 to all eligible BLY Shareholders, which are subject to an Ordinary Warrant Deed Poll dated 31 August 2017 in favour of the warrant holders;
- (b) unquoted Class A 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class A 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders; and
- (c) unquoted Class B 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class B 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Exit Financier** means each bank, fund or other financial institution who is designated a lender (howsoever described) pursuant to the terms of the Exit Financing Facility.

**Exit Financing Documents** means:

- (a) the Exit Financing Facility;
- (b) the Exit Financing Security; and
- (c) any other document designated a loan document or a finance document (howsoever described) under the Exit Financing Facility.

**Exit Financing Facility** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Exit Financing Security** means security granted by any or all of the Group members that are party to the documents for the Exit Financing Facility for the benefit of the financiers and other finance parties under the Exit Financing Facility.

**Funds Flow** means the funds flow document prepared by BLY as the funds flow for the purpose of this document which sets out each party's entitlement to the funds distributed in accordance with the Implementation Steps, which will be provided to each CBP Member, each AHG Member, the Incremental Agent on behalf of the Incremental Financiers and the Backstop Agent on behalf of the Backstop ABL Financiers.

**Government Agency** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Group** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**GST** means the same as "GST" means in the GST Law.

**GST Law** means the same as "GST Law" means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Implementation Steps** means each of the steps set out in clause 8.

**Incremental Agent Claim** has the meaning given to that term in clause 10.7(d)(ii).

**Incremental Agent Demands** has the meaning given to that term in clause 10.7(d)(ii)(C).

**Incremental Agent Liabilities** has the meaning given to that term in clause 10.7(d)(ii)(A).

**Incremental Agent Losses** has the meaning given to that term in clause 10.7(d)(ii)(B).

**Incremental Collateral Agent Claim** has the meaning given to that term in clause 10.8(d)(ii).

**Incremental Collateral Agent Demands** has the meaning given to that term in clause 10.1(d)(ii)(C).

**Incremental Collateral Agent Liabilities** has the meaning given to that term in clause 10.1(d)(ii)(A).

**Incremental Collateral Agent Losses** has the meaning given to that term in clause 10.1(d)(ii)(B).

**Incremental Finance Documents** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Incremental Finance Facility** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Incremental Finance Outgoing Consideration** means the amount equal to all Obligations (other than contingent indemnification obligations) (as defined in the Incremental Finance Facility) outstanding as at the Creditors' Scheme Implementation Date.

**Incremental Finance Pay Out Letter** means the pay out letter provided to the BLY Issuer by the Incremental Agent confirming the Incremental Finance Outgoing Consideration.

**Incremental Financier** means each person listed in the table under the row "Incremental Financiers" in schedule 1.

**Liabilities** has the meaning given to that term in clause 11.1(a).

**Long Term Incentive Plan** means Boart Longyear's 2020 Long Term Incentive Plan effective 30 July 2020.

**Losses** has the meaning given to that term in clause 11.1(b).

**Members' Scheme** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Members' Scheme Consideration** means one (1) New BLY Parent Share in the form of a CDI, for each one (1) Share held by a Re-domiciliation Member.

**Members' Scheme Explanatory Statement** means the explanatory statement prepared in accordance with the Corporations Act explaining the Members' Scheme.

**Members' Scheme Implementation Date** means the Proposed Members' Scheme Implementation Date, unless another date is determined and notified by a Scheme Administrator in accordance with clause 4.2(c), in which case that new date will be the Members' Scheme Implementation Date.

**Members' Scheme Second Court Orders** means the orders of the Court approving the Members' Scheme under section 411(6) of the Corporations Act.

**New BLY Parent CDI** means a CDI representing a beneficial interest in one New BLY Parent Share.

**New BLY Parent Shares** means one common share in the capital of New BLY Parent.

**New Common Equity** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**New Warrants** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Nominee** has the meaning given to that term in clause 8.1(a) of the Secured Creditors' Scheme and clause 8.1(a) of the Unsecured Creditors' Scheme.

**Non-Associated Shareholder** means a BLY Shareholder who is not any of the following:

- (a) a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder on the SBB Record Date or at any time after that date; or
- (b) an associate of any of the persons referred to in paragraph (a).

**Obligors** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Other CSPO Participant** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Participating SUN Noteholder** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Proposed Creditors' Scheme Implementation Date** has the meaning given to it in clause 4.1(a).

**Proposed Members' Scheme Implementation Date** has the meaning given to it in clause 4.1(b).

**Re-domiciliation Member** means each BLY Shareholder recorded in the BLY Register as at the record date for the Members' Scheme, being those BLY Shareholders to receive the Members' Scheme Consideration under the Members' Scheme.

**Restructuring** means the proposed restructuring of the existing indebtedness and equity of the Group to be effected by completing the Implementation Steps.

**Restructuring Documents** means this document and each of the documents listed in schedule 2 of this document.

**RSA** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Sale Agent** has the meaning given to that term in the Members' Scheme.

**SBB Record Date** means the date for determination of BLY Shareholders who are entitled to participate in the Selective Buy-Back, being 7.00 pm (Sydney time) on 28 July 2021.

**Scheme Administrators** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, being the Secured Scheme Administrators and Unsecured Scheme Administrators.

**Scheme Companies** means BLY and each other Scheme Company listed in the table under the row "Scheme Companies" in schedule 1.

**Scheme Companies Advisers** means Ashurst, Milbank LLP, Dorsey & Whitney LLP, Fasken (as legal advisers).

**Scheme Effective Date** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme respectively.

**Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors (as defined in the Secured Creditors' Scheme), being the compromise or arrangement proposed by the Scheme Companies and approved by the Court immediately prior to the entry into this document.

**Secured Creditors' Scheme Deed Poll** has the meaning given to that term in the Secured Creditors' Scheme.

**Secured Scheme Administrator** has the meaning given to that term in the Secured Creditors' Scheme.

**Secured Scheme Consideration** means the New Common Equity to be issued to Secured Scheme Creditors in accordance with clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*).

**Secured Scheme Creditors** has the meaning given to that term in the Secured Creditors' Scheme.

**Selective Buy-Back** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Selective Buy-Back Consideration** means the amount payable by BLY to a Selective Buy-Back Shareholder for the purchase of Shares from the Selective Buy-Back Shareholder in accordance with the Selective Buy-Back.

**Selective Buy-Back Shareholders** means an eligible Non-Associated Shareholder who offers to sell their Shares to BLY by electing to participate in the Selective Buy-Back and from whose offer to sell Shares is accepted by BLY in its absolute discretion.

**Share Purchase Plan** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Shares** means fully paid ordinary shares in the capital of BLY.

**SPP Shareholders** means those eligible BLY Shareholders who elect to purchase Shares in accordance with the Share Purchase Plan.

**SSN Indenture** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Noteholders** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Notes Registered Holder** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Secured Equity Entitlement** has the meaning given to that term in the Secured Creditors' Scheme.

**SSN Trustee** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Trustee Claim** has the meaning given to that term in clause 10.3(d)(ii)(A).

**SSN Trustee Deed Poll** means each SSN Trustee Deed Poll set out in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme and to be executed by the SSN Trustee in accordance with clause 7(b).

**SSN Trustee Demands** has the meaning given to that term in clause 10.3(d)(ii)(C).

**SSN Trustee Liabilities** has the meaning given to that term in clause 10.3(d)(ii)(A).

**SSN Trustee Losses** has the meaning given to that term in clause 10.3(d)(ii)(B).

**SSN Unsecured Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Stamp Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount in respect of the above.

**Subordinate Claim Holder** has the meaning given to that term in the in Unsecured Creditors' Scheme.

**SUN Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**SUN Indenture** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SUN Noteholders** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SUN Notes Registered Holder** has the meaning given to that term in the Unsecured Creditors' Scheme.

**SUN Trustee** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SUN Trustee Claim** has the meaning given to that term in clause 10.4(d)(ii)(A).

**SUN Trustee Deed Poll** means the SUN Trustee Deed Poll set out in the Unsecured Creditors' Scheme and to be executed by the SUN Trustee in accordance with clause 7(c).

**SUN Trustee Demands** has the meaning given to that term in clause 10.4(d)(ii)(C).

**SUN Trustee Liabilities** has the meaning given to that term in clause 10.4(d)(ii)(A).

**SUN Trustee Losses** has the meaning given to that term in clause 10.4(d)(ii)(B).

**Sunset Date** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Term Loan A** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Term Loan B** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**TLA Purchasers** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**TLA Secured Equity Entitlement** has the meaning give to that term in the Secured Creditors' Scheme.

**TLA Unsecured Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**TLB Collateral Agent Claim** has the meaning given to that term in clause 10.2(d)(ii).

**TLB Collateral Agent Deed Poll** means each TLB Collateral Agent Deed Poll set out in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme and to executed by the TLB Collateral Agent in accordance with clause 7(c).

**TLB Collateral Agent Demands** has the meaning given to that term in clause 10.2(d)(ii)(C).

**TLB Collateral Agent Liabilities** has the meaning given to that term in clause 10.2(d)(ii)(A).

**TLB Collateral Agent Losses** has the meaning given to that term in clause 10.2(d)(ii)(B).

**TLB Proxy Form** means the TLB Proxy Form completed by a TLB Purchaser in accordance with and substantially in the form set out in the Creditors' Schemes Explanatory Statement.

**TLB Purchasers** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**TLB Secured Equity Entitlement** has the meaning given to that term in the Secured Creditors' Scheme.

**TLB Unsecured Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Total New Warrants** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Transaction Securities** means:

- (a) the New Common Equity;
- (b) the Shares to be issued by BLY in accordance with the Share Purchase Plan;
- (c) the Shares to be issued by BLY in accordance with the Creditor Share Purchase Option; and
- (d) the New Warrants.

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by the Scheme Companies and approved by the Court in 2021.

**Unsecured Creditors' Scheme Deed Poll** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Unsecured Scheme Administrator** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Unsecured Scheme Consideration** means the New Common Equity and, if applicable, New Warrants to be issued to Unsecured Scheme Creditors in accordance with clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*).

**Unsecured Scheme Creditors** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Voting Entitlement Record Date** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

## 1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party is a reference to a person who is bound by this document, and any person who agrees to be bound whether by deed poll or otherwise;
  - (iv) a person includes a natural person, partnership, joint venture, Government Agency, association, corporation or other body corporate;



- (v) a clause, term, schedule or attachment is a reference to a clause or term of, or, schedule or attachment to this document;
- (vi) this document includes all schedules and attachments to it;
- (vii) a law includes:
  - (A) any constitutional provision, treaty, decree, statute, regulation, by-law, ordinance or instrument;
  - (B) any order, direction, determination, approval requirement, licence or licence condition made, granted or imposed under any of them;
  - (C) any judgment; and
  - (D) any rule or principle of common law or equity,
 and is a reference to that law as amended, supplemented, consolidated, replaced, overruled or applied to new or different facts;
- (viii) an agreement other than this document includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing;
- (ix) "**dollars**" or "**US\$**" or "**\$**" is to an amount in the currency of the United States of America unless otherwise indicated;
- (x) "**AU\$**" is to an amount in the currency of the Commonwealth of Australia;
- (xi) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing; and
- (xii) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) Unless expressly provided otherwise, an agreement on the part of two or more persons binds them severally.
- (g) Unless expressly provided otherwise, a reference to a date or time is to that date or time in Sydney, New South Wales.
- (h) The expressions **subsidiary**, **holding company** and **related body corporate** have the same meanings as in the Corporations Act.

### 1.3 **Non Business Days**

If the day on or by which a person must do something under this document is not a Business Day the person must do it on or by the next Business Day.

#### 1.4 **Multiple parties**

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party, then unless otherwise specified in this document:

- (a) an obligation of those persons is several and not joint or joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking relates to each of them separately.

#### 1.5 **The rule about "contra proferentem"**

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision of it or because that party relies on a provision of this document to protect itself.

### 2. **THIRD PARTIES**

#### 2.1 **Capacity of the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee**

Any action taken (including the giving of any release) in connection with this document by:

- (a) the Agent, or on its behalf, is done in its capacity as administrative agent or collateral agent, or both, under the Term Loan A or Term Loan B, as the context requires, and not in the Agent's personal capacity;
- (b) the TLB Collateral Agent, or on its behalf, is done in its capacity as collateral agent for the TLB Purchasers, and not in the TLB Collateral Agent's personal capacity or in its capacity as agent or collateral agent for any other person;
- (c) the SSN Trustee, or on its behalf, is done in its capacity as trustee or collateral agent under the SSN Indenture and not in the SSN Trustee's personal capacity; and
- (d) the SUN Trustee, or on its behalf, is done in its capacity as trustee under the SUN Indenture and not in the SUN Trustee's personal capacity.

#### 2.2 **Relationship with Other Documents**

- (a) This document, the RSA and each of the other Restructuring Documents set out the parties' entire understanding of the Restructuring and supersede any previous agreement between any of the parties with respect to the Restructuring.
- (b) In the event of any inconsistency between this document and:
  - (i) the RSA, this document shall prevail, provided that nothing in this document should be interpreted as affecting or limiting any party's consent rights under the RSA; and
  - (ii) any of the other Restructuring Documents, the relevant Restructuring Document shall prevail.

### 3. **EFFECTIVENESS**

This document in its entirety will become effective and legally binding among the parties, on and from the date on which a Scheme Administrator gives notice to all parties to this document and the Advisers in writing that (the **Execution Effective Date**):

- (a) the Creditors' Schemes Effective Date has occurred;
- (b) a Scheme Administrator (on behalf of the Scheme Administrators and on behalf of the Secured Scheme Creditors and the Unsecured Scheme Creditors, as applicable) has duly executed this document; and
- (c) each of the other parties has duly executed this document.

### 4. **IMPLEMENTATION**

#### 4.1 **Proposed Implementation Dates**

On the same Business Day as the Execution Effective Date, or as soon as reasonably practicable thereafter, a Scheme Administrator (acting reasonably) must give notice to the Scheme Companies, the Agent, the SSN Trustee, the TLB Collateral Agent, the SUN Trustee, the Incremental Collateral Agent, the Incremental Agent, the Backstop Collateral Agent, the Backstop Agent and the Advisers notifying them of the date on which the Scheme Administrators propose the Implementation Steps:

- (a) in clauses 8(a) to 8(h) (inclusive) to implement the BLY Creditors' Schemes (including the Creditor Share Purchase Option), Share Purchase Plan and Selective Buy-Back will be commenced (the **Proposed Creditors' Scheme Implementation Date**); and
- (b) subject to the Court making the Members' Scheme Second Court Orders, in clauses 8(i) to 8(j) (inclusive) to implement the Members' Scheme will be commenced, which must be a date that is no later than 30 days after the Creditors' Schemes Restructuring Effective Time or such other date as the Scheme Administrators deem reasonably necessary in the circumstances (the **Proposed Members' Scheme Implementation Date**).

#### 4.2 **Timing of BLY Creditors' Scheme Implementation Steps**

- (a) As soon as reasonably practicable after BLY has received notice of the Proposed Creditors' Scheme Implementation Date and the Proposed Members' Scheme Implementation Date, BLY must make a public announcement published on ASX setting out the Proposed Creditors' Scheme Implementation Date and the Proposed Members' Scheme Implementation Date.
- (b) Subject to clause 4.2(c), all of the Implementation Steps set out in clauses 8(a) to 8(h) (inclusive) must occur within 3 Business Days (**Creditors' Implementation Period**) following the Proposed Creditors' Scheme Implementation Date in accordance with their terms.
- (c) If a Scheme Administrator forms the view that not all of the Implementation Steps in clauses 8(a) to 8(h) (inclusive) can be completed during the Creditors' Implementation Period a Scheme Administrator must determine a new Proposed Creditors' Scheme Implementation Date and:
  - (i) a Scheme Administrator must, as soon as reasonably practicable after the change, give notice to the Advisers of the details of that change (including the reasons for it); and

- (ii) BLY as soon as reasonably practicable must make a further public announcement published on ASX setting out the change to the Proposed Creditors' Scheme Implementation Date and the Proposed Members' Scheme Implementation Date.

## 5. **ALLOCATIONS AND DELIVERY OF TOTAL RESTRUCTURING CONSIDERATION**

Each party's entitlement to the Transaction Securities and funds issued pursuant to the applicable Restructuring Documents and distributed in accordance with the Implementation Steps must be set out in the Allocations Spreadsheet and Funds Flow and shall be calculated as follows:

- (a) each Secured Scheme Creditors' applicable share of the Secured Scheme Consideration shall be determined as set out in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;
- (b) each Unsecured Scheme Creditors' applicable share of the Unsecured Scheme Consideration shall be determined as set out in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;
- (c) the number of new Shares to be issued to each CSPO Creditor under the Creditor Share Purchase Option shall be determined by BLY in accordance with the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the CSPO Allocation Principles;
- (d) the number of new Shares to be issued to each SPP Shareholder under the Share Purchase Plan shall be determined by BLY as set out in the terms of the Share Purchase Plan;
- (e) the Selective Buy-Back Consideration payable to each Selective Buy-Back Shareholder shall be determined by BLY in accordance with the terms of the Selective Buy-Back;
- (f) the Incremental Finance Outgoing Consideration, as set out in the Incremental Finance Pay Out Letter; and
- (g) the Backstop ABL Outgoing Consideration, as set out in the Backstop ABL Pay Out Letter.

## 6. **MECHANICS OF IMPLEMENTATION STEPS**

### 6.1 **Definitions, interpretation and undertaking not to make Claims**

- (a) Subject to clause 6.1(c), all releases and discharges in clause 8 are irrevocable at and from the time they are expressed to take effect.
- (b) Anything (including an issue, allotment, release or discharge) occurring under an Implementation Step is binding and effective even if there is no consideration for it.
- (c) Where, in the opinion of the Scheme Administrators, acting reasonably, as a result of a release, discharge, allotment, issue or other event referred to or contemplated by an Implementation Step failing to occur or to take effect, it is not possible to give effect to the intent and purpose of the Restructuring in all material respects:
  - (i) no other release, discharge, allotment, issue or other event referred to or contemplated by the Implementation Steps has effect (including as a result of non-satisfaction of a condition to a released Claim or released obligation, if any), and each such release, discharge, allotment, issue or other event is deemed not to have effect; and

- (ii) each party shall do all things reasonably necessary to put each other party in the position it would have been in if none of the Implementation Steps had occurred. This clause 6.1(c)(ii) survives and continues in effect notwithstanding the effect of clause 12.2 (*Sunset date*).

## 6.2 **Scheme Administrators' register and certification**

- (a) The Scheme Administrators must keep a register noting the time of completion of the Implementation Steps and a Scheme Administrator must sign it where indicated following completion of each Implementation Step. Each of the register and a copy of the register certified by a Scheme Administrator will be conclusive evidence that the Implementation Step was completed at the time noted in the register.
- (b) As soon as practicable after:
  - (i) completion of the Implementation Steps in clauses 8(a) and 8(b); and
  - (ii) completion of the remaining Implementation Steps in clauses 8(c) to 8(j),
 a Scheme Administrator will give a copy of the register showing the status of the completion of the Implementation Steps, certified by the Scheme Administrators, to the Advisers, and the legal advisers of the Incremental Financiers, the legal advisers of the Exit Financier, the legal advisers of the Agent, the legal advisers of the TLB Collateral Agent, the legal advisers of the SSN Trustee and the legal advisers of the SUN Trustee.

## 7. **PRE-IMPLEMENTATION STEPS**

On and from Scheme Effective Date, prior to any Implementation Step commencing:

- (a) first, the Scheme Administrators must execute and deliver the Secured Creditors' Scheme Deed Poll and the Unsecured Creditors' Scheme Deed Poll;
- (b) second:
  - (i) each TLA Purchaser which is a Secured Scheme Creditor or Unsecured Scheme Creditor, each TLB Purchaser which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the Agent all instructions, consents and directions to execute and deliver the Agent Deed Poll and to perform its obligations under the Agent Deed Poll and the BLY Creditors' Schemes;
  - (ii) each TLB Purchaser which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the TLB Collateral Agent all instructions, consents and directions to execute and deliver the TLB Collateral Agent Deed Poll and to perform its obligations under the TLB Collateral Agent Deed Poll and the BLY Creditors' Schemes;
  - (iii) each SSN Noteholder and the SSN Notes Registered Holder which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the SSN Trustee all instructions, consents and directions to execute and deliver the SSN Trustee Deed Poll and to perform its obligations under the SSN Trustee Deed Poll and the BLY Creditors' Schemes;
  - (iv) each SUN Noteholder and the SUN Notes Registered Holder which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the SUN Trustee all instructions, consents and directions to execute and deliver the SUN Trustee Deed Poll and to perform its obligations under the SUN Trustee Deed Poll and the Unsecured Creditors' Scheme; and

- (v) a Scheme Administrator must provide to the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee (as applicable) written notice of the respective instructions and consents referred to this clause 7(b) on behalf of each Secured Scheme Creditor and Unsecured Scheme Creditor (as applicable);
- (c) third, in accordance with the instructions set out in clauses 7(b)(i), 7(b)(ii), 7(b)(iii) and 7(b)(iv) of this document and under the BLY Creditors' Schemes:
  - (i) the Agent will execute and deliver to the Scheme Administrators the Agent Deed Poll;
  - (ii) the TLB Collateral Agent will execute and deliver to the Scheme Administrators the TLB Collateral Agent Deed Poll;
  - (iii) the SSN Trustee will execute and deliver to the Scheme Administrators the SSN Trustee Deed Poll; and
  - (iv) the SUN Trustee will execute and deliver to the Scheme Administrators the SUN Trustee Deed Poll;
- (d) fourth, the Agent shall provide to the Scheme Administrators and BLY a table which shows, according to the Agent's records the amount outstanding under the Term Loan A and Term Loan B as at the Voting Entitlement Record Date;
- (e) fifth, BLY must provide to the Scheme Administrators a table which shows according to BLY's records the full name, postal address and email address of each Secured Scheme Creditor and Unsecured Scheme Creditor; and
- (f) sixth, a Scheme Administrator will:
  - (i) confirm that he or she has a copy of the Allocations Spreadsheet and Funds Flow and in the absence of manifest error, all of the calculations in the Allocations Spreadsheet and Funds Flow shall be final and binding on the parties;
  - (ii) give a copy of the Allocations Spreadsheet to the Advisers, the legal advisers of the Agent, the legal advisers of the TLB Collateral Agent, the legal advisers of the SSN Trustee and the legal advisers of the SUN Trustee; and
  - (iii) give a copy of the Funds Flow to the Advisers, and the legal advisers of the Incremental Financiers and the legal advisers of the Exit Financiers.

## 8. **IMPLEMENTATION STEPS**

### (a) **Step 1 (Issue of Shares and New Warrants)**

Subject to clause 7, on the Creditors' Scheme Implementation Date, in accordance with clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme and clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme, BLY:

- (i) shall issue to each:
  - (A) TLA Purchaser which is a Secured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLA Secured Equity Entitlement as set forth in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;

- (B) TLB Purchaser which is a Secured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLB Secured Equity Entitlement as set forth in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;
- (C) SSN Noteholder which is a Secured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the SSN Secured Equity Entitlement as set forth in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;
- (D) TLA Purchaser which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLA Unsecured Equity Entitlement, as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;
- (E) TLB Purchaser which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLB Unsecured Equity Entitlement, as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;
- (F) SSN Noteholder which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the SSN Unsecured Equity Entitlement, as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme; and
- (G) SUN Noteholder which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of:
  - (aa) the SUN Equity Entitlement; and
  - (bb) the Total New Warrants,
 as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;

in each case, in the amounts set out in the Allocations Spreadsheet.

(b) **Step 2 (Releases)**

On and from completion of Step 1 (*Issue of Shares and New Warrants*) each of the waivers, releases and discharges in clause 10.1(a) of the Secured Creditors' Scheme and clause 10.1(a) of the Unsecured Creditors' Scheme take effect.

(c) **Step 3 (Exit Financing)**

Immediately after completion of Step 2 (*Releases*) the Exit Financing Facility is made available for drawing and the proceeds of the first drawing are applied in accordance with the Funds Flow to repay the Backstop ABL Outgoing Consideration and the Incremental Finance Outgoing Consideration.

(d) **Step 4 (Share Purchase Plan)**

Immediately after completion of Step 3 (*Exit Financing*), BLY will issue new Shares to each of the SPP Shareholders pursuant to the terms of the Share Purchase Plan.

(e) **Step 5 (Creditor Share Purchase Option)**

Immediately after completion of Step 4 (*Share Purchase Plan*), BLY will issue to each CSPO Creditor the number of Shares allocated to that CSPO Creditor under the Creditor Share Purchase Option in accordance with the CSPO Allocation Principles, provided that BLY has received payment from that CSPO Creditor of the aggregate CSPO Issue Price payable by that CSPO Creditor for those Shares by the date required in the Allocation Confirmation given to that CSPO Creditor.

(f) **Step 6 (Selective Buy-Back)**

(i) Provided that:

- (A) the Selective Buy-Back is approved by BLY Shareholders at the EGM;
- (B) the Members' Scheme is approved by BLY Shareholders; and
- (C) the Secured Creditors' Scheme and the Unsecured Creditors' Scheme have become Effective,

immediately after completion of Step 5 (*Creditor Share Purchase Option*), all of the Shares which BLY elects to purchase under the Selective Buy-Back will be transferred to BLY and cancelled in accordance with the Corporations Act.

(ii) Provided that:

- (A) the Selective Buy-Back is approved by BLY Shareholders at the EGM;
- (B) the Members' Scheme is approved by BLY Shareholders; and
- (C) the Secured Creditors' Scheme and the Unsecured Creditors' Scheme have become Effective,

the Selective Buy-Back Consideration will be paid (by electronic bank transfer or mailing a cheque) to BLY Shareholders on or about 3 Business Days after the Creditors' Schemes Restructuring Effective Time.

(g) **Step 7 (Subordinate Claim Releases)**

Immediately after completion of clause 8(f)(i) of Step 6 (*Selective Buy-Back*) or, if the conditions in sub-clauses 8(f)(i)(A) to 8(f)(i)(C) are not satisfied such that Step 6 (*Selective Buy-Back*) does not proceed, immediately after completion of Step 5 (*Creditor Share Purchase Option*), the releases provided for in clause 10.2 (*Subordinate Claim releases*) of the Unsecured Creditors' Scheme take effect.

(h) **Step 8 (Confirmation of Scheme Restructuring Effective Time)**

Immediately after completion of Step 7 (*Subordinate Claim Releases*):

- (i) BLY will cause the BLY share register to be updated and provide a copy of it to the Scheme Administrators; and
- (ii) a Scheme Administrator will issue a certificate to the Secured Scheme Creditors and the Unsecured Scheme Creditors advising of the Creditors' Schemes Restructuring Effective Time and notifying each Secured Scheme Creditor and each Unsecured Scheme Creditor of their respective shareholdings in BLY.



(i) **Step 9 (Assumption Deed Poll)**

If the Members' Scheme is approved by the Court and becomes effective under section 411(10) of the Corporations Act, then the Assumption Deed Poll will take effect on the date that the Members' Scheme becomes effective under section 411(10) of the Corporations Act.

(j) **Step 10 (Members' Scheme Implementation)**

If the Members' Scheme is approved by the Court and becomes effective under section 411(10) of the Corporations Act, then, on the Members' Scheme Implementation Date, the Members' Scheme shall be implemented in accordance with clause 3.1 of the Members' Scheme pursuant to which:

- (i) New BLY Parent will issue to the Authorised Nominee one New BLY Parent Share in respect of each Share held by Re-domiciliation Members on the record date for the Members' Scheme;
- (ii) New BLY Parent will issue or procure the issue to each Re-domiciliation Member or the Sale Agent (as applicable) of one New BLY Parent CDI for each Share held by the Re-domiciliation Member on the record date for the Members' Scheme; and
- (iii) BLY, as agent for each Re-domiciliation Member, will procure the transfer to New BLY Parent of all of the Shares held by each Re-domiciliation Member as at the record date for the Members' Scheme.

9. **HOLDING STATEMENTS**

- (a) BLY will procure that each person who is issued new Shares under the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, the Creditor Share Purchase Option and Share Purchase Plan is sent a holding statement (or equivalent document) on or as soon as practicable after the Creditors' Scheme Implementation Date.
- (b) If the Members' Scheme becomes effective under section 411(10) of the Corporations Act, New BLY Parent will procure that each Re-domiciliation Member is sent a holding statement (or equivalent document) representing the number of New BLY Parent CDIs issued to that Re-domiciliation Member under the Members' Scheme within one Business Day following the Members' Scheme Implementation Date.

10. **THE AGENT, THE TLB COLLATERAL AGENT, THE SSN TRUSTEE, THE SUN TRUSTEE, THE BACKSTOP AGENT, THE BACKSTOP COLLATERAL AGENT, THE INCREMENTAL AGENT AND THE INCREMENTAL COLLATERAL AGENT**

10.1 **The Agent**

- (a) The Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Term Loan A and Term Loan B are responsible for their own management functions and decisions relating to the performance of any duty or function by the Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Agent may rely on and assume that (and shall not be required to verify):

- (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
- (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
- (iii) the authority granted pursuant to the Agent Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for the Agent to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.

(d) **(Limitation of liability)**

- (i) If the Agent does not perform any of its obligations under this document and the Agent Deed Poll, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.1(d) only applies to the extent the restriction in the first sentence in this clause 10.1(d)(i) is unenforceable or invalid for any reason.
- (ii) The Agent is not, in the performance or exercise of its obligations, functions and duties under this document or the Agent Deed Poll, personally liable for:
  - (A) any cause of action, claim or loss arising under this document or the Agent Deed Poll (**Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Agent Liabilities**);
  - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Agent Losses**); or
  - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.1(d)(ii) and subject to clause 10.1(d)(v) and to the extent permitted by law:
  - (A) the liability of the Agent to any other party in respect of any Agent Claim is limited to the extent that the Agent is entitled and able to recover the amount of that liability pursuant to the Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further Agent Claim may be made against the Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the Agent's liability applies despite any other provision of this document or the Agent Deed Poll and extends to all liabilities and obligations of the Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the Agent Deed Poll.
- (iv) Each party agrees and acknowledges that it will not, in respect of any Agent Claim:

- (A) subject to clause 10.1(d)(v), bring proceedings against the Agent for any Agent Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the Creditors' Schemes Finance Documents) appointed to the Agent or its assets.
  - (v) The limitation in clause 10.1(d)(iii) does not apply in respect of an Agent Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the Creditors' Schemes Finance Documents; or
    - (B) the actual amount recoverable pursuant to the Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Agent Claim.
  - (vi) This clause 10.1(d) survives completion or termination of this document, the Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Agent for:
    - (A) all Agent Liabilities, Agent Losses and Agent Demands (as defined in clause 10.1(d)); and
    - (B) all personal liability that the Agent may incur in respect of,

the execution of and performance of obligations under, this document and the Agent Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.1(e)(i) is without limitation as to time notwithstanding the removal of the Agent as administrative agent or collateral agent under the Creditors' Schemes Finance Documents and the appointment of a replacement administrative agent or collateral agent, the resignation of the Agent or the termination of this document, the Agent Deed Poll, the Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
  - (iii) The indemnity under clause 10.1(e) shall not:
    - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Agent and shall extend to all actions, suits, proceedings, accounts, Agent Liabilities, Agent Claims and Agent Demands arising in any way out of any defect in the appointment of the Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or

- (B) affect or prejudice all or any rights that the Agent may have against any other person to be indemnified against the Costs, Agent Losses and Agent Liabilities incurred by the Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Agent by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.

## 10.2 **TLB Collateral Agent**

- (a) TLB Collateral Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to the Term Loan B, SSN Indenture and Incremental Finance Documents are responsible for their own management functions and decisions relating to the performance of any duty or function by TLB Collateral Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, TLB Collateral Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) TLB Collateral Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to the TLB Collateral Agent Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for TLB Collateral Agent to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the TLB Collateral Agent does not perform any of its obligations under this document and the TLB Collateral Agent Deed Poll, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.2(d) only applies to the extent the restriction in the first sentence in this clause 10.2(d)(i) is unenforceable or invalid for any reason.
  - (ii) The TLB Collateral Agent is not, in the performance or exercise of its obligations, functions and duties under this document or the TLB Collateral Agent Deed Poll, personally liable for:
    - (A) any cause of action, claim or loss arising under this document or the TLB Collateral Agent Deed Poll (**TLB Collateral Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**TLB Collateral Agent Liabilities**);

- (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**TLB Collateral Agent Losses**); or
- (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**TLB Collateral Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.2(d)(ii) and subject to clause 10.2(d)(v) and to the extent permitted by law:
  - (A) the liability of the TLB Collateral Agent to any other party in respect of any TLB Collateral Agent Claim is limited to the extent that the TLB Collateral Agent is entitled and able to recover the amount of that liability pursuant to the Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further TLB Collateral Agent Claim may be made against the TLB Collateral Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the TLB Collateral Agent's liability applies despite any other provision of this document or the TLB Collateral Agent Deed Poll and extends to all liabilities and obligations of the TLB Collateral Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the TLB Collateral Agent Deed Poll.
- (iv) Each party agrees and acknowledges that it will not, in respect of any TLB Collateral Agent Claim:
  - (A) subject to clause 10.2(d)(v), bring proceedings against the TLB Collateral Agent for any TLB Collateral Agent Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the Creditors' Schemes Finance Documents) appointed to the TLB Collateral Agent or its assets.
- (v) The limitation in clause 10.2(d)(iii) does not apply in respect of a TLB Collateral Agent Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the Creditors' Schemes Finance Documents; or
  - (B) the actual amount recoverable pursuant to the Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the TLB Collateral Agent acting negligently, with wilful misconduct or fraudulently giving rise to the TLB Collateral Agent Claim.

- (vi) This clause 10.2(d) survives completion or termination of this document, the TLB Collateral Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the TLB Collateral Agent for:
  - (A) all TLB Collateral Agent Liabilities, TLB Collateral Agent Losses and TLB Collateral Agent Demands (as defined in clause 10.2(d)); and
  - (B) all personal liability that the TLB Collateral Agent may incur in respect of,  
  
the execution of and performance of obligations under, this document and the TLB Collateral Agent Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
- (ii) The indemnity under clause 10.2(e)(i) is without limitation as to time notwithstanding the removal of the TLB Collateral Agent as trustee or collateral agent under the Creditors' Schemes Finance Documents and the appointment of a replacement trustee or collateral agent, the resignation of the TLB Collateral Agent or the termination of this document, the TLB Collateral Agent Deed Poll, the Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
- (iii) The indemnity under clause 10.2(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the TLB Collateral Agent and shall extend to all actions, suits, proceedings, accounts, TLB Collateral Agent Liabilities, TLB Collateral Agent Claims and TLB Collateral Agent Demands arising in any way out of any defect in the appointment of the TLB Collateral Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the TLB Collateral Agent may have against any other person to be indemnified against the Costs, TLB Collateral Agent Losses and TLB Collateral Agent Liabilities incurred by the TLB Collateral Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the TLB Collateral Agent by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the TLB Collateral Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.

### 10.3 **The SSN Trustee**

- (a) The SSN Trustee's duties and functions under this document are solely mechanical and administrative in nature. The other parties to SSN Indenture are responsible for their own management functions and decisions relating to the performance of any duty or function by the SSN Trustee under this document.

- (b) Notwithstanding any other provision of this document to the contrary, the SSN Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The SSN Trustee may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to the SSN Trustee Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for the SSN Trustee to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the SSN Trustee does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.3(d) only applies to the extent the restriction in the first sentence in this clause 10.3(d)(i) is unenforceable or invalid for any reason.
  - (ii) The SSN Trustee is not, in the performance or exercise of its obligations, functions and duties under this document or the SSN Trustee Deed Poll, personally liable for:
    - (A) any cause of action, claim or loss arising under this document or the SSN Trustee Deed Poll (**SSN Trustee Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**SSN Trustee Liabilities**);
    - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**SSN Trustee Losses**); or
    - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**SSN Trustee Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
  - (iii) Without in any way limiting clause 10.3(d)(ii) and subject to clause 10.3(d)(v) and to the extent permitted by law:
    - (A) the liability of the SSN Trustee to any other party in respect of any SSN Trustee Claim is limited to the extent that the SSN Trustee is entitled and able to recover the amount of that liability pursuant to the SSN Indenture or any other Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
    - (B) no further SSN Trustee Claim may be made against the SSN Trustee for any amount outstanding after exercise of such rights; and

- (C) this limitation of the SSN Trustee's liability applies despite any other provision of this document or the SSN Trustee Deed Poll and extends to all liabilities and obligations of the SSN Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the SSN Trustee Deed Poll.
  - (iv) Each party agrees and acknowledges that it will not, in respect of any SSN Trustee Claim:
    - (A) subject to clause 10.3(d)(v), bring proceedings against the SSN Trustee for any SSN Trustee Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the SSN Indenture) appointed to the SSN Trustee or its assets.
  - (v) The limitation in clause 10.3(d)(iii) does not apply in respect of a SSN Trustee Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the SSN Indenture or any other Creditors' Schemes Finance Documents; or
    - (B) the actual amount recoverable pursuant to the SSN Indenture or any other Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the SSN Trustee acting negligently, with wilful misconduct or fraudulently giving rise to the SSN Trustee Claim.
  - (vi) This clause 10.3(d) survives completion or termination of this document, the SSN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the SSN Indenture, and any other Creditors' Schemes Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the SSN Trustee for:
    - (A) all SSN Trustee Liabilities, SSN Trustee Losses and SSN Trustee Demands (as defined in clause 10.3(d)); and
    - (B) all personal liability that the SSN Trustee may incur in respect of,

the execution of and performance of obligations under, this document and the SSN Trustee Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.3(e)(i) is without limitation as to time notwithstanding the removal of the SSN Trustee as trustee or collateral agent under the SSN Indenture or any other Creditors' Schemes Finance Documents and the appointment of a replacement trustee or collateral agent, the resignation of the SSN Trustee or the termination of this document, the SSN Trustee Deed Poll, the SSN Indenture, any other Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.



- (iii) The indemnity under clause 10.3(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the SSN Trustee and shall extend to all actions, suits, proceedings, accounts, SSN Trustee Liabilities, SSN Trustee Claims and SSN Trustee Demands arising in any way out of any defect in the appointment of the SSN Trustee, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the SSN Trustee may have against any other person to be indemnified against the Costs, SSN Trustee Losses and SSN Trustee Liabilities incurred by the SSN Trustee in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the SSN Trustee by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the SSN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, and the SSN Indenture, and any other Creditors' Schemes Finance Documents.

#### 10.4 **The SUN Trustee**

- (a) The SUN Trustee's duties and functions under this document are solely mechanical and administrative in nature. The other parties to SUN Indenture are responsible for their own management functions and decisions relating to the performance of any duty or function by the SUN Trustee under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the SUN Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The SUN Trustee may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to the SUN Trustee Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for the SUN Trustee to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the SUN Trustee does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.4(d) only applies to the extent the restriction in the first sentence in this clause 10.4(d)(i) is unenforceable or invalid for any reason.
  - (ii) The SUN Trustee is not, in the performance or exercise of its obligations, functions and duties under this document or the SUN Trustee Deed Poll, personally liable for:

- (A) any cause of action, claim or loss arising under this document or the SUN Trustee Deed Poll (**SUN Trustee Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**SUN Trustee Liabilities**);
- (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**SUN Trustee Losses**); or
- (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**SUN Trustee Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.4(d)(ii) and subject to clause 10.4(d)(v) and to the extent permitted by law:
  - (A) the liability of the SUN Trustee to any other party in respect of any SUN Trustee Claim is limited to the extent that the SUN Trustee is entitled and able to recover the amount of that liability pursuant to the SUN Indenture or any other Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further SUN Trustee Claim may be made against the SUN Trustee for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the SUN Trustee's liability applies despite any other provision of this document or the SUN Trustee Deed Poll and extends to all liabilities and obligations of the SUN Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the SUN Trustee Deed Poll.
- (iv) Each party agrees and acknowledges that it will not, in respect of any SUN Trustee Claim:
  - (A) subject to clause 10.4(d)(v), bring proceedings against the SUN Trustee for any SUN Trustee Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the SUN Indenture) appointed to the SUN Trustee or its assets.
- (v) The limitation in clause 10.4(d)(iii) does not apply in respect of a SUN Trustee Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the SUN Indenture or any other Creditors' Schemes Finance Documents; or
  - (B) the actual amount recoverable pursuant to the SUN Indenture or any other Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the SUN Trustee acting negligently, with wilful misconduct or fraudulently giving rise to the SUN Trustee Claim.

- (vi) This clause 10.4(d) survives completion or termination of this document, the SUN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the SUN Indenture, and any other Creditors' Schemes Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the SUN Trustee for:
  - (A) all SUN Trustee Liabilities, SUN Trustee Losses and SUN Trustee Demands (as defined in clause 10.4(d)); and
  - (B) all personal liability that the SUN Trustee may incur in respect of, the execution of and performance of obligations under, this document and the SUN Trustee Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
- (ii) The indemnity under clause 10.4(e)(i) is without limitation as to time notwithstanding the removal of the SUN Trustee as trustee or collateral agent under the SUN Indenture or any other Creditors' Schemes Finance Documents and the appointment of a replacement trustee or collateral agent, the resignation of the SUN Trustee or the termination of this document, the SUN Trustee Deed Poll, the SUN Indenture, any other Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
- (iii) The indemnity under clause 10.4(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the SUN Trustee and shall extend to all actions, suits, proceedings, accounts, SUN Trustee Liabilities, SUN Trustee Claims and SUN Trustee Demands arising in any way out of any defect in the appointment of the SUN Trustee, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the SUN Trustee may have against any other person to be indemnified against the Costs, SUN Trustee Losses and SUN Trustee Liabilities incurred by the SUN Trustee in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the SUN Trustee by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the SUN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, and the SUN Indenture, and any other Creditors' Schemes Finance Documents.

## 10.5 **The Backstop Agent**

- (a) The Backstop Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Existing Backstop ABL are

responsible for their own management functions and decisions relating to the performance of any duty or function by the Backstop Agent under this document.

- (b) Notwithstanding any other provision of this document to the contrary, the Backstop Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Backstop Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Backstop Finance Documents includes such powers and authorities as are sufficient for the Backstop Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Backstop Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.5(d) only applies to the extent the restriction in the first sentence in this clause 10.5(d)(i) is unenforceable or invalid for any reason.
  - (ii) The Backstop Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:
    - (A) any cause of action, claim or loss arising under this document (**Backstop Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Backstop Agent Liabilities**);
    - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Backstop Agent Losses**); or
    - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Backstop Agent Demands**),whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
  - (iii) Without in any way limiting clause 10.5(d)(ii) and subject to clause 10.5(d)(v) and to the extent permitted by law:
    - (A) the liability of the Backstop Agent to any other party in respect of any Backstop Agent Claim is limited to the extent that the Backstop Agent is entitled and able to recover the amount of that liability pursuant to the Backstop Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);

- (B) no further Backstop Agent Claim may be made against the Backstop Agent for any amount outstanding after exercise of such rights; and
    - (C) this limitation of the Backstop Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Backstop Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
  - (iv) Each party agrees and acknowledges that it will not, in respect of any Backstop Agent Claim:
    - (A) subject to clause 10.5(d)(v), bring proceedings against the Backstop Agent for any Backstop Agent Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Backstop Agent or its assets.
  - (v) The limitation in clause 10.5(d)(iii) does not apply in respect of a Backstop Agent Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the Backstop Finance Documents; or
    - (B) the actual amount recoverable pursuant to the Backstop Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Backstop Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Backstop Agent Claim.
  - (vi) This clause 10.5(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Backstop Agent for:
    - (A) all Backstop Agent Liabilities, Backstop Agent Losses and Backstop Agent Demands (as defined in clause 10.5(d)); and
    - (B) all personal liability that the Backstop Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.5(e)(i) is without limitation as to time notwithstanding the removal of the Backstop Agent as agent under the Backstop Finance Documents and the appointment of a replacement agent, the resignation of the Backstop Agent or the termination of this document, the Backstop Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
  - (iii) The indemnity under clause 10.5(e) shall not:

- (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Backstop Agent and shall extend to all actions, suits, proceedings, accounts, Backstop Agent Liabilities, Backstop Agent Claims and Backstop Agent Demands arising in any way out of any defect in the appointment of the Backstop Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
- (B) affect or prejudice all or any rights that the Backstop Agent may have against any other person to be indemnified against the Costs, Backstop Agent Losses and Backstop Agent Liabilities incurred by the Backstop Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Backstop Agent by or in connection with the Backstop Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.

#### 10.6 **The Backstop Collateral Agent**

- (a) The Backstop Collateral Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Existing Backstop ABL are responsible for their own management functions and decisions relating to the performance of any duty or function by the Backstop Collateral Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the Backstop Collateral Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Backstop Collateral Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Backstop Finance Documents includes such powers and authorities as are sufficient for the Backstop Collateral Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Backstop Collateral Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.6(d) only applies to the extent the restriction in the first sentence in this clause 10.6(d)(i) is unenforceable or invalid for any reason.
  - (ii) The Backstop Collateral Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:

- (A) any cause of action, claim or loss arising under this document (**Backstop Collateral Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Backstop Collateral Agent Liabilities**);
- (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Backstop Collateral Agent Losses**); or
- (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Backstop Collateral Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.6(d)(ii) and subject to clause 10.6(d)(v) and to the extent permitted by law:
  - (A) the liability of the Backstop Collateral Agent to any other party in respect of any Backstop Collateral Agent Claim is limited to the extent that the Backstop Collateral Agent is entitled and able to recover the amount of that liability pursuant to the Backstop Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further Backstop Collateral Agent Claim may be made against the Backstop Collateral Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the Backstop Collateral Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Backstop Collateral Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (iv) Each party agrees and acknowledges that it will not, in respect of any Backstop Collateral Agent Claim:
  - (A) subject to clause 10.6(d)(v), bring proceedings against the Backstop Collateral Agent for any Backstop Collateral Agent Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Backstop Collateral Agent or its assets.
- (v) The limitation in clause 10.6(d)(iii) does not apply in respect of a Backstop Collateral Agent Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the Backstop Finance Documents; or
  - (B) the actual amount recoverable pursuant to the Backstop Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Backstop Collateral Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Backstop Collateral Agent Claim.

- (vi) This clause 10.6(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Backstop Collateral Agent for:

- (A) all Backstop Collateral Agent Liabilities, Backstop Collateral Agent Losses and Backstop Collateral Agent Demands (as defined in clause 10.6(d)); and
- (B) all personal liability that the Backstop Collateral Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.

- (ii) The indemnity under clause 10.6(e)(i) is without limitation as to time notwithstanding the removal of the Backstop Collateral Agent as collateral agent under the Backstop Finance Documents and the appointment of a replacement collateral agent, the resignation of the Backstop Collateral Agent or the termination of this document, the Backstop Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.

- (iii) The indemnity under clause 10.6(e) shall not:

- (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Backstop Collateral Agent and shall extend to all actions, suits, proceedings, accounts, Backstop Collateral Agent Liabilities, Backstop Collateral Agent Claims and Backstop Collateral Agent Demands arising in any way out of any defect in the appointment of the Backstop Collateral Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
- (B) affect or prejudice all or any rights that the Backstop Collateral Agent may have against any other person to be indemnified against the Costs, Backstop Collateral Agent Losses and Backstop Collateral Agent Liabilities incurred by the Backstop Collateral Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Backstop Collateral Agent by or in connection with the Backstop Finance Documents.

- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.

## 10.7 **The Incremental Agent**

- (a) The Incremental Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Incremental Finance Facility are responsible for their own management functions and decisions relating



to the performance of any duty or function by the Incremental Agent under this document.

- (b) Notwithstanding any other provision of this document to the contrary, the Incremental Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Incremental Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Incremental Finance Documents includes such powers and authorities as are sufficient for the Incremental Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Incremental Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.7(d) only applies to the extent the restriction in the first sentence in this clause 10.7(d)(i) is unenforceable or invalid for any reason.
  - (ii) The Incremental Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:
    - (A) any cause of action, claim or loss arising under this document (**Incremental Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Incremental Agent Liabilities**);
    - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Incremental Agent Losses**); or
    - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Incremental Agent Demands**),whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
  - (iii) Without in any way limiting clause 10.7(d)(ii) and subject to clause 10.7(d)(v) and to the extent permitted by law:
    - (A) the liability of the Incremental Agent to any other party in respect of any Incremental Agent Claim is limited to the extent that the Incremental Agent is entitled and able to recover the amount of that liability pursuant to the Incremental Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);

- (B) no further Incremental Agent Claim may be made against the Incremental Agent for any amount outstanding after exercise of such rights; and
    - (C) this limitation of the Incremental Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Incremental Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
  - (iv) Each party agrees and acknowledges that it will not, in respect of any Incremental Agent Claim:
    - (A) subject to clause 10.7(d)(v), bring proceedings against the Incremental Agent for any Incremental Agent Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Incremental Agent or its assets.
  - (v) The limitation in clause 10.7(d)(iii) does not apply in respect of an Incremental Agent Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the Incremental Finance Documents; or
    - (B) the actual amount recoverable pursuant to the Incremental Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Incremental Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Incremental Agent Claim.
  - (vi) This clause 10.7(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Incremental Agent for:
    - (A) all Incremental Agent Liabilities, Incremental Agent Losses and Incremental Agent Demands (as defined in clause 10.7(d)); and
    - (B) all personal liability that the Incremental Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.7(e)(i) is without limitation as to time notwithstanding the removal of the Incremental Agent as agent under the Incremental Finance Documents and the appointment of a replacement agent, the resignation of the Incremental Agent or the termination of this document, the Incremental Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.

- (iii) The indemnity under clause 10.7(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Incremental Agent and shall extend to all actions, suits, proceedings, accounts, Incremental Agent Liabilities, Incremental Agent Claims and Incremental Agent Demands arising in any way out of any defect in the appointment of the Incremental Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the Incremental Agent may have against any other person to be indemnified against the Costs, Incremental Agent Losses and Incremental Agent Liabilities incurred by the Incremental Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Incremental Agent by or in connection with the Incremental Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.

#### 10.8 **The Incremental Collateral Agent**

- (a) The Incremental Collateral Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to the Incremental Finance Facility are responsible for their own management functions and decisions relating to the performance of any duty or function by the Incremental Collateral Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the Incremental Collateral Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Incremental Collateral Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Incremental Finance Documents includes such powers and authorities as are sufficient for the Incremental Collateral Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Incremental Collateral Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.8(d) only applies to the extent the restriction in the first sentence in this clause 10.8(d)(i) is unenforceable or invalid for any reason.

- (ii) The Incremental Collateral Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:
  - (A) any cause of action, claim or loss arising under this document (**Incremental Collateral Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Incremental Collateral Agent Liabilities**);
  - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Incremental Collateral Agent Losses**); or
  - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Incremental Collateral Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
- (iii) Without in any way limiting clause 10.8(d)(ii) and subject to clause 10.8(d)(v) and to the extent permitted by law:
  - (A) the liability of the Incremental Collateral Agent to any other party in respect of any Incremental Collateral Agent Claim is limited to the extent that the Incremental Collateral Agent is entitled and able to recover the amount of that liability pursuant to the Incremental Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further Incremental Collateral Agent Claim may be made against the Incremental Collateral Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the Incremental Collateral Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Incremental Collateral Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (iv) Each party agrees and acknowledges that it will not, in respect of any Incremental Collateral Agent Claim:
  - (A) subject to clause 10.8(d)(v), bring proceedings against the Incremental Collateral Agent for any Incremental Collateral Agent Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Incremental Collateral Agent or its assets.
- (v) The limitation in clause 10.8(d)(iii) does not apply in respect of an Incremental Collateral Agent Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the Incremental Finance Documents; or

- (B) the actual amount recoverable pursuant to the Incremental Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Incremental Collateral Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Incremental Collateral Agent Claim.

- (vi) This clause 10.8(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Incremental Collateral Agent for:

- (A) all Incremental Collateral Agent Liabilities, Incremental Collateral Agent Losses and Incremental Collateral Agent Demands (as defined in clause 10.8(d)); and

- (B) all personal liability that the Incremental Collateral Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.

- (ii) The indemnity under clause 10.8(e)(i) is without limitation as to time notwithstanding the removal of the Incremental Collateral Agent as collateral agent under the Incremental Finance Documents and the appointment of a replacement collateral agent, the resignation of the Incremental Collateral Agent or the termination of this document, the Incremental Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.

- (iii) The indemnity under clause 10.8(e) shall not:

- (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Incremental Collateral Agent and shall extend to all actions, suits, proceedings, accounts, Incremental Collateral Agent Liabilities, Incremental Collateral Agent Claims and Incremental Collateral Agent Demands arising in any way out of any defect in the appointment of the Incremental Collateral Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or

- (B) affect or prejudice all or any rights that the Incremental Collateral Agent may have against any other person to be indemnified against the Costs, Incremental Collateral Agent Losses and Incremental Collateral Agent Liabilities incurred by the Incremental Collateral Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Incremental Collateral Agent by or in connection with the Incremental Finance Documents.

- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.

## 11. **LIABILITY OF SCHEME ADMINISTRATORS**

### 11.1 **Liability**

The Scheme Administrators are not, in the performance or exercise of its powers, obligations, functions and duties under this document, personally liable for:

- (a) any Claims or obligations of any kind whatsoever incurred by or on behalf of any party including, without limitation, any monies borrowed and interest thereon and any contracts adopted or otherwise agreed and any Stamp Duty payable on this document and any tax liable to be remitted or otherwise paid (**Liabilities**);
- (b) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Losses**); or
- (c) any actions, suits, proceedings, accounts, Claims or demands arising out of this document which may be commenced, incurred by or made by any person and all Costs incurred in respect thereof (**Demands**),

whether before, during or after the Execution Effective Date, unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.

### 11.2 **Indemnity**

- (a) The Scheme Companies shall indemnify each Scheme Administrator for:
  - (i) all Liabilities, Losses and Demands (as defined in clause 11.1); and
  - (ii) all personal liability that a Scheme Administrator may incur in respect of his or her role as Scheme Administrator,unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.
- (b) The indemnity under clause 11.2(a) takes effect on and from the Execution Effective Date and is without limitation as to time notwithstanding the removal of a Scheme Administrator and the appointment of a replacement Scheme Administrator, the resignation of a Scheme Administrator or the termination of this document for any reason whatsoever.
- (c) The indemnity under clause 11.2(a) shall not:
  - (i) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of a Scheme Administrator and shall extend to all actions, suits, proceedings, accounts, Liabilities, Claims and Demands arising in any way out of any defect in the appointment of a Scheme Administrator, the approval and implementation of this document or otherwise; or
  - (ii) affect or prejudice all or any rights that a Scheme Administrator may have against any other person to be indemnified against the Costs, Losses and Liabilities incurred by a Scheme Administrator in, or incidental to the exercise or performance of any of the powers or authorities conferred on a Scheme Administrator by or in connection with this document.
- (d) This indemnity survives completion or termination of this document.

## 12. **TERMINATION**

### 12.1 **Complete implementation**

This document will terminate following the completion of each of the Implementation Steps.

### 12.2 **Sunset date**

If the Creditors' Schemes Restructuring Effective Time has not occurred by 11.59 pm on the Sunset Date, then with effect from that time, this document will not be capable of implementation and this document will lapse, terminate and be of no further force or effect.

### 12.3 **Obligations on termination**

- (a) If this document is terminated, all obligations of the parties under this document, other than clauses 6.1(c)(ii), 10.1(d) (*Limitation of liability*), 10.1(e) (*Indemnity*), 10.2(d) (*Limitation of liability*), 10.2(e) (*Indemnity*), 10.3(d) (*Limitation of liability*), 10.3(e) (*Indemnity*), 10.4(d) (*Limitation of liability*), 10.4(e) (*Indemnity*), 10.5(d) (*Limitation of liability*), 10.5(e) (*Indemnity*), 10.6(d) (*Limitation of liability*), 10.6(e) (*Indemnity*), 10.7(d) (*Limitation of liability*), 10.7(e) (*Indemnity*), 10.8(d) (*Limitation of liability*), 10.8(e) (*Indemnity*), 11 (*Liability of Scheme Administrators*), 14 (*Representations and warranties*), 15 (*GST*), 16 (*Notices*), 17 (*General*), immediately cease to be of further effect.
- (b) The termination of this document does not affect any Claim that a party may have against another party where that Claim arose before this document is terminated.

## 13. **VARIATIONS BY THE COURT**

Each party shall be bound by any alterations or conditions to this document required by the Court under section 411(6) of the Corporations Act, provided the alterations or conditions do not change the substance of this document in any material respect or impose unduly onerous obligations on any of the parties, acting reasonably.

## 14. **REPRESENTATIONS AND WARRANTIES**

### 14.1 **Mutual representations and warranties**

Each party represents and warrants to each other party that:

- (a) **(status)** it is a validly existing corporation under the laws of its place of incorporation;
- (b) **(power)** it has full legal capacity and power to:
  - (i) own its property and to carry on its business; and
  - (ii) enter into this document and carry out the transactions that this document contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this document and carrying out the transactions that this document contemplates in accordance with its terms; and
- (d) **(document effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms.

#### 14.2 **Reliance on representations and warranties**

Each party acknowledges that each other party has executed this document and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made in clause 14.1.

#### 14.3 **When warranties are given**

Each representation and warranty given or made under clause 14.1 is given:

- (a) as at the date of this document; and
- (b) at any other date at which the representation or warranty is expressed to be given under this document.

### 15. **GST**

#### 15.1 **GST pass on**

If GST is or will be payable on a supply made under or in connection with this document, to the extent that the consideration otherwise provided for that supply under this document is not stated to include an amount for GST on the supply:

- (a) the consideration otherwise provided for that supply under this document is increased by the amount of that GST; and
- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within seven days of receiving a written demand from the supplier.

#### 15.2 **Tax Invoice**

The right of the supplier to recover any amount in respect of GST under this document on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient.

#### 15.3 **Consideration exclusive of GST**

Any consideration otherwise provided for a supply or payment obligation in connection with this document is exclusive of GST unless stated otherwise.

#### 15.4 **Adjustments**

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier within 14 days of becoming aware of the adjustment event:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the supplier is entitled to a refund or credit from the Commissioner of Taxation.



## 15.5 **Reimbursements**

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party, or used as the basis for calculation of consideration for a supply, under this document must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

## 16. **NOTICES**

### 16.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it (which includes typing the person's name in an email);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) sent by pre-paid mail (by airmail, if the addressee is overseas) or delivered to that person's address;
  - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full without error; or
  - (iii) sent in electronic form (such as email).

### 16.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is sent by fax or delivered, if received:
  - (i) by 5.00 pm (local time in the place of receipt) on a Business Day - on that day; or
  - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day;
- (b) if it is sent by mail:
  - (i) within Australia - three Business Days after posting; or
  - (ii) to or from a place outside Australia - seven Business Days after posting; and
- (c) if it is sent in electronic form - when the sender receives confirmation on its server that the message has been transmitted:
  - (i) if it is transmitted by 5.00 pm (Sydney time) on a Business Day - on that Business Day; or
  - (ii) if it is transmitted after 5.00 pm (Sydney time) on a Business Day, or on a day that is not a Business Day - on the next Business Day.

### 16.3 Address for notices

A person's mail and email address are those set out below, or as the person notifies the sender:

#### **BLY / Scheme Companies**

As set out in the table in the column "Notice details" in schedule 1.

#### **Secured Scheme Creditors**

Address: FTI Consulting, Level 22, Gateway, 1 Macquarie Place, Sydney NSW 2000

Email Address: chris.hill@fticonsulting.com and david.mcgrath@fticonsulting.com

Attention: Chris Hill and David McGrath

#### **Unsecured Scheme Creditors**

Address: FTI Consulting, Level 22, Gateway, 1 Macquarie Place, Sydney NSW 2000

Email Address: chris.hill@fticonsulting.com and david.mcgrath@fticonsulting.com

Attention: Chris Hill and David McGrath

#### **Scheme Administrators**

Address: FTI Consulting, Level 22, Gateway, 1 Macquarie Place, Sydney NSW 2000

Email Address: chris.hill@fticonsulting.com and david.mcgrath@fticonsulting.com

Attention: Chris Hill and David McGrath

#### **Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890

Email Address: JFeil@WilmingtonTrust.com

Phone: +1-302-636-6466

Fax: +1-302-636-4145

Attention: Joseph B. Feil

#### **TLB Collateral Agent**

Address: U.S. National Association  
Global Corporate Trust  
101 North First Avenue, Suite 1600  
Phoenix, AZ 85003

Email Address: mary.ambrizreyes@usbank.com

Attention: Mary Ambriz-Reyes

With a copy to:

Address: Greenberg Traurig, LLP  
90 South 7th Street, Suite 3500  
Minneapolis, MN 55402

Email Address: fiscom@gtlaw.com and kieselbachp@gtlaw.com

Attention: Michael B. Fisco and Peter Kieselbach

#### **SSN Trustee**

Address: U.S. National Association  
Global Corporate Trust  
101 North First Avenue, Suite 1600  
Phoenix, AZ 85003

Email Address: mary.ambrizreyes@usbank.com

Attention: Mary Ambriz-Reyes

With a copy to:

Address: Greenberg Traurig, LLP  
90 South 7th Street, Suite 3500  
Minneapolis, MN 55402  
Email Address: fiscom@gtlaw.com and kieselbachp@gtlaw.com  
Attention: Michael B. Fisco and Peter Kieselbach

**SUN Trustee**

Address: Delaware Trust Company  
251 Little Falls Drive  
Wilmington, Delaware 19808  
Email Address: trust@delawaretrust.com  
Attention: Trust Administration

With a copy to:

Address: Golenbock Eiseman Assor Bell & Peskoe LLP  
711 Third Avenue, 17th Floor  
New York, New York 10017  
Email Address: jflaxer@golenbock.com  
Attention: Jonathan L. Flaxer

**New BLY Parent**

Address: 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in  
the State of South Australia  
Email Address: nora.pincus@boartlongyear.com  
Attention: Nora Pincus

With a copy to:

Address: c/o Ashurst  
Level 11, 5 Martin Place, Sydney, NSW 2000  
Email Address: James.Marshall@ashurst.com and Alinta.Kemeny@ashurst.com  
Attention: James Marshall and Alinta Kemeny

**Incremental Financiers**

As set out in the table in the column "Notice details" in schedule 1.

**Incremental Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Email Address: JFeil@WilmingtonTrust.com  
Phone: +1-302-636-6466  
Fax: +1-302-636-4145  
Attention: Joseph B. Feil

**Incremental Collateral Agent**

Address: U.S. National Association  
Global Corporate Trust  
101 North First Avenue, Suite 1600  
Phoenix, AZ 85003  
Email Address: mary.ambrizreyes@usbank.com  
Attention: Mary Ambriz-Reyes

With a copy to:

Address: Greenberg Traurig, LLP  
90 South 7th Street, Suite 3500  
Minneapolis, MN 55402  
Email Address: fiscom@gtlaw.com and kieselbachp@gtlaw.com  
Attention: Michael B. Fisco and Peter Kieselbach

**Existing Backstop ABL Financiers**

As set out in the in the column "Notice details" in table in Schedule 1.

**Backstop Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Email Address: JFeil@WilmingtonTrust.com  
Phone: +1-302-636-6466  
Fax: +1-302-636-4145  
Attention: Joseph B. Feil

**Backstop Collateral Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Email Address: JFeil@WilmingtonTrust.com  
Phone: +1-302-636-6466  
Fax: +1-302-636-4145  
Attention: Joseph B. Feil

**17. GENERAL**

**17.1 Giving effect to this document**

Each party must do anything within its power (including execute any document) that the other party may reasonably require to give full effect to this document.

**17.2 Governing Law**

- (a) This document is governed by the laws of the State of New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of that State and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this document.

**17.3 Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

**17.4 No partnership or agency**

Nothing in this document is to be treated as creating a partnership and, except as specifically provided in this document, no party may act as agent of or in any way bind another party to any obligation.

#### 17.5 **Consents**

Where this document contemplates that a party may agree or consent to something (however it is described), unless this document expressly contemplates otherwise, the party may:

- (a) agree or consent, or not agree or consent, in its sole and absolute discretion; and
- (b) agree or consent subject to conditions.

#### 17.6 **Counterparts**

This document may be executed in counterparts. Delivery of a counterpart of this document by email attachment constitutes an effective mode of delivery.

## SCHEDULE 1

### 1. Parties

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
Scheme Companies			
Boart Longyear Limited	ACN 123 052 728	Address: 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia  Email: nora.pincus@boartlongyear.com  With a copy to:  c/o Ashurst  Level 11, 5 Martin Place, Sydney, NSW 2000  Email Address: James.Marshall@ashurst.com Alinta.Kemeny@ashurst.com  Attention: James Marshall and Alinta Kemeny	BLY
Boart Longyear Management Pty Limited	ACN 123 283 545		BLY Issuer
Boart Longyear Australia Pty Ltd	ACN 000 401 025		BLA
Boart Longyear Investments Pty Limited	ACN 124 070 373		BLI
Votraint No. 1609 Pty Limited	ACN 119 244 272		Votraint
BL Capital Management LLC	ARBN 649 445 321		BCM
BLY US Holdings Inc.	ARBN 649 445 394		BLY US
Incremental Financiers			
Corre Opportunities Qualified Master Fund, LP		c/o Corre Partners Management, LLC  Email: john@correpartners.com and skapadia@correpartners.com  Attention: John Barrett and Saurabh Kapadia  12 E. 49th St., 40th Fl.  New York, NY 10017  United States    - with a copy, which shall not constitute notice, to –  Paul, Weiss, Rifkind, Wharton & Garrison LLP  Email: arosenberg@paulweiss.com, emccolm@paulweiss.com.	
Corre Horizon Fund, LP			

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>mturkel@paulweiss.com and xpang@paulweiss.com</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Willkie Farr &amp; Gallagher LLP</p> <p>787 Seventh Avenue New York, NY 10019</p> <p>Attention: Brian Lennon</p> <p>Facsimile: 212-728-9295</p> <p>Email: blennon@willkie.com</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>- with a copy, which shall not constitute notice, to –</p> <p>Corrs Chambers Westgarth 8 Chifley Square Sydney NSW 2000 Attention: Ben Emblin Email: ben.emblin@corrs.com.au</p>	
First Pacific Advisors, LP, (as investment advisor of Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, The Health Plan of West Virginia, Inc., The Nature Conservancy)		<p>c/o First Pacific Advisors, LP Email: ebrown@fpa.com, abhi@fpa.com and jchoi@fpa.com Attention: Eric Brown, Abhi Patwardhan and Joe Choi 11601 Wilshire Boulevard, Suite 1200 Los Angeles, California 90025 United States</p> <p>- with a copy, which shall not constitute notice, to – Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p>	
FPA New Income, Inc.		<p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang 1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to – Gilbert + Tobin Email: DEmmett@gtlaw.com.au Attention: Dominic Emmett L35, Tower Two, International Towers Sydney 200 Barangaroo Avenue, Barangaroo NSW 2000</p>	



Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney Email: David.Clee@CliffordChance.com Attention: David Clee Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Willkie Farr &amp; Gallagher LLP 787 Seventh Avenue New York, NY 10019 Attention: Brian Lennon Facsimile: 212-728-9295 Email: blennon@willkie.com</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Corrs Chambers Westgarth 8 Chifley Square Sydney NSW 2000 Attention: Ben Emblin Email: ben.emblin@corrs.com.au</p>	
Nut Tree Capital Management LP, (as investment advisor of Nut Tree Master Fund, LP)		<p>c/o Nut Tree Capital Management Email: ssilver@nuttreecapital.com Attention: Scott Silver 55 Hudson Yards, 22 FL New York, NY 10001 United States</p> <p>- with a copy, which shall not constitute notice, to –</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Willkie Farr &amp; Gallagher LLP</p> <p>787 Seventh Avenue New York, NY 10019 Attention: Brian Lennon</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Facsimile: 212-728-9295</p> <p>Email: blennon@willkie.com</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Corrs Chambers Westgarth</p> <p>8 Chifley Square</p> <p>Sydney NSW 2000</p> <p>Attention: Ben Emblin</p> <p>Email: ben.emblin@corrs.com.au</p>	
<b>Existing Backstop ABL Financiers</b>			
CCP II Acquisition Holdings, LLC		<p>375 Park Ave, 11th Floor</p> <p>New York, New York 10152</p>	
Centerbridge Credit Partners Master AIV III, LP		<p>United States</p> <p>Attention: The Office of the General Counsel</p>	
Centerbridge Special Credit Partners Master II AIV III, L.P.		<p>Email: legalnotices@centerbridge.com and</p> <p>c/o Centerbridge Partners, L.P.</p> <p>Email: ctotchilin@centerbridge.com</p> <p>Attention: Conor Tochilin</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Kirkland &amp; Ellis LLP</p> <p>Email: asathy@kirkland.com and john.luze@kirkland.com</p> <p>Attention: Anup Sathy, P.C., and John R. Luze</p> <p>300 North LaSalle</p> <p>Chicago, Illinois 60654</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>MinterEllison</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Email: ron.forster@minterellison.com and michael.hughes@minterellison.com</p> <p>Attention: Ron Forster and Michael Hughes</p> <p>Governor Macquarie Tower</p> <p>1 Farrer Place Sydney NSW 2000</p> <p>Australia</p>	
Corre Horizon Fund, LP		<p>c/o Corre Partners Management, LLC</p> <p>Email: john@correpartners.com and skapadia@correpartners.com</p>	
Corre Opportunities Qualified Master Fund, LP		<p>Attention: John Barrett and Saurabh Kapadia</p> <p>12 E. 49th St., 40th Fl.</p> <p>New York, NY 10017</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	
FPA New Income, Inc.		<p>c/o First Pacific Advisors, LP</p> <p>Email: ebrown@fpa.com, abhi@fpa.com and jchoi@fpa.com</p>	
Motion Picture Industry Health Plan (Active)		<p>Attention: Eric Brown, Abhi Patwardhan and Joe Choi</p>	
Motion Picture Industry Health Plan (Retiree)		<p>11601 Wilshire Boulevard, Suite 1200</p> <p>Los Angeles, California 90025</p> <p>United States</p>	
Motion Picture Industry Individual Account Plan		<p>- with a copy, which shall not constitute notice, to –</p>	
The Nature Conservancy		<p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com</p>	
SAG-AFTRA Health Plan (FKA Screen Actors Guild – Producers Health Plan)		<p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p>	
The Health Plan (FKA The Health Plan of Upper Ohio Valley, Inc)		<p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000</p> <p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	

## 2. CBP and AHG

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
<b>CBP</b>			
CCP II Acquisition Holdings, LLC.		375 Park Ave, 11th Floor New York, New York 10152	<b>CBP</b>
Centerbridge Credit Partners Master AIV III, L.P.		United States Attention: The Office of the General Counsel	
Centerbridge Credit Partners Master, L.P.		Email: legalnotices@centerbridge.com and	
Centerbridge Special Credit Partners Master II AIV III, L.P.		c/o Centerbridge Partners, L.P. Email: ctchilin@centerbridge.com Attention: Conor Tochilin	
Centerbridge Special Credit Partners II, L.P.		- with a copy, which shall not constitute notice, to – Kirkland & Ellis LLP	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Email: asathy@kirkland.com and john.luze@kirkland.com</p> <p>Attention: Anup Sathy, P.C., and John R. Luze</p> <p>300 North LaSalle</p> <p>Chicago, Illinois 60654</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>MinterEllison</p> <p>Email: ron.forster@minterellison.com and michael.hughes@minterellison.com</p> <p>Attention: Ron Forster and Michael Hughes</p> <p>Governor Macquarie Tower</p> <p>1 Farrer Place Sydney NSW 2000</p> <p>Australia</p>	
<b>AHG</b>			
Ascribe II Investments LLC		<p>c/o Ascribe Capital</p> <p>Attention: Lawrence First and Eric Schondorf</p> <p>590 Madison Avenue, 38th Floor</p> <p>New York, New York 10022</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p>	<b>Ascribe</b>

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000</p> <p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	
Corre Opportunities Qualified Master Fund, LP		c/o Corre Partners Management, LLC	<b>Corre</b>
Corre Horizon Fund, LP		<p>Attention: John Barrett and Saurabh Kapadia</p> <p>12 E. 49th St., 40th Fl.</p> <p>New York, NY 10017</p> <p>United States</p>	
Corre Horizon II Fund, LP		<p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p>	



Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Attention: Dominic Emmett L35, Tower Two, International Towers Sydney 200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to – Clifford Chance, Sydney Attention: David Clee Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p>	
FPA New Income, Inc.		c/o First Pacific Advisors, LP	<b>FPA</b>
Motion Picture Industry Health Plan (Active)		<p>Attention: Eric Brown, Abhi Patwardhan and Joe Choi 11601 Wilshire Boulevard, Suite 1200 Los Angeles, California 90025 United States</p> <p>Email: ebrown@fpa.com, abhi@fpa.com and jchoi@fpa.com</p>	
Motion Picture Industry Health Plan (Retiree)			
Motion Picture Industry Individual Account Plan			
SAG-AFTRA Health Plan			
The Health Plan of West Virginia, Inc.			
The Nature Conservancy		<p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang 1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to – Gilbert + Tobin Attention: Dominic Emmett</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to – Clifford Chance, Sydney Attention: David Clee Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p>	
Nut Tree Master Fund, LP		<p>c/o Nut Tree Capital Management Attention: Scott Silver 55 Hudson Yards, 22 FL New York, NY 10001 United States</p> <p>- with a copy, which shall not constitute notice, to – Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang 1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to – Gilbert + Tobin Attention: Dominic Emmett L35, Tower Two, International Towers Sydney 200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p>	<b>Nut Tree</b>

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	
ARES Institutional High Yield Master Fund LP		c/o Ares Management LLC	<b>Ares</b>
Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust		<p>Attention: Russell Almeida and Joanne Hanson Bonney</p> <p>800 Corporate Point Suite 300</p> <p>Los Angeles, CA 90230</p> <p>United States</p>	
Kaiser Foundation Hospitals		<p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p>	
Lucent Technologies Inc. Master Pension Trust		<p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p>	
Seattle City Employees' Retirement System		United States	
SEI Global Master Fund PLC			
SEI Institutional Investment Trust - High Yield Bond Fund		<p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p>	
SEI Institutional Managed Trust - High Yield Bond Fund		<p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue,</p> <p>Barangaroo NSW 2000</p> <p>Australia</p>	
SEI Investments Canada Company – U.S. High Yield Bond Fund		<p>- with a copy, which shall not constitute notice, to –</p>	
Superannuation Funds Management			

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
Corporation of South Australia		Clifford Chance, Sydney Attention: David Clee	
Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund		Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia	

## SCHEDULE 2

### Restructuring Documents

	Document
1.	Restructuring Implementation Deed
2.	Secured Creditors' Scheme
3.	Unsecured Creditors' Scheme
4.	Members' Scheme
5.	Share Purchase Plan
6.	Selective Buy-Back
7.	Exit Financing Documents
8.	Assumption Deed Poll
9.	New Warrants
10.	CBP Director Nomination Agreement
11.	AHG Director Nomination Agreements

**EXECUTED** as a deed

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**Scheme Companies**

**EXECUTED by BOART LONGYEAR  
LIMITED ACN 123 052 728:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BOART LONGYEAR  
MANAGEMENT PTY LIMITED ACN 123  
283 545:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BOART LONGYEAR  
AUSTRALIA PTY LTD ACN 000 401  
025:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BOART LONGYEAR  
INVESTMENTS PTY LIMITED ACN 124  
070 373:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by VOTRAINT NO. 1609  
PTY LIMITED ACN 119 244 272:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BL CAPITAL  
MANAGEMENT LLC ARBN 649 445  
321:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BLY US HOLDINGS INC.  
ARBN 649 445 394:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**Secured Scheme Creditors**

**SIGNED, SEALED and DELIVERED by A  
SECURED SCHEME ADMINISTRATOR  
FOR AND ON BEHALF OF THE  
SECURED SCHEME CREDITORS** in the  
presence of:

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**Unsecured Scheme Creditors**

**SIGNED, SEALED and DELIVERED by  
AN UNSECURED SCHEME  
ADMINISTRATOR FOR AND ON  
BEHALF OF THE UNSECURED SCHEME  
CREDITORS** in the presence of:

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date of power of attorney

\_\_\_\_\_  
Address of witness



**Scheme Administrators**

**SIGNED, SEALED and DELIVERED** by  
**CHRISTOPHER CLARKE HILL** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**SIGNED, SEALED and DELIVERED** by  
**DAVID PETER MCGRATH** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
administrative agent and collateral agent  
under the Term Loan A and the Term Loan  
B in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SSN Trustee**

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as trustee and collateral  
agent under the SSN Indenture in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**TLB Collateral Agent**

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as collateral agent for the  
TLB Purchasers in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SUN Trustee**

**SIGNED, SEALED AND DELIVERED** by  
**DELAWARE TRUST COMPANY** in its  
capacity as trustee under the SUN  
Indenture in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**New BLY Parent**

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR LTD.** in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Incremental Financiers**

**SIGNED, SEALED AND DELIVERED** by  
**CORRE OPPORTUNITIES QUALIFIED**  
**MASTER FUND, LP** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CORRE HORIZON FUND, LP** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**FIRST PACIFIC ADVISORS, LP, (AS  
INVESTMENT ADVISOR OF MOTION  
PICTURE INDUSTRY HEALTH PLAN  
(ACTIVE), MOTION PICTURE  
INDUSTRY HEALTH PLAN (RETIREE),  
MOTION PICTURE INDUSTRY  
INDIVIDUAL ACCOUNT PLAN, THE  
HEALTH PLAN OF WEST VIRGINIA,  
INC., THE NATURE CONSERVANCY)** in  
the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**FPA NEW INCOME, INC.** in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory



**SIGNED, SEALED AND DELIVERED** by  
**NUT TREE CAPITAL MANAGEMENT LP**  
in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Incremental Collateral Agent**

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as collateral agent under  
the Incremental Finance Facility in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Incremental Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as agent  
under the Incremental Finance Facility in  
the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Existing Backstop ABL Financiers**

**SIGNED, SEALED AND DELIVERED** by  
**CCP II ACQUISITION HOLDINGS, LLC**  
in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CENTERBRIDGE CREDIT PARTNERS**  
**MASTER AIV III, LP** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CENTERBRIDGE SPECIAL CREDIT**  
**PARTNERS MASTER II AIV III, L.P.** in  
the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CORRE HORIZON FUND, LP** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CORRE OPPORTUNITIES QUALIFIED  
MASTER FUND, LP** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**FPA NEW INCOME, INC.** in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**MOTION PICTURE INDUSTRY HEALTH  
PLAN (ACTIVE)** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**MOTION PICTURE INDUSTRY HEALTH  
PLAN (RETIREE)** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**MOTION PICTURE INDUSTRY**  
**INDIVIDUAL ACCOUNT PLAN** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**THE NATURE CONSERVANCY** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**SAG-AFTRA HEALTH PLAN (FKA**  
**SCREEN ACTORS GUILD –**  
**PRODUCERS HEALTH PLAN)** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**THE HEALTH PLAN (FKA THE HEALTH  
PLAN OF UPPER OHIO VALLEY, INC)** in  
the presence of:



---

Signature of witness

---

Signature of authorised signatory

---

Name of witness

---

Name of authorised signatory



**Backstop Collateral Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
collateral agent under the Existing  
Backstop ABL in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Backstop Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as agent  
under the Existing Backstop ABL in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

### **SCHEDULE 3**

#### **Secured Scheme Administrators Deed Poll**



# Secured Scheme Administrators Deed Poll

The Secured Scheme Administrators

2021

**THIS DEED POLL** is made on

2021

**MADE BY:**

- (1) **Christopher Clarke Hill** and **David Peter McGrath** of FTI Consulting, (the **Secured Scheme Administrators**)

**IN FAVOUR OF:**

- (2) each Secured Scheme Creditor;  
(3) the Agent;  
(4) the TLB Collateral Agent;  
(5) the SSN Trustee;  
(6) each Released Individual; and  
(7) each Obligor,  
(each, a **Recipient**).

**THE SECURED SCHEME ADMINISTRATORS DECLARE:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Secured Scheme Creditors substantially in the form set out in Schedule 1 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme has the same meaning when used in this deed poll.

1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Secured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Scheme Administrator in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

1.4 **Joint and several obligations**

This deed poll binds each Scheme Administrator jointly and severally.

### 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

### 2. **CONDITIONS TO OBLIGATIONS**

The obligations of the Secured Scheme Administrators under this deed poll are subject to the Secured Creditors' Scheme becoming Effective.

### 3. **CONSENT TO ACT**

Each Scheme Administrator:

- (a) consents to act as a scheme administrator in accordance with the terms and conditions of the Secured Creditors' Scheme;
- (b) acknowledges that another person may be appointed to act as scheme administrator under the Secured Creditors' Scheme;
- (c) represents and warrants that he or she is not disqualified from acting as a scheme administrator of the Secured Creditors' Scheme pursuant to section 411(7) of the Corporations Act; and
- (d) undertakes to notify the Scheme Companies, the Agent, the TLB Collateral Agent and the SSN Trustee immediately if the representation and warranty in clause 3(c) ceases to be correct.

### 4. **OBLIGATIONS IN RELATION TO SCHEME**

With effect on and from the Scheme Effective Date, each Scheme Administrator irrevocably:

- (a) consents to the Secured Creditors' Scheme;
- (b) agrees to be bound by the Secured Creditors' Scheme as if he or she were a party to the Secured Creditors' Scheme; and
- (c) undertakes in favour of each Recipient:
  - (i) to perform all obligations and to undertake all actions attributed to him or her under the Secured Creditors' Scheme;
  - (ii) to accept, and act in accordance with, any instructions, authorisations, directions or appointments given to him or her under the Secured Creditors' Scheme;
  - (iii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and the transactions contemplated by it; and
  - (iv) not to act inconsistently with any provision of the Secured Creditors' Scheme.

### 5. **LIMITATION OF LIABILITY**

In the performance or exercise of the Secured Scheme Administrators' powers, obligations and duties under the Secured Creditors' Scheme, the Secured Scheme Administrators' liability is limited in accordance with the Secured Creditors' Scheme.

6. **GENERAL**

6.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

6.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

6.3 **Continuing obligations**

This deed poll is irrevocable.

6.4 **Waiver**

The Secured Scheme Administrators may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

6.5 **Inconsistency**

The terms of the Secured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

6.6 **Variation**

- (a) A provision of this deed poll may be varied on or before the time of the Second Court Orders provided that:
  - (i) the variation is consistent with the Secured Creditors' Scheme;
  - (ii) the variation is agreed to in writing by the Scheme Companies and a majority of the Secured Scheme Creditors; and
  - (iii) the Court has not indicated on or before the Second Court Date that the variation would of itself preclude approval of the Secured Creditors' Scheme.
- (b) Where the conditions set out in clause 6.6(a) are satisfied in relation to a variation, the Secured Scheme Administrators will enter into a further deed poll in favour of each Recipient giving effect to the variation.

6.7 **Cumulative Rights**

Except as expressly provided in this deed poll, the rights of the Unsecured Scheme Administrators and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

6.8 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.

(b) Any purported dealing in contravention of clause 6.8(a) is void.

## **SCHEDULE 1**

### **Secured Creditors' Scheme**



**EXECUTED** as a deed poll.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**SIGNED, SEALED and DELIVERED** by  
**CHRISTOPHER CLARKE HILL** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**SIGNED, SEALED and DELIVERED** by  
**DAVID PETER MCGRATH** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

## **SCHEDULE 4**

### **Secured Creditors' Scheme Deed Poll**



# Secured Creditors' Scheme Deed Poll

The Secured Scheme Creditors

2021

**Made by:**

- (1) Each **Secured Scheme Creditor** as that term is defined in the Secured Creditors' Scheme.

**In favour of:**

- (2) Each other Secured Scheme Creditor, the Scheme Companies, the Secured Scheme Administrators, the Agent, the SSN Trustee, the TLB Collateral Agent, each Obligor and each Released Individual (each a **Recipient**).

**EACH SECURED SCHEME CREDITOR DECLARES:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors substantially in the form set out in Schedule 1 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme has the same meaning when used in this deed poll.

1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Secured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Secured Scheme Creditor in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

1.4 **Several obligations**

This deed poll binds each Secured Scheme Creditor severally and not jointly.

1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

2. **RELEASES AND WAIVERS**

- (a) Each Secured Scheme Creditor:
  - (i) gives each release, waiver and indemnity which is to be given by it under the Secured Creditors' Scheme:

- (A) at the time that release, waiver or indemnity is to be given under Step 2 of clause 8(b) of the RID; and
  - (B) in favour of the Recipient to whom the release, waiver or indemnity is to be given under the Secured Creditors' Scheme; and
- (ii) acknowledges and agrees that each Recipient may rely on this deed poll in order to enforce the releases, waivers and indemnities given in its favour under the Secured Creditors' Scheme and this deed poll.

### 3. **CONSENTS AND INSTRUCTIONS**

Each Secured Scheme Creditor gives each consent and instruction which is required to be given by it for the purposes of the Secured Creditors' Scheme in accordance with the Secured Creditors' Scheme.

### 4. **GENERAL**

#### 4.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

#### 4.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

#### 4.3 **Continuing obligations**

This deed poll is irrevocable.

#### 4.4 **Waiver**

Each Secured Scheme Creditor may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

#### 4.5 **Inconsistency**

The terms of the Secured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

#### 4.6 **Cumulative Rights**

Except as expressly provided in this deed poll, the rights of each Secured Scheme Creditor and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

#### 4.7 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 4.7(a) is void.

**EXECUTED** as a deed poll.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**SIGNED, SEALED** and **DELIVERED** by  
[•] as attorney and agent for each  
Secured Scheme Creditor in the presence  
of:

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

## **SCHEDULE 1**

### **Secured Creditors' Scheme**

**SCHEDULE 5**  
**Agent Deed Poll**





# Agent Deed Poll

The Agent

2021

**THIS DEED POLL** is made on

2021

**Made by:**

- (1) Wilmington Trust, National Association in its capacity as administrative agent and collateral agent under the Term Loan A; and
  - (2) Wilmington Trust, National Association in its capacity as administrative agent and collateral agent under the Term Loan B,
- (together, the **Agent**)

**In favour of:**

- (1) each Secured Scheme Creditor;
  - (2) each Unsecured Scheme Creditor;
  - (3) the Secured Scheme Administrators;
  - (4) the Unsecured Scheme Administrators;
  - (5) the TLB Collateral Agent;
  - (6) the SSN Trustee;
  - (7) the SUN Trustee;
  - (8) each Obligor; and
  - (9) each Released Individual,
- (each a **Recipient**)

**THE AGENT DECLARES:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (b) **Unsecured Creditors' Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (c) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme or Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

## 1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the RID applies to the interpretation of this deed poll as if references to "this document" were references to "this deed poll".

## 1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against the Agent in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

## 1.4 **Capacity of Agent**

Any reference to the Agent in this deed poll is to be read as a reference to the Agent in its capacity as administrative agent and collateral agent under the Term Loan A and Term Loan B respectively and in no other capacity (including any personal capacity).

## 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

## 2. **OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME AND UNSECURED CREDITORS' SCHEME**

The Agent, in accordance with the instructions given to it by the TLA Purchasers, TLB Purchasers and Obligors under the Secured Creditors' Scheme and Unsecured Creditors' Scheme:

- (a) consents to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
- (b) undertakes in favour of each Recipient:
  - (i) to perform all actions attributed to the Agent under the Secured Creditors' Scheme and Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Secured Creditors' Scheme or Unsecured Creditors' Scheme,

but, subject to clause 10.3(c) of the Secured Creditors' Scheme and clause 10.4(c) of the Unsecured Creditors' Scheme, in each case, provided that any such act, matter or thing, does not require or involve the Agent doing any act, matter or thing after it has ceased to be the "Agent" under the Term Loan A or Term Loan B.

## 3. **GENERAL**

### 3.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### 3.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

### 3.3 **Continuing obligations**

This deed poll is irrevocable.

### 3.4 **Waiver**

The Agent may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

### 3.5 **Inconsistency**

The terms of the Secured Creditors' Scheme and Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

### 3.6 **Cumulative Rights**

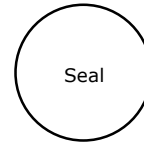
Except as expressly provided in this deed poll, the rights of the Agent and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

### 3.7 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 3.7(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
administrative agent and collateral agent  
under the Term Loan A, in the presence  
of:



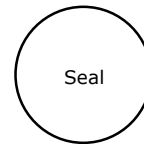
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
administrative agent and collateral agent  
under the Term Loan B, in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SCHEDULE 6**

**TLB Collateral Agent Deed Poll**



# TLB Collateral Agent Deed Poll

The TLB Collateral Agent

2021

**THIS DEED POLL** is made on 2021

**Made by:**

- (1) U.S. Bank National Association in its capacity as collateral agent for the TLB Purchasers (the **TLB Collateral Agent**)

**In favour of:**

- (1) each Secured Scheme Creditor;  
(2) each Unsecured Scheme Creditor;  
(3) the Secured Scheme Administrators;  
(4) the Unsecured Scheme Administrators;  
(5) the Agent;  
(6) the SSN Trustee;  
(7) the SUN Trustee;  
(8) each Obligor; and  
(9) each Released Individual,  
(each a **Recipient**)

**THE TLB COLLATERAL AGENT DECLARES:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (b) **Unsecured Creditors' Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 the other Scheme Companies and approved by the Court in 2021.
- (c) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme or Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

**1.2 Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the RID applies to the interpretation of this deed poll as if references to "this document" were references to "this deed poll".



### 1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against the SSN Trustee in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

### 1.4 **Capacity of the TLB Collateral Agent**

Any reference to the TLB Collateral Agent in this deed poll is to be read as a reference to the TLB Collateral Agent in its capacity as the TLB Collateral Agent under the Creditor's Schemes Finance Documents and in no other capacity (including any personal capacity).

### 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

## 2. **OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME AND UNSECURED CREDITORS' SCHEME**

The TLB Collateral Agent, in accordance with the instructions given to it by the TLB Purchasers and Obligors under the Secured Creditors' Scheme and Unsecured Creditors' Scheme:

- (a) consents to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
- (b) undertakes in favour of each Recipient:
  - (i) to perform all actions attributed to the TLB Collateral Agent under the Secured Creditors' Scheme and Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Secured Creditors' Scheme or Unsecured Creditors' Scheme,

but, subject to clause 10.3(c) of the Secured Creditors' Scheme and clause 10.4(c) of the Unsecured Creditors' Scheme, in each case, provided that any such act, matter or thing, does not require or involve the TLB Collateral Agent doing any act, matter or thing after it has ceased to be the "TLB Collateral Agent" under the Creditors' Schemes Finance Documents.

## 3. **GENERAL**

### 3.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### 3.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

**3.3 Continuing obligations**

This deed poll is irrevocable.

**3.4 Waiver**

The TLB Collateral Agent may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

**3.5 Inconsistency**

The terms of the Secured Creditors' Scheme and Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

**3.6 Cumulative Rights**

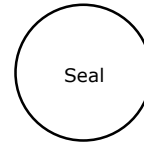
Except as expressly provided in this deed poll, the rights of the TLB Collateral Agent and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

**3.7 Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 3.7(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity collateral agent for the TLB  
Purchasers, in the presence of:



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Signature of witness

---

Signature of authorised signatory

---

Name of witness

---

Name of authorised signatory

**SCHEDULE 7**

**SSN Trustee Deed Poll**



# SSN Trustee Deed Poll

The SSN Trustee

2021

**THIS DEED POLL** is made on 2021

**Made by:**

- (1) U.S. Bank National Association in its capacity as trustee and collateral agent under the SSN Indenture (the **SSN Trustee**)

**In favour of:**

- (1) each Secured Scheme Creditor;
- (2) each Unsecured Scheme Creditor;
- (3) the Secured Scheme Administrators;
- (4) the Unsecured Scheme Administrators;
- (5) the Agent;
- (6) the TLB Collateral Agent;
- (7) the SUN Trustee;
- (8) each Obligor; and
- (9) each Released Individual,  
(each a **Recipient**)

**THE SSN TRUSTEE DECLARES:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (b) **Unsecured Creditors' Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (c) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme or Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

**1.2 Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the RID applies to the interpretation of this deed poll as if references to "this document" were references to "this deed poll".

### 1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against the SSN Trustee in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

### 1.4 **Capacity of the SSN Trustee**

Any reference to the SSN Trustee in this deed poll is to be read as a reference to the SSN Trustee in its capacity as the SSN Trustee under the Creditor's Schemes Finance Documents and in no other capacity (including any personal capacity).

### 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

## 2. **OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME AND UNSECURED CREDITORS' SCHEME**

The SSN Trustee, in accordance with the instructions given to it by the SSN Noteholders and Obligors under the Secured Creditors' Scheme and Unsecured Creditors' Scheme:

- (a) consents to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
- (b) undertakes in favour of each Recipient:
  - (i) to perform all actions attributed to the SSN Trustee under the Secured Creditors' Scheme and Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Secured Creditors' Scheme or Unsecured Creditors' Scheme,

but, subject to clause 10.3(c) of the Secured Creditors' Scheme and clause 10.4(c) of the Unsecured Creditors' Scheme, in each case, provided that any such act, matter or thing, does not require or involve the SSN Trustee doing any act, matter or thing after it has ceased to be the "SSN Trustee" under the Creditors' Schemes Finance Documents.

## 3. **GENERAL**

### 3.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### 3.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

### 3.3 **Continuing obligations**

This deed poll is irrevocable.

### 3.4 **Waiver**

The SSN Trustee may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

### 3.5 **Inconsistency**

The terms of the Secured Creditors' Scheme and Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

### 3.6 **Cumulative Rights**

Except as expressly provided in this deed poll, the rights of the SSN Trustee and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

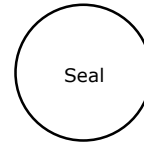
### 3.7 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 3.7(a) is void.



**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as trustee and collateral  
agent under the SSN Indenture, in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SCHEDULE 8**

**Released Individuals Deed Poll**



## Released Individuals Deed Poll

Released Individuals

2021

**THIS DEED POLL** is made on

2021

**Made by:**

- (1) **Released Individuals listed in Schedule 1** (each a **Released Individual**)

**In favour of:**

- (1) each Secured Scheme Creditor, the Agent, the SSN Trustee, the TLB Collateral Agent, each Obligor and the Secured Scheme Administrators (each a **Recipient**).

**THE RELEASED INDIVIDUAL DECLARES:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors substantially in the form set out in Schedule 2 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme has the same meaning when used in this deed poll.

**1.2 Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Secured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

**1.3 Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Released Individual in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

**1.4 Several obligations**

This deed poll binds each Released Individual severally and not jointly.

**1.5 Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59pm on the Sunset Date this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

**2. OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME**

Each Released Individual irrevocably:

- (a) consents to the Secured Creditors' Scheme;
- (b) agrees to be bound by the Secured Creditors' Scheme as if it were a party to the Secured Creditors' Scheme; and

- (c) undertakes in favour of each Recipient:
  - (i) to perform all obligations and undertake all actions attributed to the Released Individual under the Secured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to its obligations under the Secured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Secured Creditors' Scheme.

### 3. **RELEASES**

- (a) Without limiting clause 2 above, each Released Individual:
  - (i) gives each release which is to be given by it under clause 10 (*Releases*) of the Secured Creditors' Scheme:
    - (A) at the time that release is to be given under Step 2 of clause 8(b) of the RID; and
    - (B) in favour of each Recipient to whom the release is to be given under the Secured Creditors' Scheme; and
  - (ii) acknowledges and agrees that each Recipient may rely on this deed poll in order to enforce the releases given in its favour under the Secured Creditors' Scheme and this deed poll.

### 4. **GENERAL**

#### 4.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis and the Released Individuals adopt the address for notices of BLY.

#### 4.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

#### 4.3 **Continuing obligations**

This deed poll is irrevocable.

#### 4.4 **Waiver**

The Released Individual may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

#### 4.5 **Inconsistency**

The terms of the Secured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

#### 4.6 **Variation**

- (a) A provision of this deed poll may be varied on or before the time of the Second Court Orders provided that:
  - (i) the variation is consistent with the Secured Creditors' Scheme;
  - (ii) the variation is agreed to in writing by the Scheme Companies and a majority of the Secured Creditors' Scheme (by value); and
  - (iii) the Court has not indicated on or before the Second Court Date that the variation would of itself preclude approval of the Secured Creditors' Scheme.
- (b) Where the conditions set out in clause 4.6(a) are satisfied in relation to a variation, the Released Individual will enter into a further deed poll in favour of each Recipient giving effect to the variation.

#### 4.7 **Cumulative Rights**

Except as expressly provided in this deed poll, the rights of each Released Individual and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

#### 4.8 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 4.8(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED** and **DELIVERED** by  
**[RELEASED INDIVIDUAL]** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**SCHEDULE 1**  
**Released Individuals**

<b>1.</b>	<b>[name]</b>
<b>2.</b>	
<b>3.</b>	
<b>4.</b>	
<b>5.</b>	
<b>6.</b>	



**SCHEDULE 2**

**Secured Creditors' Scheme**

**SCHEDULE 9**  
**Obligors Deed Poll**



## Obligors Deed Poll

The Obligors listed in Schedule 1 to this deed poll

2021

**THIS DEED POLL** is made on

2021

**Made by:**

- (1) Each Obligor listed in Schedule 1 to this deed poll (together, the **Obligors**).

**In favour of:**

- (1) Each Secured Scheme Creditor, the Secured Scheme Administrators, the Agent, the SSN Trustee, the TLB Collateral Agent, each other Obligor and each Released Individual (each a **Recipient**).

**EACH OBLIGOR DECLARES:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Secured Scheme Creditors substantially in the form set out in Schedule 2 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme has the same meaning when used in this deed poll.

**1.2 Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Secured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

**1.3 Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Obligor in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

**1.4 Several obligations**

This deed poll binds each Obligor severally and not jointly.

**1.5 Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

**2. CONDITIONS TO OBLIGATIONS**

The obligations of each Obligor under this deed poll are subject to the Secured Creditors' Scheme becoming Effective.

### 3. **OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME**

With effect on and from the Scheme Effective Date, each Obligor irrevocably:

- (a) consents to the Secured Creditors' Scheme;
- (b) agrees to be bound by the Secured Creditors' Scheme as if it were a party to the Secured Creditors' Scheme; and
- (c) undertakes in favour of each Recipient:
  - (i) to perform all obligations and to undertake all actions attributed to it under the Secured Creditors' Scheme including, without limitation, to give the directions and make the appointments attributed to it under the Secured Creditors' Scheme;
  - (ii) to accept, and act in accordance with, any instructions, authorisations, directions or appointments given to it under the Secured Creditor's Scheme;
  - (iii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and the transactions contemplated by it; and
  - (iv) not to act inconsistently with any provision of the Secured Creditors' Scheme.

### 4. **RELEASES AND WAIVERS**

Each Obligor:

- (a) gives each release, waiver and indemnity which is to be given by it under the Secured Creditor's Scheme:
  - (i) at the time that release, waiver or indemnity is to be given under Step 2 of clause 8(b) of the RID; and
  - (ii) in favour of the Recipient to whom the release, waiver or indemnity is to be given under the Secured Creditors' Scheme; and
- (b) acknowledges and agrees that each Recipient may rely on this deed poll in order to enforce the releases, waivers and indemnities given in its favour under the Secured Creditors' Scheme and this deed poll.

### 5. **GENERAL**

#### 5.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis and the Obligors adopt the address for notices of BLY.

#### 5.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

**5.3 Continuing obligations**

This deed poll is irrevocable.

**5.4 Waiver**

The Obligors may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

**5.5 Inconsistency**

The terms of the Secured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

**5.6 Variation**

- (a) A provision of this deed poll may be varied on or before the time of the Second Court Orders provided that:
  - (i) the variation is consistent with the Secured Creditors' Scheme;
  - (ii) the variation is agreed to in writing by the Scheme Companies and a majority of the Secured Scheme Creditors (by value); and
  - (iii) the Court has not indicated on or before the Second Court Date that the variation would of itself preclude approval of the Secured Creditors' Scheme.
- (b) Where the conditions set out in clause 5.6(a) are satisfied in relation to a variation, the Obligors will enter into a further deed poll in favour of each Recipient giving effect to the variation.

**5.7 Cumulative Rights**

Except as expressly provided in this deed poll, the rights of the Obligors and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

**5.8 Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 5.8(a) is void.

**5.9 Counterparts**

This deed poll may be executed in counterparts. Delivery of a counterpart of this deed poll by email attachment or fax constitutes an effective mode of delivery.

**EXECUTED** as a deed poll.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**EXECUTED** by **BOART LONGYEAR LIMITED ACN 123 052 728:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **BOART LONGYEAR MANAGEMENT PTY LIMITED ACN 123 283 545:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **BOART LONGYEAR AUSTRALIA PTY LTD ACN 000 401 025:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **BOART LONGYEAR INVESTMENTS PTY LIMITED ACN 124 070 373:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by VOTRAINT NO. 1609  
PTY LIMITED ACN 119 244 272:**

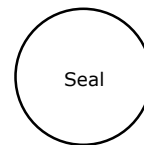
\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

**SIGNED, SEALED AND DELIVERED** by  
**BL CAPITAL MANAGEMENT LLC** in the  
presence of:



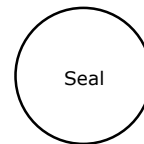
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BLY US HOLDINGS INC.** in the presence  
of:



\_\_\_\_\_  
Signature of witness

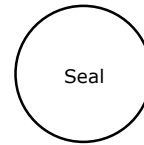
\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of authorised signatory



**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR CANADA** in the  
presence of:



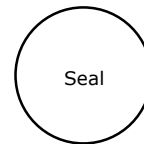
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR CHILE LIMITADA** in  
the presence of:



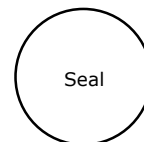
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR COMPANY** in the  
presence of:



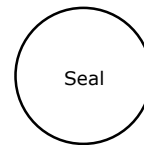
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR MANUFACTURING  
AND DISTRIBUTION INC.** in the  
presence of:



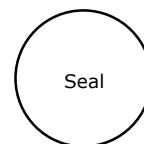
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR MANUFACTURING  
CANADA LTD.** in the presence of:



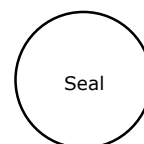
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR S.A.C.** in the  
presence of:



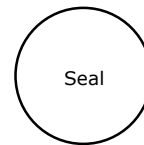
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR SUISSE SARL** in the  
presence of:



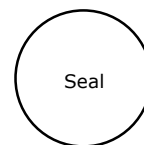
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**LONGYEAR CANADA, ULC** in the  
presence of:



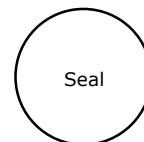
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**LONGYEAR TM,INC.** in the presence of:



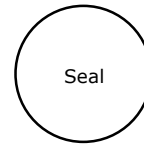
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BLY IP INC.** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SCHEDULE 1****Obligors**

<b>Obligors</b>	
1.	Boart Longyear Limited ACN 123 052 728
2.	Boart Longyear Management Pty Limited ACN 123 283 545
3.	Boart Longyear Australia Pty Ltd ACN 000 401 025
4.	Boart Longyear Investments Pty Ltd ACN 124 070 373
5.	BL Capital Management LLC ARBN 649 445 321
6.	BLY US Holdings Inc. ARBN 649 445 394
7.	Boart Longyear Canada
8.	Boart Longyear Chile Limitada
9.	Boart Longyear Company
10.	Boart Longyear Manufacturing and Distribution Inc.
11.	Boart Longyear Manufacturing Canada Ltd.
12.	Boart Longyear S.A.C.
13.	Boart Longyear Suisse Sarl
14.	Longyear Canada, ULC
15.	Longyear TM, Inc.
16.	Votrant No. 1609 Pty Limited ACN 119 244 272
17.	BLY IP Inc.

**SCHEDULE 2**

**Secured Creditors' Scheme**

## **ANNEXURE B**

### **Unsecured Creditors' Scheme of Arrangement**



## Scheme of Arrangement

**Boart Longyear Limited**

ACN 123 052 728

and

**Boart Longyear Management Pty Limited**

ACN 123 283 545

and

**Boart Longyear Australia Pty Limited**

ACN 000 401 025

and

**Boart Longyear Investments Pty Limited**

ACN 124 070 373

and

**Votraint No. 1609 Pty Limited**

ACN 119 244 272

and

**BL Capital Management LLC**

ARBN 649 445 321

and

**BLY US Holdings Inc.**

ARBN 649 445 394

and

**The Unsecured Scheme Creditors**

and

**The Subordinate Claim Holders**



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**BETWEEN:**

- (1) **Boart Longyear Limited** ACN 123 052 728 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLY**);
- (2) **Boart Longyear Management Pty Limited** ACN 123 283 545 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLY Issuer**);
- (3) **Boart Longyear Australia Pty Ltd** ACN 000 401 025 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLA**);
- (4) **Boart Longyear Investments Pty Limited** ACN 124 070 373 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLI**);
- (5) **Votrant No. 1609 Pty Limited** ACN 119 244 272 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**Votrant**);
- (6) **BL Capital Management LLC** ARBN 649 445 321 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BCM**);
- (7) **BLY US Holdings Inc.** ARBN 649 445 394 of 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia (**BLY US**);

((1) to (7) together being the **Scheme Companies**),

- (8) the **Unsecured Scheme Creditors**; and
- (9) the **Subordinate Claim Holders**.

**RECITALS:**

- (A) This Scheme is proposed in connection with:
  - (1) Claims against the Scheme Companies and other Obligors by the Unsecured Scheme Creditors under the Creditors' Schemes Finance Documents; and
  - (2) any Subordinate Claim of any Subordinate Claim Holder.
- (B) Pursuant to this Scheme and the Secured Creditors' Scheme and as set out in the Explanatory Statement, BLY has also agreed to offer the Creditor Share Purchase Option to SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders in accordance with the terms set out in this Scheme and the Secured Creditors' Scheme.
- (C) This Scheme contemplates the Unsecured Scheme Creditors entering into the Unsecured Creditors' Scheme Deed Poll and the RID.
- (D) This Scheme attributes actions to persons other than the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee, each other Obligor, each Released Individual, and each Unsecured Scheme Administrator.
- (E) Each of the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee have undertaken that, immediately after they have received the instructions referred to in, or contemplated by, clause 7 (*Pre-Implementation Steps*) of the RID, each of the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee will, pursuant to the Agent Deed Poll, the TLB Collateral Agent Deed Poll, the SUN Trustee Deed Poll and the SSN Trustee Deed Poll, respectively, perform all actions attributed to them under this Scheme.

- (F) Each Obligor, pursuant to the Obligors Deed Poll, has consented to this Scheme, agreed to be bound by this Scheme as if it were a party to this Scheme and undertaken to perform all obligations and actions attributed to it under this Scheme once this Scheme becomes Effective.
- (G) Each Released Individual pursuant to the Released Individuals Deed Poll, has consented to this Scheme, agreed to be bound by this Scheme as if it were a party to this Scheme and undertaken to perform all obligations and actions attributed to it under this Scheme once this Scheme becomes Effective.
- (H) The Unsecured Scheme Administrators, pursuant to the Unsecured Scheme Administrators Deed Poll, have consented to act as Unsecured Scheme Administrators, consented to this Scheme, agreed to be bound by this Scheme as if they were a party to this Scheme and undertaken to perform all obligations and actions attributed to the Unsecured Scheme Administrators under this Scheme once this Scheme becomes Effective.

## **THE PARTIES AGREE AS FOLLOWS:**

### **1. INTERPRETATION**

#### **1.1 Definitions**

In this Scheme, the following words, expressions and abbreviations have the following meanings, unless the context otherwise requires:

**Account Holder** means a person recorded directly in the records of Cede & Co. and DTC as holding an interest in the SSN Indenture or SUN Indenture (as applicable) in an account held with DTC.

**Administrative Agent** means:

- (a) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan B; and
- (c) any successor administrative agent under the Term Loan A or Term Loan B.

**Agent** means the Administrative Agent or the Collateral Agent or both of them, as the context requires.

**Agent Deed Poll** means the deed poll substantially in the form set out in Schedule 5 of this Scheme and to be executed by the Agents as contemplated in clause 4.1(a) of this Scheme and clause 7(c)(i) of the RID.

**AHG** means each entity listed in the table under the row "AHG" in schedule 1 to the RID, and their permitted transferees and assigns and **AHG Member** means any one of them.

**AHG Director Nomination Agreements** means each agreement between one or more AHG Members and BLY in relation to the nomination of the AHG Nominee Directors as directors of BLY to be entered into in conjunction with this Scheme.

**AHG Nominee Directors** means those persons nominated by AHG to be appointed as a director of BLY pursuant to the AHG Director Nomination Agreements.

**Allocated Aggregate Debt** means the aggregate outstanding amount of:

- (a) 25% of the outstanding amount of the TLA Unsecured RSA Date Debt;

- (b) 25% of the outstanding amount of the TLB Unsecured RSA Date Debt;
- (c) 25% of the outstanding amount of the SSN Unsecured RSA Date Debt;
- (d) 22.5% of the outstanding amount of the SUN RSA Date Debt;
- (e) 100% of the outstanding amount of the TLA Secured RSA Date Debt;
- (f) 100% of the outstanding amount of the TLB Secured RSA Date Debt; and
- (g) 100% of the outstanding amount of the SSN Secured RSA Date Debt,

being an amount of US\$566,842,010.96.

**Allocation Confirmation** means the confirmation sent to each Participating SUN Noteholder and, if applicable, Other CSPO Participant setting out its allocation of Shares determined by BLY in accordance with the CSPO Allocation Principles to be issued under the Creditor Share Purchase Option provided that the Participating SUN Noteholder or Other CSPO Participant pays its subscription monies by the date required in such confirmation.

**Allocations Spreadsheet** means the spreadsheet prepared by BLY, and reasonably agreed to by each CBP Member and each AHG Member as soon as reasonably practicable after this Scheme becomes Effective, as the allocations spreadsheet for the purpose of this document and the RID which sets out each party's relevant entitlement to the Transaction Securities issued under the applicable Restructuring Document and distributed in accordance with the Implementation Steps, provided that it is consistent in all material respects with the terms of this Scheme and the Secured Creditors' Scheme.

**Applicable Insurance Policy** means any available policy of insurance under which BLY is entitled to indemnity in respect of any Subordinate Claim.

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

**ASX Settlement Operating Rules** means the settlement operating rules of ASX Settlement.

**Authorised Nominee** means Chess Depositary Nominees Pty Limited ACN 071 346 506, Australian Financial Licence number 254514, an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.

**BLY Creditors' Schemes** means collectively, this Scheme and the Secured Creditors' Scheme.

**BLY Shareholder** means a person entered in the register of members of BLY as the holder of a Share.

**Book Entry Interest** means a beneficial interest in the SSN Indenture or SUN Indenture, as the context requires, held by or through an Account Holder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales and Adelaide, South Australia.

**CBP** means each entity listed in the table under the row "CBP" in schedule 1 to the RID and any of their permitted transferees and assigns, and **CBP Member** means any one of them.

**CBP Director Nomination Agreement** means the agreement between BLY and affiliates of CBP in relation to the nomination of the CBP Nominee Directors as directors of BLY.

**CBP Nominee Directors** means those persons nominated by affiliates of CBP to be appointed as a director of BLY pursuant to the CBP Director Nomination Agreement.

**CDI** means a CHESS Depository Interest, that being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.

**Change of Control Event** has the meaning given in clause 14.3(c).

**Claim** means, in relation to a person, any claim, allegation, cause of action, proceeding, debt, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent or otherwise whether at law, in equity, under statute or otherwise.

**Collateral Agent** means:

- (a) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan B;
- (c) any successor collateral agent under the Term Loan A or Term Loan B.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Costs** means costs, charges, fees and expenses.

**Court** means the Supreme Court of New South Wales.

**Creditor Share Purchase Option** means the option for each TLA Purchaser, TLB Purchaser, SSN Noteholder and SUN Noteholder which is a Secured Scheme Creditor or an Unsecured Scheme Creditor to subscribe for Shares at the CSPO Issue Price with the Shares to be allocated by BLY in accordance with the CSPO Allocation Principles and issued in accordance with clause 12 (*Creditor Share Purchase Option*) of this Scheme and clause 12 (*Creditor Share Purchase Option*) of the Secured Creditors' Scheme, subject to a maximum cap on the amount to be raised by BLY from the issue of the Shares equal to the CSPO Cap Amount.

**Creditors' Scheme Implementation Date** has the meaning given to that term in the RID.

**Creditors' Schemes Finance Document** means:

- (a) each of the documents listed in Schedule 1 to this Scheme other than an Incremental Finance Document;
- (b) any document entered into by a Scheme Company under which it has granted a security interest over its property to secure the Secured Money; and
- (c) any other document designated as:
  - (i) a Loan Document under the Term Loan A and Term Loan B; or
  - (ii) a Notes Document under the SSN Indenture.

**Creditors' Schemes Restructuring Effective Time** means the time at which all of the Implementation Steps in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) to 8(h) (*Step 8 (Confirmation of Scheme Restructuring Effective Time)*) of the RID have been completed.

**CSPO Allocation Principles** means the principles set out below pursuant to which Shares will be allocated by BLY under the Creditor Share Purchase Option and adjusted as a result of any rounding required by clause 12(b):

- (a) **(Firstly, allocations to Participating SUN Noteholders):** Shares will first be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on the following basis:
  - (i) *(Initial pro rata allocation to Participating SUN Noteholders)* the Shares available under the CSPO Cap Amount will initially be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Participating SUN Noteholder as at the Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Participating SUN Noteholders as at the Voting Entitlement Record Date, provided that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
  - (ii) *(Allocation of undersubscriptions to other Participating SUN Noteholders)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the initial pro rata allocation to Participating SUN Noteholders (or their Permitted CSPO Nominee) under paragraph (a)(i) above, the remaining available Shares will be allocated to the Participating SUN Noteholders (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (a)(i) above **(Oversubscribing Participating SUN Noteholders)** on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Oversubscribing SUN Noteholder as at the Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Oversubscribing Participating SUN Noteholders as at the Voting Entitlement Record Date, provided always that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:
    - (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
    - (B) each Participating SUN Noteholder (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
- (b) **(Secondly, allocations to Other CSPO Participants):** If the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocation of Shares to Participating SUN Noteholders (or their Permitted CSPO Nominees) under paragraph (a) above, then the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on the following basis:

- (i) *(Initial pro rata allocation to Other CSPO Participants)* the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Other CSPO Participant under the BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Other CSPO Participants under the BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option), provided that the maximum number of Shares that will be allocated to Other CSPO Participants (or their Permitted CSPO Nominees) pursuant to the Creditor Share Purchase Option will be the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter; and
- (ii) *(Allocation of undersubscriptions to Other CSPO Participants)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocations under paragraphs (a) and (b)(i) above, the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (b)(i) above (**Oversubscribing Other CSPO Participants**) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Oversubscribing Other CSPO Participant under the BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Oversubscribing Other CSPO Participants under the BLY Creditors' Schemes (not including Shares under the Creditor Share Purchase Option), provided always that the maximum number of Shares that will be allocated to an Other CSPO Participant (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:
  - (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
  - (B) each Other CSPO Participant (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter.

**CSPO Cap Amount** means an amount equal to the aggregate of US\$2.5 million plus any unsubscribed amount under the Share Purchase Plan.

**CSPO Issue Price** means the issue price of the Shares to be issued under the Creditor Share Purchase Option, being A\$2.48 per Share.

**Custody Instructions** means a custody instruction delivered to DTC to tender (as applicable):

- (a) SSN Indenture notes identified in a SSN Account Holder Letter; or
- (b) SUN Indenture notes identified in a SUN Account Holder Letter,

as being held at DTC through DTC's Automated Tender Offer Program.

**Deed Poll** means the Unsecured Scheme Administrators Deed Poll, the Agent Deed Poll, the TLB Collateral Agent Deed Poll, the SSN Trustee Deed Poll, the SUN Trustee Deed Poll, the Unsecured Creditors' Scheme Deed Poll, the Obligors Deed Poll or the Released



Individuals Deed Poll, as the context requires, and **Deeds Poll** means all of them or any combination of them, as the context requires.

**Demands** has the meaning given in clause 6.5(c).

**Depository Trust Company** or **DTC** means The Depository Trust Company, a central securities depository registered as a clearing agency with the Securities Exchange Commission.

**Designated Recipient** means any Permitted Assignee of an Unsecured Scheme Creditor who is not an Ineligible Person appointed under a validly completed and timely delivered TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) submitted to the Information Agent on behalf of an Unsecured Scheme Creditor to receive the consideration allocated to that Unsecured Scheme Creditor under this Scheme.

**Director Nomination Agreement** means each AHG Director Nomination Agreement and the CBP Director Nomination Agreement.

**Effective** means, when used in relation to this Scheme, the coming into effect of the Second Court Orders pursuant to section 411(10) of the Corporations Act.

**Eligible SPP Shareholders** means a BLY Shareholder who:

- (a) is registered as a BLY Shareholder on the BLY share register on the SPP Record Date with a registered address in Australia or New Zealand;
- (b) is not in the United States and is not acting for the account or benefit of a person in the United States; and
- (c) is eligible under applicable securities law to receive an offer under and participate in the Share Purchase Plan.

**Existing Backstop ABL** means the Term Loan Securities Agreement dated as of 23 July 2017 (as amended by the First Amendment to Term Loan Securities Agreement dated as of 5 August 2017, the Second Amendment to Term Loan Securities Agreement dated as of 31 August 2017, the Third Amendment to Term Loan Securities Agreement dated as of 24 July 2019, the Fourth Amendment to Term Loan Securities Agreement dated as of 19 March 2020, the Fifth Amendment to Term Loan Securities Agreement dated as of 1 June 2021 and as further amended, varied or amended and restated from time to time), between, amongst others, BLY Issuer, the other guarantors party thereto, and Wilmington Trust, National Association, as administrative agent, providing for the issuance of term loan securities with a final repayment date of the earlier of 22 October 2022 and 90 days following the final repayment date under the Existing PNC ABL.

**Existing Options** has the meaning given to that term in the RID.

**Existing PNC ABL** means the Amended and Restated Revolving Credit and Security Agreement, originally dated as of July 23, 2017, among PNC Bank National Association as lender and as agent, BLY Issuer as a borrower and the guarantors party thereto as amended by the document titled "Seventh Amendment to Amended and Restated Revolving Credit and Security Agreement" among PNC Bank National Association as lender and as agent and BLY Issuer as borrower.

**Existing Warrants** has the meaning given to that term in the RID.

**Exit Financier** has the meaning given to that term in the RID.

**Exit Financing Facility** means financing made available under a new money facility which shall:

- (a) be available for drawing by BLY US or another member of the Group;
- (b) be a five year term loan facility with a total aggregate commitment of US\$115,000,000 available for the purposes, amongst other things, of fully refinancing outstanding amounts (including, but not limited to, principal, interest and fees) under each of the Incremental Finance Facility and the Existing Backstop ABL; and
- (c) subject to certain conditions precedent, be available for drawing following completion of Step 1 and Step 2 (as set out in clause 8(a) and clause 8(b) (respectively) of the RID) in accordance with the RID.

**Explanatory Statement** means the explanatory statement to this Scheme and the Secured Creditors' Scheme prepared in accordance with the Corporations Act.

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

**Government Agency** means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister (including the Treasurer of the Commonwealth of Australia), ASIC, the Australian Competition and Consumer Commission, the Australian Taxation Office, ASX and any regulatory organisation established under statute or any stock exchange.

**Group** means BLY and its subsidiaries.

**Implementation Steps** has the meaning given to that term in the RID.

**Incremental Finance Documents** means together:

- (a) the Incremental Finance Facility; and
- (b) any Loan Document (as that term is defined in the Incremental Finance Facility).

**Incremental Finance Facility** means the Term Loan Securities Agreement, dated as of 1 June 2021 by and among BLY Issuer, as issuer, the guarantors party thereto, the purchasers party thereto, Wilmington Trust, National Association, as agent and U.S. Bank National Association, as collateral agent, and providing for the issuance of term loan securities with a final repayment date of 31 December 2021.

**Indemnified Liabilities** has the meaning given in clause 6.5(a).

**Ineligible Person** means a person:

- (a) located in any jurisdiction other than Australia, Canada, Bermuda, Cayman Islands, Ireland, Italy, Netherlands, Switzerland, the United States of America or other jurisdiction as agreed to by BLY; or
- (b) to whom BLY considers it would be unlawful for BLY to make an offer of Shares or, if applicable, New Warrants, in accordance with the laws of the jurisdiction in which the person is located.

**Information Agent** means Prime Clerk LLC.

**Liability** means any debt, liability or obligation of a person whether it is present, future, prospective or contingent, whether or not it is fixed or undetermined, whether or not it

involves the payment of money or performance of an act or obligation and whether it arises by contract, at common law, in equity, by statute or otherwise in Australia or any other jurisdiction, or in any manner whatsoever.

**Long Term Equity Incentive Plan** means the Boart Longyear Limited 2020 Long Term Incentive Plan approved at BLY's Annual General Meeting on 31 July 2021.

**Losses** has the meaning given in clause 6.5(b).

**Maximum Committed Securities** means the maximum number of Shares the relevant Scheme Creditor (or its Permitted CSPO Nominee) is willing to subscribe for under the Creditor Share Purchase Option, as listed in its duly executed and delivered TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable).

**Members' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between BLY and the BLY Shareholders, pursuant to which BLY will become a wholly owned subsidiary of New BLY Parent by the transfer of all Shares to New BLY Parent in exchange for the issue of New BLY Parent CDIs to BLY Shareholders.

**Members' Scheme Effective Time** means the time at which all of the Implementation Steps in clauses 8(i) (*Step 9 (Assumption Deed Poll)*) to 8(j) (*Step 10 (Members' Scheme Implementation)*) of the RID have been completed.

**Net Proceeds** has the meaning given in clause 10.2(a)(i).

**New BLY Parent** means Boart Longyear Ltd. (Ontario Corporation No. 002854330), a limited company incorporated in Ontario, Canada, with registered address Suite 2400, 333 Bay Street, Toronto, Canada, which is a newly incorporated company established for the purposes of the Members' Scheme.

**New BLY Parent CDI** means a CDI representing a beneficial interest in one New BLY Parent Share.

**New BLY Parent Share** means one common share in the capital of New BLY Parent.

**New Common Equity** means the total number of new Shares to which Secured Scheme Creditors and Unsecured Scheme Creditors are entitled pursuant to the BLY Creditors' Schemes (but excluding the Creditors Share Purchase Option) and allocated in accordance with the Allocations Spreadsheet determined by applying the following formula and adjusted as a result of any rounding required by clause 7(b):

$(\text{Pre-restructuring Share Capital} / 0.015) - \text{Pre-restructuring Share Capital}$

**New Warrants** means the warrants issued by BLY on the terms set out in Schedule 11 with a strike price of AU\$2.79.

**Nominee** has the meaning given to that term in clause 8.1(a).

**Obligors** means each of:

- (a) BLY;
- (b) BLY Issuer;
- (c) BLA;
- (d) BLI;

- (e) BCM;
- (f) BLY US;
- (g) Boart Longyear Canada;
- (h) Boart Longyear Chile Limitada;
- (i) Boart Longyear Company;
- (j) Boart Longyear Manufacturing and Distribution Inc.;
- (k) Boart Longyear Manufacturing Canada Ltd.;
- (l) Boart Longyear S.A.C.;
- (m) Boart Longyear Suisse Sarl;
- (n) Longyear Canada, ULC;
- (o) Longyear TM, Inc.;
- (p) Votrant; and
- (q) BLY IP Inc.

**Obligors Deed Poll** means the deed poll executed by the Obligors substantially in the form set out in Schedule 10 of this Scheme.

**Other CSPO Participant** means TLA Purchasers, TLB Purchasers and SSN Noteholders who are either a Secured Scheme Creditor or an Unsecured Scheme Creditor who complete and return to the Information Agent a TLA Proof of Debt Form, TLB Proof of Debt Form or a SSN Account Holder Letter (as applicable) with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Participating SUN Noteholder** means SUN Noteholders who are Unsecured Scheme Creditors and who complete and return to the Information Agent the SUN Account Holder Letter with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Permitted Assignee** means, in respect of an Unsecured Scheme Creditor, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by that Unsecured Scheme Creditor.

**Permitted CSPO Nominee** means a person (who is not an Ineligible Person) nominated by a Participating SUN Noteholder or Other CSPO Participant to take up their allocation of Shares under the Creditor Share Purchase Option provided that:

- (a) the nominee is a party to the RSA or accedes to the RSA; and
- (b) the Participating SUN Noteholder or Other CSPO Participant specifies the nominee's name and details in the relevant section titled 'Creditor Share Purchase Option' of their SUN Account Holder Letter, SSN Account Holder Letter, TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable).

**Pre-restructuring Share Capital** means the total number of Shares on issue by BLY immediately prior to the commencement of the Implementation Steps, with the number of Shares determined:

- (a) following the Share Consolidation to occur prior to the Creditors' Scheme Implementation Date;
- (b) before the buy-back of any Shares under the Selective Buy-Back;
- (c) before the issue of any Shares on the exercise of any New Warrants;
- (d) before the issue of any Shares on the exercise of Existing Warrants or Existing Options on or after the Creditors' Scheme Implementation Date;
- (e) before the issue of any Shares under the Long Term Equity Incentive Plan on or after the Creditors' Scheme Implementation Date; and
- (f) before the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option.

**Proposed AHG Acquisitions** has the meaning given to that term in clause 3.1(b).

**Proposed CBP Acquisitions** has the meaning given to that term in clause 3.1(a).

**Released Individual** means each person who was, at any time between 23 August 2017 and the Creditors' Scheme Implementation Date inclusive, a director or officer of any Obligor who has executed, or at any time executes (including by way of joinder), a Released Individuals Deed Poll.

**Released Individuals Deed Poll** means the deed poll substantially in the form set out in Schedule 9 of this Scheme.

**Restructuring Document** has the meaning given to that term in the RID.

**RID** means the Restructuring Implementation Deed substantially in the form set out in Schedule 2 of this Scheme and to be executed by an Unsecured Scheme Administrator on behalf of the Unsecured Scheme Creditors as contemplated by clause 5.1 of this Scheme.

**RSA** means the Restructuring Support Agreement entered into between, among others, BLY and BLY Issuer, dated 12 May 2021.

**RSA Date** means 12 May 2021, being the commencement date of the RSA.

**Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders as set out in this document, subject to any alterations or conditions made or required by the Court.

**Scheme Companies** is as defined in the recitals to this Scheme.

**Scheme Consideration Election Window** means the period on and from the date which is notified by BLY as the date being at least five (5) Business Days prior to the Scheme Effective Date up to (but not including) the Scheme Effective Date.

**Scheme Creditor** means each Secured Scheme Creditor and Unsecured Scheme Creditor.

**Scheme Effective Date** means the date on which each of the conditions precedent in clause 3.1 have been satisfied.

**Second Court Date** means the first day of the hearing of an application made to the Court for the Second Court Orders or, if the hearing of such application is adjourned for any reason, means the first day to which the hearing is adjourned.

**Second Court Orders** means the orders of the Court approving this Scheme under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act.

**Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors (as defined in the Secured Creditors' Scheme), being the compromise or arrangement proposed by the Scheme Companies and approved by the Court at or around the time the Court approved this Scheme.

**Secured Creditors' Scheme Meeting** means the meeting of the Secured Scheme Creditors ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the Secured Creditors' Scheme, and includes any adjournment of that meeting.

**Secured Money** means all amounts (including damages) that are payable, owing but not payable, or that otherwise remain unpaid by a Scheme Company to an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee on any account at any time under or in connection with the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture or any transaction contemplated by those documents:

- (a) whether present or future, actual or contingent;
- (b) whether incurred alone, jointly, severally or jointly and severally;
- (c) whether an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable on its own account or for the account of, or as surety for, another person and without regard to the capacity in which an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable;
- (d) whether due to a Scheme Company alone or with another person;
- (e) whether a Scheme Company is entitled for its own account or the account of another person;
- (f) whether arising from a banker and customer relationship or any other relationship;
- (g) whether originally contemplated by an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee or a Scheme Company or not;
- (h) whether a Scheme Company is the original person in whose favour the undertakings in the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture were given or an assignee and, if an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is an assignee:
  - (i) whether or not an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee consented to or knew of the assignment;
  - (ii) no matter when the assignment occurred; and
  - (iii) whether or not the entitlements of that original person were assigned with the security interests; and

- (i) if determined pursuant to any award, order or judgment against a Scheme Company, whether or not that Scheme Company was a party to the court proceedings, arbitration or other dispute resolution process in which that award, order or judgment was made.

**Secured Scheme Administrator** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Secured Creditors' Scheme, subject to section 411(7) of the Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Secured Scheme Administrators Deed Poll.

**Secured Scheme Administrators Deed Poll** means the deed poll substantially in the form set out in Schedule 3 of the Secured Creditors' Scheme and executed by the Secured Scheme Administrators.

**Secured Scheme Creditor** has the meaning given to that term in the Secured Creditors' Scheme.

**Selective Buy-Back** means selective buy-back described in the selective buy-back booklet dated on or about the date of the Explanatory Statement pursuant to which eligible BLY Shareholders holding parcels of Shares worth less than AU\$3,000 may offer to sell their Shares to BLY on the terms set out in the selective buy-back booklet and subject to BLY's absolute discretion to decide whether to accept (in whole or in part) or reject any offers received from BLY Shareholders (and subject to the maximum amount that can be expended by BLY in purchasing the shares being limited to US\$500,000).

**Share Consolidation** means the conversion of every 20 Shares into 1 Share.

**Share Purchase Plan** means the share purchase plan offered to Eligible SPP Shareholders on the terms set out in the share purchase plan booklet dated on or about the date of the Explanatory Statement, pursuant to which Eligible SPP Shareholders may subscribe for up to A\$30,000 worth of Shares, provided that the maximum amount to be raised by the share purchase plan is US\$2.5 million.

**Shareholder Resolutions** means resolutions of BLY Shareholders at a general meeting of the BLY Shareholders:

- (a) to grant approval for the purposes of ASX Listing Rule 7.1 to the extent required for BLY to give effect to the Transactions;
- (b) to grant approval for the purposes of ASX Listing Rule 10.11 to the extent required for BLY to give effect to the Transactions;
- (c) to grant approval for the purposes of item 7 of section 611 of the Corporations Act to the extent required for BLY to give effect to the Transactions, to permit any transfers of Transaction Securities between AHG Members from time to time and as BLY may additionally require;
- (d) to grant approval for the purposes of section 208 of the Corporations Act to the extent required for BLY to give any financial benefit to a related party by giving effect to the Transactions; and
- (e) to grant approval for the purposes of section 254H of the Corporations Act to give effect to the Share Consolidation.

**Shares** means fully paid ordinary shares in the capital of BLY.

**SPP Record Date** means 7:00 pm (Sydney time) on 28 July 2021.

**SSN Account Holder Letter** means an account holder letter substantially in the form set out at Annexure K to the Explanatory Statement, to be completed and lodged with the Information Agent by the relevant Account Holders (pursuant to the instructions of the relevant SSN Noteholder) for the purpose of, among other things, enabling each relevant SSN Noteholder to, amongst other things:

- (a) vote at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting; and
- (b) appoint proxies to vote on their behalf at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**SSN Indenture** means the indenture dated 27 September 2013, between, among others, the BLY Issuer, as issuer, BLY, as parent, BLA, BLI, Votaint, BCM and BLY US, as guarantors, amongst others, and U.S. Bank National Association, as trustee and collateral agent, in respect of the 12.00% / 10.00% secured notes, as amended by the first supplemental indenture dated 31 August 2017, the second supplemental indenture dated 18 September 2017, the third supplemental indenture dated 31 December 2018, the fourth supplemental indenture dated 17 July 2019, the fifth supplemental indenture dated 24 June 2020, and the sixth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SSN Noteholders** means each person with a Book Entry Interest in the SSN Indenture.

**SSN Notes Registered Holder** means the "Holder" or "Securityholder" as those terms are defined in the SSN Indenture, being Depository Trust Company.

**SSN Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is secured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**SSN Secured RSA Date Debt** means the amount of SSN Secured Debt as at the RSA Date, being US\$303,567,773.87.

**SSN Trustee** means U.S. Bank National Association in its capacity as trustee and collateral agent under the SSN Indenture and any successor trustee or collateral agent under that document.

**SSN Trustee Deed Poll** means the deed poll substantially in the form set out in Schedule 7 of this Scheme and to be executed by the SSN Trustee as contemplated in clause 4.3 of this Scheme and clause 7(c)(iii) of the RID.

**SSN Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is unsecured pursuant to the terms of the relevant Creditors' Scheme Finance Documents.

**SSN Unsecured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the SSN Noteholders pursuant to this Scheme, calculated by reference to the proportion that 25% of the outstanding amount of SSN Unsecured RSA Date Debt, being the amount of US\$11,231,146.61, bears to the aggregate outstanding amount of Allocated Aggregate Debt and each such amount shall be set out in the Allocations Spreadsheet.

**SSN Unsecured RSA Date Debt** means the amount of SSN Unsecured Debt as at the RSA Date, being US\$44,924,586.44.

**Stamp Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount in respect of the above.



**Standard Tax Conditions** means the "Standard" tax conditions" set out in Part D of the Foreign Investment Review Board Guidance note 12 (Tax Conditions) dated 18 December 2020.

**Standstill Period** has the meaning given in clause 14.1(a).

**Subordinate Claim** means a "subordinate claim" within the meaning of subsection 563A(2) of the Corporations Act, against BLY in respect of any fact, matter, circumstance or event which has arisen or occurred at any time prior to the commencement of Implementation Step 7 (*Subordinate Claim Releases*) in clause 8 (*Implementation Steps*) of the RID.

**Subordinate Claim Holder** means any person who, as at immediately prior to the commencement of Implementation Step 7 (*Subordinate Claim Releases*) in clause 8 (*Implementation Steps*) in the RID, has or, but for this Scheme, would be entitled to make, a Subordinate Claim.

**SUN Account Holder Letter** means an account holder letter substantially in the form set out at Annexure L to the Explanatory Statement, to be completed and lodged with the Information Agent by the relevant Account Holders (pursuant to the instructions of the relevant SUN Noteholder) for the purpose of, among other things, enabling each relevant SUN Noteholder to, amongst other things:

- (a) vote at the Unsecured Creditors' Scheme Meeting; and
- (b) appoint proxies to vote on their behalf at the Unsecured Creditors' Scheme Meeting.

**SUN Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SUN Noteholders under the relevant Creditors' Schemes Finance Documents.

**SUN Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the SUN Noteholders pursuant to this Scheme, calculated by reference to the proportion that 22.5% of the outstanding amount of SUN RSA Date Debt, being the amount of US\$21,137,517.61, bears to the aggregate outstanding amount of Allocated Aggregate Debt and each such amount shall be set out in the Allocations Spreadsheet.

**SUN Indenture** means the indenture dated 28 March 2011 between the BLY Issuer, as issuer, BLY, as guarantor, and Delaware Trust Company as trustee, amongst others, as amended by the first supplemental indenture dated 14 June 2013, the second supplemental indenture dated 27 September 2013, the third supplemental indenture dated 2 April 2017, the fourth supplemental indenture dated 31 August 2017, the fifth supplemental indenture dated 18 September 2017, the sixth supplemental indenture dated 31 December 2018, the seventh supplemental indenture dated 17 July 2019, the eighth supplemental indenture dated 15 June 2020, and the ninth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SUN Noteholders** means each person with a Book Entry Interest in the SUN Indenture.

**SUN Notes Registered Holder** means the "Holder" or "Securityholder" as that term is defined in the SUN Indenture, being Depository Trust Company.

**SUN RSA Date Debt** means the amount of SUN Debt as at the RSA Date, being US\$93,944,522.71.

**SUN Trustee** means Delaware Trust Company, in its capacity as trustee under the SUN Indenture and any successor trustee or collateral agent under that document.

**SUN Trustee Deed Poll** means the deed poll substantially in the form set out in Schedule 8 of this Scheme and to be executed by the SUN Trustee as contemplated in clause 4.4 of this Scheme and clause 7(c)(iv) of the RID.

**Sunset Date** means 31 December 2021.

**Term Loan A** means the Term Loan A Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votrant and BLY US, as guarantors, the TLA Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan A Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan A Securities Agreement dated 24 June 2020, and the Third Amendment to Term Loan A Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**Term Loan B** means the Term Loan B Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votrant and BLY US, as guarantors, the TLB Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan B Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated 24 June 2020, and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**TLA Proof of Debt Form** means a proof of debt form substantially in the form set out at Annexure H of the Explanatory Statement which may be lodged with the Information Agent by the TLA Purchasers for the purpose of, amongst other things, voting at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**TLA Proxy Form** means the TLA Proxy Form completed by a TLA Purchaser in accordance with and substantially in the form set out in the Explanatory Statement.

**TLA Purchasers** means the "Purchasers" as that term is defined in the Term Loan A.

**TLA Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is secured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLA Secured RSA Date Debt** means the amount of TLA Secured Debt as at the RSA Date, being US\$85,000,000.00.

**TLA Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is unsecured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLA Unsecured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLA Purchasers pursuant to this Scheme, calculated by reference to the proportion that 25% of the outstanding amount of TLA Unsecured RSA Date Debt, being the amount of US\$18,834,246.22, bears to the aggregate outstanding amount of Allocated Aggregate Debt and each such amount shall be set out in the Allocations Spreadsheet.

**TLA Unsecured RSA Date Debt** means the amount of TLA Unsecured Debt as at the RSA Date, being US\$75,336,984.87.

**TLB Collateral Agent** means U.S. Bank National Association in its capacity as collateral agent for the TLB Purchasers and any successor trustee or collateral agent.

**TLB Collateral Agent Deed Poll** means the deed poll substantially in the form set out in Schedule 6 of this Scheme and to be executed by the TLB Collateral Agent as contemplated in clause 4.2 of this Scheme and clause 7(c)(ii) of the RID.

**TLB Proof of Debt Form** means a proof of debt form substantially in the form set out at Annexure J of the Explanatory Statement which may be lodged with the Information Agent by the TLB Purchasers for the purpose of, among other things, voting at the Secured Creditors' Scheme Meeting and the Unsecured Creditors' Scheme Meeting.

**TLB Proxy Form** means the TLB Proxy Form completed by a TLB Purchaser in accordance with and substantially in the form set out in the Explanatory Statement.

**TLB Purchasers** means the "Purchasers" as that term is defined in the Term Loan B.

**TLB Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is secured pursuant to the terms of the relevant Creditors' Scheme Finance Documents.

**TLB Secured RSA Date Debt** means the amount of TLB Secured Debt as at the RSA Date, being US\$105,000,000.00.

**TLB Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is unsecured pursuant to the terms of the relevant Creditors' Schemes Finance Documents.

**TLB Unsecured Equity Entitlement** means the proportion of New Common Equity to be allocated to each of the TLB Purchasers pursuant to this Scheme, calculated by reference to the proportion that 25% of the outstanding amount of TLB Unsecured RSA Date Debt, being the amount of US\$22,071,326.65, bears to the aggregate outstanding amount of Allocated Aggregate Debt and each such amount shall be set out in the Allocations Spreadsheet.

**TLB Unsecured RSA Date Debt** means the amount of TLB Unsecured Debt as at the RSA Date, being US\$88,285,306.60.

**Total New Warrants** means the total number of New Warrants to be issued to the SUN Noteholders (or their Designated Recipient) pursuant to this Scheme, and in accordance with the RID, which is calculated such that the total number of Shares that can be purchased using the total number of New Warrants issued would result in the SUN Noteholders (or their Designated Recipients), assuming all New Warrants were exercised, holding 10% of the total Shares on issue, with the total Shares on issue for the purposes of this calculation determined:

- (a) following the Share Consolidation to occur prior to the Creditors' Scheme Implementation Date;
- (b) following completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID;
- (c) before the buy-back of any Shares under the Selective Buy-Back;
- (d) before the issue of any Shares on the exercise of Existing Warrants or Existing Options on or after the Creditors' Scheme Implementation Date;
- (e) before the issue of any Shares under the Long Term Equity Incentive Plan on or after the Creditors' Scheme Implementation Date; and
- (f) before the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option; and

(g) including the new Shares that would be issued on exercise of the New Warrants, being a total number of New Warrants of 32,782,148.

**Transaction Party** means the parties to the Term Loan A, the Term Loan B, the SSN Indenture and the SUN Indenture, as applicable.

**Transaction Securities** has the meaning given to that term in the RID.

**Transactions** means the restructuring of BLY and certain of its subsidiaries as summarised in the Restructuring Term Sheet which is schedule 2 of the RSA.

**Treasurer** has the same meaning as it has for the purposes of the FATA.

**Undertaking** means:

- (a) the undertaking given by the Agent to execute the Agent Deed Poll in accordance with this Scheme;
- (b) the undertaking given by the TLB Collateral Agent to execute the TLB Collateral Agent Deed Poll in accordance with this Scheme;
- (c) the undertaking given by the SSN Trustee to execute the SSN Trustee Deed Poll in accordance with this Scheme; and
- (d) the undertaking given by the SUN Trustee to execute the SUN Trustee Deed Poll in accordance with this Scheme,

as the context requires, and **Undertakings** means all of them or any combination of them, as the context requires.

**Unidentified Unsecured Scheme Creditors** has the meaning given to that term in clause 8.2(a).

**Unsecured Creditors' Scheme Deed Poll** means the deed poll executed by the Unsecured Scheme Administrator as attorney and agent for the Unsecured Scheme Creditors as contemplated by clauses 5.2 of this Scheme and clause 7(a) of the RID in substantially the form set out in Schedule 4.

**Unsecured Creditors' Scheme Meeting** means the meeting of the Unsecured Scheme Creditors ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to this Scheme, and includes any adjournment of that meeting.

**Unsecured Scheme Administrator** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of this Scheme, subject to section 411(7) of the Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Unsecured Scheme Administrators Deed Poll.

**Unsecured Scheme Administrators Deed Poll** means the deed poll substantially in the form set out in Schedule 3 of this Scheme and executed by the Unsecured Scheme Administrators.

**Unsecured Scheme Claim** means a Claim in respect of any Liability of a Scheme Company, an Obligor or a Released Individual to any person arising out of:

- (a) the TLA Unsecured Debt, the TLB Unsecured Debt, the SSN Unsecured Debt or the SUN Debt; or

(b) the Creditors' Schemes Finance Documents,

in each case, arising on or before the Creditors' Scheme Implementation Date (including, for the avoidance of doubt, any interest accruing on such claims up to the Creditors' Scheme Implementation Date).

**Unsecured Scheme Consideration** means the Transaction Securities to be issued to Unsecured Scheme Creditors in accordance with Implementation Step 1 (*Issue of Shares and New Warrants*) of the RID.

**Unsecured Scheme Creditors** means, as at the Scheme Effective Date, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Unsecured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Unsecured Debt;
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Unsecured Debt; and
  - (ii) SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co;
- (d) the SUN Indenture:
  - (i) each SUN Noteholder with SUN Debt; and
  - (ii) SUN Notes Registered Holder, and the SUN Notes Registered Holder's nominee, Cede & Co.

**Voting Entitlement Record Date** means 3:00 pm (Sydney) on 2 August 2021.

## 1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, restated, amended and restated, supplemented, replaced, novated, extended or otherwise modified from time to time;
  - (iii) a party is a reference to a person who is bound by this Scheme, and any person who agrees to be bound whether by deed poll or otherwise;
  - (iv) a person includes a natural person, partnership, joint venture, Government Agency, association, corporation or other body corporate;
  - (v) a clause, term, schedule or attachment is a reference to a clause or term of, or, schedule or attachment to this Scheme;

- (vi) this Scheme includes all schedules and attachments to it;
- (vii) a law includes:
  - (A) any constitutional provision, treaty, decree, statute, regulation, by-law, ordinance or instrument;
  - (B) any order, direction, determination, approval requirement, licence or licence condition made, granted or imposed under any of them;
  - (C) any judgment; and
  - (D) any rule or principle of common law or equity,
 and is a reference to that law as amended, supplemented, consolidated, replaced, overruled or applied to new or different facts;
- (viii) an agreement other than this Scheme includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing;
- (ix) "**dollars**" or "**US\$**" or "**\$**" is to an amount in the currency of the United States of America unless otherwise indicated;
- (x) "**AU\$**" is to an amount in the currency of the Commonwealth of Australia;
- (xi) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing; and
- (xii) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) Unless expressly provided otherwise, an agreement on the part of two or more persons binds them severally.
- (g) Unless expressly provided otherwise, a reference to a date or time is to that date or time in Sydney, New South Wales.
- (h) The expressions subsidiary, holding company and related body corporate have the same meanings as in the Corporations Act.

### 1.3 **Non Business Days**

If the day on or by which a person must do something under this document is not a Business Day the person must do it on or by the next Business Day.

### 1.4 **Multiple parties**

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party, then unless otherwise specified in this document:

- (a) an obligation of those persons is joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking relates to each of them separately.

### 1.5 **The rule about "contra proferentem"**

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision of it or because that party relies on a provision of this document to protect itself.

## 2. **CAPACITY OF THE AGENT, THE TLB COLLATERAL AGENT, THE SSN TRUSTEE AND THE SUN TRUSTEE**

Any action taken (including the giving of any release) in connection with this Scheme by:

- (a) the Agent, or on its behalf, is done in its capacity as administrative agent or collateral agent, or both, under the Term Loan A or Term Loan B, as the context requires, and not in the Agent's personal capacity;
- (b) the TLB Collateral Agent, or on its behalf, is done in its capacity as collateral agent, for the TLB Purchasers and not in the TLB Collateral Agent's personal capacity or in its capacity as agent or collateral agent for any other person;
- (c) the SSN Trustee, or on its behalf, is done in its capacity as trustee or collateral agent under the SSN Indenture and not in the SSN Trustee's personal capacity; and
- (d) the SUN Trustee, or on its behalf, is done in its capacity as trustee under the SUN Indenture and not in the SUN Trustee's personal capacity.

## 3. **CONDITIONS PRECEDENT**

### 3.1 **Conditions**

This Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) **(FATA - CBP)** at or before 8.00 am on the Second Court Date, either:
  - (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any CBP Member (or any of their respective Permitted Assignees) directly or indirectly acquiring the New Common Equity and, if applicable, New Warrants pursuant to the Transactions (**Proposed CBP Acquisitions**) and such approval is not subject to any conditions other than the Standard Tax Conditions or any other condition which is acceptable to each CBP Member that is subject of it acting reasonably; or
  - (ii) following notice of the Proposed CBP Acquisitions having been given by CBP to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.
- (b) **(FATA - AHG)** at or before 8.00 am on the Second Court Date, either:

- (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any AHG Member (or any of their respective Permitted Assignees) directly or indirectly acquiring the New Common Equity and, if applicable, New Warrants pursuant to the Transactions (**Proposed AHG Acquisitions**) and such approval is not subject to any conditions other than the Standard Tax Conditions or any other condition which is acceptable to each AHG Member that is the subject of it acting reasonably; or
  - (ii) following notice of the Proposed AHG Acquisitions having been given by AHG to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired;
- (c) (**Shareholder approval**) at or before 8.00 am on the Second Court Date, each of the Shareholder Resolutions are passed by the requisite majorities of BLY Shareholders;
- (d) (**ASX approval**) at or before 8.00 am on the Second Court Date, ASX provides written confirmation that the terms of the New Warrants are appropriate and equitable for the purposes of ASX Listing Rule 6.1 or otherwise waives the requirement for the New Warrants to comply with ASX Listing Rule 6.1;
- (e) (**Director Nomination Agreements**) at or before 8.00 am on the Second Court Date, each Director Nomination Agreement has been executed by the parties to that Director Nomination Agreement;
- (f) (**deeds poll**) as at 8.00 am on the Second Court Date:
  - (i) the Unsecured Scheme Administrators Deed Poll and the Obligors Deed Poll have been executed by the Unsecured Scheme Administrators and the Obligors respectively and continue to benefit the beneficiaries named in those deeds poll in accordance with their terms; and
  - (ii) no such Deed Poll has been terminated;
- (g) (**undertaking**) as at 8.00 am on the Second Court Date:
  - (i) the Undertakings have been executed by the Agents, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee and continue to benefit the beneficiaries named in those Undertakings in accordance with their terms; and
  - (ii) no such Undertakings have been terminated;
- (h) (**Exit Financing Facility**) as at 8.00 am on the Second Court Date, the credit agreement for the Exit Financing Facility has been duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility have been satisfied, other than any conditions relating to:
  - (i) this Scheme and the Secured Creditors' Scheme becoming Effective;
  - (ii) no amendments, waivers or modifications to the RSA, RID, this Scheme or the Secured Creditors' Scheme having been made since 8:00 am on the Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);



- (iii) each Implementation Step in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) and 8(b) (*Step 2 (Releases)*) of the RID having been completed in accordance with their terms; and
- (iv) any conditions which the Exit Financier has agreed to waive or defer.
- (i) **(Regulatory Approvals)** as at 8.00 am on the Second Court Date, any approvals or consents, which are not otherwise described in this clause 3.1 but which are required by law or by any Government Agency to have been obtained by the Scheme Companies to implement this Scheme or the Secured Creditors' Scheme, have been obtained on an unconditional basis and remain in full force and effect;
- (j) **(RSA)** as at 8.00 am on the Second Court Date, the RSA has not been terminated in accordance with its terms and each of the conditions precedent in clause 5.1 (*Conditions*) of the RSA (other than condition 10 (*Court approval*) and condition 17 (*Exit Financing*)) have either been satisfied or waived in accordance with the terms of the RSA;
- (k) **(RID)** as at 8.00 am on the Second Court Date, the RID has been duly executed and delivered by all parties to the RID, save for each party to that document relying on authorities or instructions given under, or in connection with, this Scheme or the Secured Creditors' Scheme;
- (l) **(Court approval)** the Court makes the Second Court Orders, including with such alterations or conditions required by the Court under section 411(6) of the Corporations Act and the alterations or conditions (if any) satisfy at least one of the following:
  - (i) they do not change the substance of this Scheme in any material respect or impose unduly onerous obligations on any of the parties, acting reasonably; or
  - (ii) they have the approval of at least 75% of the Unsecured Scheme Creditors who voted at the Unsecured Creditors' Scheme Meeting and each Obligor;
- (m) **(Unsecured Creditors' Scheme Effective)** this Scheme becomes Effective; and
- (n) **(Secured Creditors' Scheme)** the court order pursuant to section 411(4)(b), and if applicable section 411(6), of the Corporations Act in respect of the Secured Creditors' Scheme becomes effective pursuant to section 411(10) of the Corporations Act.

### 3.2 Certificate

The certificate provided by the Scheme Companies to the Court (or such other evidence as the Court requested) on the Second Court Date constitutes conclusive evidence, as between the parties, that the conditions precedent set out in clauses 3.1(a) to 3.1(k) have been satisfied.

## 4. THE AGENT, THE TLB COLLATERAL AGENT, THE SSN TRUSTEE AND THE SUN TRUSTEE

### 4.1 The Agent

On and from the Scheme Effective Date, notwithstanding any term of any relevant document, the TLA Purchasers and the TLB Purchasers hereby:

- (a) direct the Agent to execute and do, and to instruct any other Transaction Party which it is entitled to instruct to execute and do, or otherwise procure to be executed and

done, all such documents (including, without limitation, the applicable Deed Poll and the RID), acts or things as may be necessary or desirable to be executed or done by it for the purposes of giving effect to the terms of this Scheme and the RID; and

- (b) provide the Agent with all other instructions and consents that are necessary to enable the Agent to do anything that this Scheme or the RID requires or otherwise provides for the Agent to do.

#### **4.2 TLB Collateral Agent**

On and from the Scheme Effective Date, notwithstanding any term of any relevant document, the TLB Purchasers hereby:

- (a) direct the TLB Collateral Agent to execute and do, and to instruct any other Transaction Party which it is entitled to instruct to execute and do, or otherwise procure to be executed and done, all such documents (including, without limitation, the applicable Deed Poll and the RID), acts or things as may be necessary or desirable to be executed or done by it for the purposes of giving effect to the terms of this Scheme and the RID; and
- (b) provide the TLB Collateral Agent with all other instructions and consents that are necessary to enable the TLB Collateral Agent to do anything that this Scheme or the RID requires or otherwise provides for the TLB Collateral Agent to do.

#### **4.3 SSN Trustee**

On and from the Scheme Effective Date, notwithstanding any term of any relevant document, the SSN Noteholders and the SSN Notes Registered Holder hereby:

- (a) direct the SSN Trustee to execute and do, and to instruct any other Transaction Party which it is entitled to instruct to execute and do, or otherwise procure to be executed and done, all such documents (including, without limitation, the applicable Deed Poll and the RID), acts or things as may be necessary or desirable to be executed or done by it for the purposes of giving effect to the terms of this Scheme and the RID; and
- (b) provide the SSN Trustee with all other instructions and consents that are necessary to enable the SSN Trustee to do anything that this Scheme or the RID requires or otherwise provides for the SSN Trustee to do.

#### **4.4 SUN Trustee**

On and from the Scheme Effective Date, notwithstanding any term of any relevant document, the SUN Noteholders and the SUN Notes Registered Holder hereby:

- (a) direct the SUN Trustee to execute and do, and to instruct any other Transaction Party which it is entitled to instruct to execute and do, or otherwise procure to be executed and done, all such documents (including, without limitation, the applicable Deed Poll and the RID), acts or things as may be necessary or desirable to be executed or done by it for the purposes of giving effect to the terms of this Scheme and the RID; and
- (b) provide the SUN Trustee with all other instructions and consents that are necessary to enable the SUN Trustee to do anything that this Scheme or the RID requires or otherwise provides for the SUN Trustee to do.

#### **4.5 Requirements of the Unsecured Scheme Administrator**

Each of the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee, each Unsecured Scheme Creditor and each Obligor will do such acts as may be required of it by the Unsecured Scheme Administrator to give the instructions, consents and notifications

referred to above and failing which the Unsecured Scheme Administrator will do so on their behalf pursuant to clauses 5.1(a) to 5.1(d).

## **5. GRANT OF AUTHORITY IN FAVOUR OF THE UNSECURED SCHEME ADMINISTRATOR**

### **5.1 General grant of authority**

- (a) The Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee, each Unsecured Scheme Creditor and each Obligor irrevocably authorises each Unsecured Scheme Administrator to take all steps and do all other things necessary or advisable to give effect to this Scheme and the RID.
- (b) Without limitation to the generality of clause 5.1(a), on and from the Scheme Effective Date, each Unsecured Scheme Creditor and each Obligor irrevocably appoints each Unsecured Scheme Administrator as its agent and attorney to enter into, execute and deliver as a deed (or otherwise) any document and to take any step necessary, desirable or advisable to give effect to this Scheme.
- (c) Without limitation to the generality of clauses 5.1(a) or 5.1(b), on and from the Scheme Effective Date, each Unsecured Scheme Creditor:
  - (i) irrevocably appoints each Unsecured Scheme Administrator as its agent and attorney to enter into, execute and deliver as a deed (or otherwise) the RID; and
  - (ii) acknowledges and agrees that it shall be bound by, and shall comply with, each of its obligations under the RID upon the RID becoming effective in accordance with its terms.
- (d) The appointments and authorities granted under this clause 5 (*Grant of authority in favour of the Unsecured Scheme Administrator*) and clauses 4 (*The Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee*) and 6 (*Unsecured Scheme Administrators*) shall be treated for all purposes as being fully effective and having been granted by deed poll. The authorities granted in favour of each Unsecured Scheme Administrator under this Scheme will terminate immediately on the retirement or resignation of each Unsecured Scheme Administrator in accordance with clause 6 (*Unsecured Scheme Administrators*) of this Scheme.

### **5.2 Unsecured Creditors' Scheme Deed Poll**

Without limiting the generality of clause 5.1 (*General grant of authority*), on and from the Scheme Effective Date, each Unsecured Scheme Creditor irrevocably authorises the Unsecured Scheme Administrators to execute and deliver, as its attorney and agent, a deed poll substantially in the form of Schedule 4 (*Unsecured Creditors' Scheme Deed Poll*), as amended to include the list of Unsecured Scheme Creditors.

## **6. UNSECURED SCHEME ADMINISTRATORS**

### **6.1 Appointment of Unsecured Scheme Administrators**

Each Unsecured Scheme Administrator will, on and from the Scheme Effective Date, be appointed jointly and severally as scheme administrator of this Scheme.

### **6.2 Qualification, appointment and cessation**

- (a) A person shall only be appointed as a scheme administrator of this Scheme, or replace an Unsecured Scheme Administrator who ceases to be a scheme administrator of this Scheme (except by reason of resignation as the Unsecured

Scheme Administrator under clause 6.8 (*Resignation of Unsecured Scheme Administrator*) if the person:

- (i) is not disqualified pursuant to section 411(7) of the Corporations Act;
  - (ii) consents to act as a scheme administrator; and
  - (iii) signs and delivers a deed poll substantially in the form of the Unsecured Scheme Administrators Deed Poll.
- (b) A person ceases to be an Unsecured Scheme Administrator if he or she:
- (i) is disqualified pursuant to section 411(7) of the Corporations Act;
  - (ii) resigns from the position of Unsecured Scheme Administrator by not less than one month's notice in writing to the Scheme Companies;
  - (iii) is removed from the position of Unsecured Scheme Administrator by an order of the Court;
  - (iv) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (v) becomes bankrupt; or
  - (vi) dies.

### 6.3 **Powers in relation to this Scheme**

Subject to clause 6.8 (*Resignation of Unsecured Scheme Administrator*), each Unsecured Scheme Administrator:

- (a) has the power to supervise, administer, implement and carry out its functions as set out in this Scheme;
- (b) has the power to do anything else that is necessary or advisable for the purposes of administering this Scheme; and
- (c) has the power to do anything that is incidental to the exercise of the powers conferred on him or her under clauses 6.3(a) and 6.3(b).

### 6.4 **Exercise of Powers**

- (a) Each Unsecured Scheme Administrator shall be entitled to:
  - (i) employ its partners and staff to assist it in the performance or exercise of its duties, obligations, responsibilities and powers under this Scheme and the RID;
  - (ii) appoint agents to attend to any matter that the Unsecured Scheme Administrator might attend to under this Scheme and the RID and which the Unsecured Scheme Administrator is unable to attend to or which it is unreasonable to expect the Unsecured Scheme Administrator to attend to in person; and
  - (iii) appoint a solicitor, accountant, barrister or other professionally qualified person or persons to assist or advise the Unsecured Scheme Administrator.

- (b) Except as expressly provided in this Scheme, in exercising or performing any of its duties, obligations, responsibilities or powers under this Scheme and the RID, each Unsecured Scheme Administrator is taken not to act as, nor to have any of the duties of, a trustee.
- (c) Except where this Scheme or the RID expressly authorises an Unsecured Scheme Administrator to act as agent and attorney for a person in the execution of documents, the Unsecured Scheme Administrator does not act as agent or attorney for any party to, or person bound by, this Scheme or the RID and Claims or obligations of any kind whatsoever incurred in connection with its role as Unsecured Scheme Administrator are incurred by it personally.

## 6.5 **Liability**

Subject to the Corporations Act, an Unsecured Scheme Administrator is not, in the performance or exercise of its powers, obligations, functions and duties under this Scheme, personally liable for:

- (a) any Claims or obligations of any kind whatsoever incurred by or on behalf of the Scheme Companies including, without limitation, any monies borrowed and interest thereon and any contracts adopted or otherwise agreed and any Stamp Duty payable on this Scheme and any tax liable to be remitted or otherwise paid (**Indemnified Liabilities**);
- (b) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Losses**); or
- (c) any actions, suits, proceedings, accounts, Claims or demands arising out of this Scheme which may be commenced, incurred by or made by any person and all Costs incurred in respect thereof (**Demands**),

whether before, during or after the Scheme Effective Date, unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.

## 6.6 **Indemnity**

- (a) The Scheme Companies shall indemnify each Unsecured Scheme Administrator for:
  - (i) all Indemnified Liabilities, Losses and Demands (as defined in clause 6.5 (*Liability*)); and
  - (ii) all personal liability that an Unsecured Scheme Administrator may incur in respect of his or her role as Unsecured Scheme Administrator of the Scheme Companies,

unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.
- (b) The indemnity under clause 6.6(a) takes effect on and from the Scheme Effective Date and is without limitation as to time notwithstanding the removal of the Unsecured Scheme Administrator and the appointment of a replacement Unsecured Scheme Administrator, the resignation of the Unsecured Scheme Administrator or the termination of this Scheme for any reason whatsoever.
- (c) The indemnity under clause 6.6(a) shall not:
  - (i) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Unsecured Scheme Administrator and shall extend to all actions, suits, proceedings, accounts, Liabilities, Claims and

Demands arising in any way out of any defect in the appointment of the Unsecured Scheme Administrator, the approval and implementation of this Scheme or otherwise; or

- (ii) affect or prejudice all or any rights that the Unsecured Scheme Administrator may have against any other person to be indemnified against the Costs, Losses and Liabilities incurred by the Unsecured Scheme Administrator in, or incidental to the exercise or performance of any of the powers or authorities conferred on the Unsecured Scheme Administrator by or in connection with this Scheme.

- (d) This indemnity survives completion or termination of this Scheme.

#### **6.7 Remuneration**

Subject to the Corporations Act, each Unsecured Scheme Administrator shall be entitled to remuneration for its services together with reimbursement for its Costs, from, and in accordance with the terms of their letter of engagement with, the Scheme Companies.

#### **6.8 Resignation of Unsecured Scheme Administrator**

Immediately following the delivery of the register pursuant to clause 6.2(b) of the RID evidencing completion of the Implementation Steps, each Unsecured Scheme Administrator resigns as (and is taken to have resigned as) Unsecured Scheme Administrator.

#### **6.9 Directors of the Scheme Companies remain in control**

Subject to the terms of this Scheme:

- (a) the directors of each of the Scheme Companies:
  - (i) remain in control of each of the Scheme Companies with respect to the conduct of their respective business; and
  - (ii) remain in control of all of the assets of the Scheme Companies; and
- (b) the Unsecured Scheme Administrators do not have, and cannot exercise, any power in connection with the matters reserved to the directors of the Scheme Companies referred to in clause 6.9(a) above.

### **7. UNSECURED SCHEME CREDITOR CONSIDERATION**

- (a) On the Creditors' Scheme Implementation Date, in accordance with the RID, and subject to clauses 8 (*Ineligible Persons and Unidentified Unsecured Scheme Creditors*) and 9 (*Entitlement to receive scheme consideration*):
  - (i) each Unsecured Scheme Creditor that is a TLA Purchaser shall be entitled to receive its applicable share of TLA Unsecured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLA Unsecured Debt held by the relevant TLA Purchaser bears to the aggregate outstanding amount of TLA Unsecured Debt held by all such TLA Purchasers in each case, as at the Voting Entitlement Record Date, and each such TLA Purchaser's definitive entitlement shall be set out in the Allocations Spreadsheet;
  - (ii) each Unsecured Scheme Creditor that is a TLB Purchaser shall be entitled to receive its applicable share of TLB Unsecured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of TLB Unsecured Debt held by the relevant TLB Purchaser bears to

the aggregate outstanding amount of TLB Unsecured Debt held by all such TLB Purchasers, in each case, as at the Voting Entitlement Record Date and each such TLB Purchaser's definitive entitlement shall be set out in the Allocations Spreadsheet;

- (iii) each Unsecured Scheme Creditor that is a SSN Noteholder shall be entitled to receive its applicable share of SSN Unsecured Equity Entitlement, which shall be allocated pro rata by reference to the proportion that the outstanding amount of SSN Unsecured Debt held by the relevant SSN Noteholder bears to the aggregate outstanding amount of SSN Unsecured Debt held by all such SSN Noteholders in each case, as at the Voting Entitlement Record Date and each such SSN Noteholder's definitive entitlement shall be set out in the Allocations Spreadsheet;
- (iv) each Unsecured Scheme Creditor that is a SUN Noteholder, shall be entitled to receive its applicable share of:
  - (A) the SUN Equity Entitlement; and
  - (B) the Total New Warrants,

which shall be allocated pro rata by reference to the proportion that the outstanding amount of SUN Debt held by the relevant SUN Noteholder bears to the aggregate outstanding amount of SUN Debt held by all such SUN Noteholders as at the Voting Entitlement Record Date and each such SUN Noteholder's definitive entitlement shall be set out in the Allocations Spreadsheet; and

- (v) each Unsecured Scheme Creditor that is a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder shall be entitled to its rights and benefits under the Restructuring Documents to the extent that they relate to such Unsecured Scheme Creditor's Unsecured Scheme Claim.
- (b) Where an Unsecured Scheme Creditor (or its Designated Recipient) would receive a fractional number of Shares or, if applicable, New Warrants as a result of the operation of clause 7(a), then the number of Shares or, if applicable, New Warrants issued to that person will be rounded to the nearest whole number.

## 8. **INELIGIBLE PERSONS AND UNIDENTIFIED UNSECURED SCHEME CREDITORS**

### 8.1 **Ineligible Persons**

- (a) Unsecured Scheme Creditors who are Ineligible Persons and who have not appointed a Designated Recipient in accordance with clause 9 (*Entitlement to receive scheme consideration*) are not entitled to be issued the New Common Equity or, if applicable, New Warrants under clause 7 (*Unsecured scheme creditor consideration*) and in accordance with the RID. Instead, the New Common Equity or, if applicable, New Warrants that but for this clause 8.1, would be issued to the Unsecured Scheme Creditor who is an Ineligible Person will, on the Creditors' Scheme Implementation Date, in accordance with this Scheme and the RID, be issued to a nominee appointed by BLY (the **Nominee**).
- (b) Where the Nominee is issued New Common Equity and, if applicable, New Warrants under clause 8.1(a), BLY will cause the Nominee to:
  - (i) as soon as is reasonably practicable (but, in any case within one month after the Members' Scheme Effective Time or, if the Members' Scheme is not approved by the Court, the Creditors' Schemes Restructuring Effective Time) offer all such New Common Equity (or the CDIs issued to the Nominee on

implementation of the Members' Scheme) or, if applicable, New Warrants for sale in the manner, at such price and on such other terms the Nominee thinks fit (and at the risk of the Unsecured Scheme Creditors who are Ineligible Persons); and

- (ii) remit to BLY the proceeds of sale (after deducting any reasonable brokerage or other selling costs, taxes and charges).
- (c) Promptly after the last sale of New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) and, if applicable, New Warrants in accordance with clause 8.1(b), BLY must pay to each Unsecured Scheme Creditor who is an Ineligible Person the proportion of the net proceeds of sale received by BLY pursuant to clause 8.1(b)(ii) to which that Unsecured Scheme Creditor is entitled.

## 8.2 **Unidentified Unsecured Scheme Creditors**

- (a) If an Unsecured Scheme Creditor is not identified in BLY's records provided to the Unsecured Scheme Administrators in accordance with clause 7(e) of the RID or, in respect of a SSN Noteholder or a SUN Noteholder who is an Unsecured Scheme Creditor, has not procured delivery of the Custody Instructions to DTC and the Information Agent during the Scheme Consideration Election Window as described in the Explanatory Statement to facilitate the delivery of the Unsecured Scheme Consideration (**Unidentified Unsecured Scheme Creditors**), BLY must issue the New Common Equity or, if applicable, the New Warrants to which that Unsecured Scheme Creditor is entitled to the Nominee on the Creditors' Scheme Implementation Date.
- (b) Where New Common Equity and, if applicable, New Warrants have been issued to the Nominee in accordance with clause 8.2(a), BLY will take commercially reasonable steps to seek to identify that Unsecured Scheme Creditor for a period of 6 months from the date of the Nominee receiving the New Common Equity and, if applicable, New Warrants.
- (c) If at any time during the 6 month period referred to in clause 8.2(b) above the Unidentified Unsecured Scheme Creditor has been identified, then BLY will cause the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) and, if applicable, New Warrants to which that Unsecured Scheme Creditor is entitled to be transferred to it (or its nominated Designated Recipient) provided that person is not an Ineligible Person, in which case:
  - (i) BLY will cause the Nominee to, as soon as is reasonably practicable, sell the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) and, if applicable, New Warrants at such price and on such other terms the Nominee thinks fit (and at the risk of the Unsecured Scheme Creditor) and remit the net proceeds of sale after deducting any reasonable brokerage or other selling costs, taxes and charges to BLY; and
  - (ii) promptly after the last sale of the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members' Scheme) and, if applicable, New Warrants in accordance with clause 8.2(c)(i), BLY must pay to each such Unsecured Scheme Creditor the proportion of the net proceeds of sale received by BLY pursuant to clause 8.2(c)(i) to which that Unsecured Scheme Creditor is entitled; or
- (d) If the Unidentified Unsecured Scheme Creditor is not identified by the end of the 6 month period referred to in clause 8.2(b), then BLY will cause the New Common Equity (or the CDIs issued to the Nominee on implementation of the Members'



Scheme) and, if applicable, New Warrants to which that Unidentified Unsecured Scheme Creditor is entitled to be sold by the Nominee and the proceeds to be donated by way of gift to a charity of BLY's choosing.

**9. ENTITLEMENT TO RECEIVE SCHEME CONSIDERATION**

**9.1 Appointment of Designated Recipient to receive scheme consideration**

- (a) Each Unsecured Scheme Creditor shall be entitled to appoint a Designated Recipient to receive the New Common Equity or, if applicable, New Warrants that it is entitled to under this Scheme by and in accordance with a duly completed TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter and/or SUN Account Holder Letter (as applicable).
- (b) Each Unsecured Scheme Creditor that appoints a Designated Recipient:
  - (i) must procure that such Designated Recipient complies with the terms of this Scheme, the RID and the Restructuring Documents (as applicable); and
  - (ii) is liable for such Designated Recipient breaching the terms of this Scheme, the RID and the Restructuring Documents (as applicable).

**9.2 Entitlement to scheme consideration after Voting Entitlement Record Date**

- (a) Subject to clause 14.2 (*Transfers and assignments*), the Scheme Companies are under no obligation to recognise any assignment or transfer of interests in the TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt after the Voting Entitlement Record Date for the purpose of a person claiming to be entitled to receive New Common Equity, New Warrants or Shares pursuant to the Creditor Share Purchase Option (as applicable) under this Scheme and have no obligations under this Scheme to any person claiming to be an Unsecured Scheme Creditor to whom the relevant TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt was assigned or transferred, unless that person has:
  - (i) provided a duly completed TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter and/or SUN Account Holder Letter (as applicable) to the Information Agent in accordance with the instructions, other than the time by which the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter and SUN Account Holder Letter (as applicable) must be returned to the Information Agent, as set out in the Explanatory Statement;
  - (ii) if the person assigning or transferring the TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt is a party to the RSA, complied with the terms of the RSA; and
  - (iii) if the person assigning or transferring the TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt is a Participating SUN Noteholder or Other CSPO Participant, complied with clause 9.2(a)(i) and the relevant TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable) provided to the Information Agent has the relevant section titled 'Creditor Share Purchase Option' completed, whereby, among other things, the relevant transferee has elected to participate in the Creditor Share Purchase Option and has requested the same Maximum Committed Securities as the person assigning or transferring the TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt.
- (b) Any person to whom TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt was assigned or transferred after the Voting Entitlement Record Date and recognised by the Scheme Companies in accordance with clause 9.2 (*Entitlement*

to scheme consideration after Voting Entitlement Record Date) is deemed to have held the relevant TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt as at Voting Entitlement Record Date for the purpose of determining its entitlement to receive New Common Equity or, if applicable, New Warrants under clause 7 (*Unsecured scheme creditor consideration*) or Shares pursuant to the Creditor Share Purchase Option under clause 12 (*Creditor Share Purchase Option*).

## 10. RELEASES

### 10.1 Unsecured Scheme Creditor releases

- (a) Subject to clause 10.4 (*Limitations*) below, with effect on and from completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID:
  - (i) in consideration of the rights conferred on the Unsecured Scheme Creditors pursuant to this Scheme, each Unsecured Scheme Creditor (for the avoidance of doubt, solely in their capacity as an Unsecured Scheme Creditor), hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law:
    - (A) waives, releases and discharges all of its rights, title and interest in the Unsecured Scheme Claims; and
    - (B) waives, releases and discharges all Liabilities of the Scheme Companies, the Obligors, the Released Individuals, the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee to the Unsecured Scheme Creditors and each and every Claim which the Unsecured Scheme Creditors may have against the Scheme Companies, the Obligors, the Released Individuals, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee, in each case, in relation to or in connection with or in any way arising out of:
      - (aa) the Unsecured Scheme Claims and any of the facts, matters, circumstances and events that arose, occurred in respect of or gave rise to the Unsecured Scheme Claims;
      - (bb) the Creditors' Schemes Finance Documents;
      - (cc) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Secured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents and/or the Incremental Finance Documents and/or the Existing Backstop ABL; and
      - (dd) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms;
  - (ii) in consideration of the rights conferred on the Obligors pursuant to this Scheme, each Obligor hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law waives, releases and discharges each Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee from any and all Claims and any and all other rights, title and interest in relation to or in connection with or in any way arising out of:
    - (A) the Creditors' Schemes Finance Documents;

- (B) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Secured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents; and
  - (C) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms;
- (iii) in consideration of the rights conferred on the Released Individuals pursuant to this Scheme, each Released Individual hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law waives, releases and discharges each Obligor, each Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee from any and all Claims and any and all other rights, title and interest in relation to or in connection with or in any way arising out of:
  - (A) the Creditors' Schemes Finance Documents;
  - (B) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Secured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents; and
  - (C) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms.
- (iv) in consideration of the rights conferred on the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee pursuant to this Scheme, the Agent, TLB Collateral Agent, SSN Trustee and SUN Trustee each hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law waives, releases and discharges each Obligor, each Unsecured Scheme Creditor and each Released Individual from any and all Claims and any and all other rights, title and interest in relation to or in connection with or in any way arising out of:
  - (A) the Creditors' Schemes Finance Documents;
  - (B) the preparation, negotiation, sanction or implementation of the RSA and/or this Scheme and/or the Secured Creditors' Scheme and/or the Members' Scheme and/or the Restructuring Documents; and
  - (C) the execution of the Restructuring Documents and/or the carrying out of the actions, steps and transactions contemplated thereby in accordance with their terms.
- (b) With effect on and from completion of the Implementation Step in clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*) of the RID, each of the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee and the Unsecured Scheme Creditors consents to the waivers, releases and discharges in this clause 10.1 and waives all rights that it may have to require that any person comply with any requirements relating to waiver or any other matter in any of the Creditors' Schemes Finance Documents to the extent necessary to effect the waivers, releases and discharges under this clause 10.1.
- (c) The releases in this clause 10.1 extend to Claims or Liabilities which are unknown to or not in the contemplation of the parties, their employees, agents, former employees or former agents, or their related bodies corporate, at the time the releases in this clause 10.1 take effect.

- (d) Subject to clause 10.4 (*Limitations*), with effect on and from the time at which the releases in this clause 10.1 take effect in accordance with clause 10.1(a) each of the Unsecured Scheme Creditors, Obligors, each Released Individual, the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee acknowledge and agree that the Creditors' Schemes Finance Documents are irrevocably and unconditionally terminated and, for the avoidance of doubt, the "Securities" (as defined in the SSN Indenture or SUN Indenture (as applicable)) issued under the SSN Indenture and the SUN Indenture are cancelled.

## 10.2 Subordinate Claim releases

- (a) With effect on and from completion of the Implementation Step in clause 8(f) (*Step 6 (Selective Buy-Back)*) of the RID:
  - (i) the right and entitlement of each Subordinate Claim Holder to enforce as against BLY any Subordinate Claim is limited to the amount (if any) actually recovered by BLY under any Applicable Insurance Policy, net of any expenses (including defence Costs) incurred by BLY and/or any relevant insurer in connection with the claim (**Net Proceeds**); and
  - (ii) BLY is hereby irrevocably and unconditionally fully and absolutely, to the fullest extent permitted by law released from any obligation to pay any amount in respect of any Subordinate Claim (including interest and Costs) in excess of the Net Proceeds referable to that claim.
- (b) Where BLY is entitled to claim under any Applicable Insurance Policy all or part of the amount claimed under a Subordinate Claim, BLY shall take all reasonable steps to make and pursue a claim for indemnity under the Applicable Insurance Policy in respect of that Subordinate Claim.

## 10.3 Covenant not to sue and bar to claim

On and from the Scheme Effective Date, each party releasing a Claim or releasing any other party from an obligation owed to it by that party under this Scheme absolutely and irrevocably undertakes to that party, at and from the time each such release is expressed to take effect and subject to all conditions to that released Claim or released obligation (if any) having been satisfied in accordance with their terms, that it will not:

- (a) make any Claim in respect of the released Claim or obligation to the extent that the Claim or obligation has been released in accordance with this document;
- (b) instruct, direct authorise or assist or encourage any other person (including, in respect of the Unsecured Scheme Creditors, each of the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee) to commence or continue any proceeding against the Scheme Companies, any Obligor or any Released Individual and/or any other entity in the Group in relation to or in connection with or in any way arising out of the matters referred to in clauses 10.1 (*Unsecured Scheme Creditor releases*) or 10.2 (*Subordinate Claim releases*), as applicable, or otherwise to assert any such claim against the Scheme Companies, any Obligor and/or any other entity in the Group,

and this document may be pleaded as a bar to any such Claim in any jurisdiction whatsoever.

## 10.4 Limitations

The releases, waivers and discharges effected by the terms of this clause 10 (*Releases*) shall not:

- (a) disentitle any Obligor, Unsecured Scheme Creditor, Released Individual, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee from enforcing their respective rights under this Scheme, the Restructuring Documents or in respect of any transaction to be implemented or consummated in connection therewith and each party agrees that those releases, waivers and covenants will be limited to the extent necessary to permit each of them to enforce any such rights;
- (b) discharge any indemnity granted in favour of the Agent, TLB Collateral Agent, SSN Trustee or SUN Trustee pursuant to the terms of a Creditors' Schemes Finance Document or the RID which is expressly stated in that document to survive or continue in full force and effect;
- (c) prevent the Agent, TLB Collateral Agent, SSN Trustee or SUN Trustee from executing, doing, or instructing any other relevant person to so execute or do, any instructions, acts or things under this Scheme or the RID;
- (d) extend to any Claim to the extent that such Claim relates to the released party's obligations under the RSA that require performance subsequent to this Scheme becoming Effective or to any terms of the RSA, or rights of any party to the RSA, that continue under or pursuant to the RSA; or
- (e) extend to any Claim by any party, to the extent that the relevant released party has engaged in fraud or wilful misconduct or been reckless, grossly negligent or dishonest in respect of the facts, matters, circumstances or events to which that Claim relates.

## 11. **TURNOVER**

- (a) Each Unsecured Scheme Creditor must hold on trust for the benefit of the Scheme Companies, the Released Individuals, the Obligors and for the benefit of each other entity in the Group (as applicable) any recovery made against such person and received by such Unsecured Scheme Creditor after the Scheme Effective Date, pursuant to any Liability or Claim released pursuant to clause 10.1(a)(i) or in breach of clause 10.3 (*Covenant not to sue and bar to claim*), other than, in each case and for the avoidance of doubt, any recovery made under clause 7 (*Unsecured scheme creditor consideration*), and the Unsecured Scheme Creditor must turn over any such recovery to the Scheme Companies, the Released Individuals, the Obligors and each other entity in the Group (as applicable) without set-off, counterclaim or deduction.
- (b) To the extent that the asset comprising the recovery referred to in clause 11(a) cannot be held on trust by the Unsecured Scheme Creditor that received such recovery, such Unsecured Scheme Creditor must pay to the relevant Scheme Companies, the Released Individuals, the Obligors, the Released Individuals and each other entity in the Group (as applicable) an amount equal to that recovery immediately upon demand being made by the relevant Scheme Companies, the Released Individuals, the Obligors and each other entity in the Group (as applicable) without set-off, counterclaim or deduction.
- (c) Any amounts held on trust in accordance with clause 11(a) or required to be paid in accordance with clause 11(b) pursuant to any Liability or Claim released under clause 10.1(a)(i) or in breach of clause 10.3 (*Covenant not to sue and bar to claim*), must be held on trust for the benefit of, or paid to, the Scheme Companies, the Released Individual, the Obligor, or a combination of one or more such persons, from whom such recovery was received by the Unsecured Scheme Creditor.

## 12. **CREDITOR SHARE PURCHASE OPTION**

- (a) On the Creditors' Scheme Implementation Date, in accordance with the RID, an Unsecured Scheme Creditor who:

- (i) is a Participating SUN Noteholder or an Other CSPO Participant;
- (ii) has complied with each of the requirements as set out in the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter in the section entitled 'Creditor Share Purchase Option' and has been allocated Shares under the Creditor Share Purchase Option by BLY in accordance with the CSPO Allocation Principles; and
- (iii) has paid, or its Permitted CSPO Nominee has paid, the aggregate CSPO Issue Price payable by that Unsecured Scheme Creditor for the Shares allocated by BLY to that Unsecured Scheme Creditor (or its Permitted CSPO Nominee) by the payment date specified in the final Allocation Confirmation provided by BLY to the Unsecured Scheme Creditor,

will be issued, or its Permitted CSPO Nominee will be issued, by BLY the number of Shares allocated by BLY to that Unsecured Scheme Creditor (or its Permitted CSPO Nominee) in its capacity as such under the Creditor Share Purchase Option in accordance with the CSPO Allocation Principles and each such Participating SUN Noteholder or Other CSPO Participant's definitive entitlement shall be set out in the Allocations Spreadsheet.

- (b) Where a Participating SUN Noteholder, an Other CSPO Participant or a Permitted CSPO Nominee would receive a fractional number of Shares as a result of the operation of clause 12(a), then the number of Shares issued to that person will be rounded to the nearest whole number.

### 13. **NO INCONSISTENT ACTS**

The parties agree to treat themselves as bound by this Scheme for all purposes and not to act otherwise than in accordance with this Scheme.

### 14. **STANDSTILL, TRANSFERS AND CONSENTS**

#### 14.1 **Standstill**

- (a) During the period on and from the Scheme Effective Date up to the Creditors' Schemes Restructuring Effective Time (the **Standstill Period**), the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee and each Unsecured Scheme Creditor must not, except for the purpose of enforcing the terms of this Scheme, or any Deed Poll or as otherwise expressly provided by this Scheme:
  - (i) exercise any right or remedy it may have under or in connection with the documents governing their respective Claims against the Obligors, including any right to seek interest payments under any such document, or under any applicable United States, Australian, Canadian or foreign law or otherwise with respect to any defaults, events of default or default events, howsoever described, which may arise under such documents;
  - (ii) commence or continue any legal action, Claim or other proceedings against any Obligor or the assets of any Obligor, including but not limited to in connection with any rights arising out of an event of default, default or default event, howsoever described, under any Creditors' Schemes Finance Document applicable to it;
  - (iii) exercise and, in the case of a TLA Purchaser or TLB Purchaser, not direct the Agent to exercise, and shall instruct the Agent to desist from exercising, any rights under any Creditors' Schemes Finance Documents applicable to it;

- (iv) exercise and, in the case of the TLB Purchaser, not direct the TLB Collateral Agent to exercise, and shall instruct the TLB Collateral Agent to desist from exercising, any rights under the Creditors' Schemes Finance Documents applicable to it;
  - (v) exercise and, in the case of the SSN Noteholders and the SSN Notes Registered Holder, not direct the SSN Trustee to exercise, and shall instruct the SSN Trustee to desist from exercising, any rights under any Creditors' Schemes Finance Documents applicable to it;
  - (vi) exercise and, in the case of the SUN Noteholders and the SUN Notes Registered Holder, not direct the SUN Trustee to exercise, and shall instruct the SUN Trustee to desist from exercising, any rights under any Creditors' Schemes Finance Documents applicable to it;
  - (vii) take any step to enforce or make any demand under any guarantee, security or other right of recourse held by the Unsecured Scheme Creditors, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee in respect of any Creditors' Schemes Finance Document;
  - (viii) take, or concur in the taking, of any step to wind up, appoint a liquidator, administrator, receiver, receiver and manager, or analogous officer over, or commence any other insolvency related or attachment proceedings against, any Obligor or the assets of any Obligor;
  - (ix) take any steps to demand or enforce payment of all or part of any money owing, whether actually or contingently, by any Obligor pursuant to a right under any Creditors' Schemes Finance Document;
  - (x) declare any event of default, default or default event, howsoever described, under any Creditors' Schemes Finance Document, including in respect of any circumstances subsisting as at or prior to the Scheme Effective Date;
  - (xi) ask or require any Obligor under any Creditors' Schemes Finance Document to make any payment in respect of any indebtedness, Liability or obligations (in each case, including at law) of such Obligor, including under or in connection with any Creditors' Schemes Finance Document or any transaction under, or contemplated by, any Creditors' Schemes Finance Document;
  - (xii) institute or prosecute any legal proceedings in relation to any Claim under any Creditors' Schemes Finance Document against any Obligor or any other person to be released under this Scheme to the extent that such Claim or obligation is to be released under this Scheme; or
  - (xiii) exercise any rights against any Obligor which they may have on the occurrence of a breach, default, event of default, potential event of default or termination event (in each case, howsoever described or arising) under any Creditors' Schemes Finance Document.
- (b) For the avoidance of doubt, the forbearances in clause 14.1(a) do not constitute a waiver with respect to any defaults or events of default under the Creditors' Schemes Finance Documents, and shall not bar any Unsecured Scheme Creditor from filing a proof of debt or taking action to establish the amount of such Claim if this Scheme terminates and is of no further force or effect in accordance with clause 15 (*Termination*).

## 14.2 Transfers and assignments

- (a) Other than with the consent of the Scheme Companies, during the Standstill Period:

- (i) the Agent and each Unsecured Scheme Creditor that is a TLA Purchaser agrees not to dispose of or transfer any right under the Term Loan A and each such TLA Purchaser directs the Agent not to register any such disposal or transfer;
  - (ii) the Agent and each Unsecured Scheme Creditor that is a TLB Purchaser agrees not to dispose of or transfer any right under the Term Loan B and each such TLB Purchaser directs the Agent not to register any such disposal or transfer;
  - (iii) the TLB Collateral Agent and each Unsecured Scheme Creditor that is a TLB Purchaser agrees not to dispose of or transfer any right under the Term Loan B and each such TLB Purchaser directs the TLB Collateral Agent not to register any such disposal or transfer;
  - (iv) the SSN Trustee and each Unsecured Scheme Creditor that is a SSN Noteholder agrees not to dispose of or transfer any right under the SSN Indenture and each such SSN Noteholder directs the SSN Trustee not to register any such disposal or transfer; and
  - (v) the SUN Trustee and each Unsecured Scheme Creditor that is a SUN Noteholder agrees not to dispose of or transfer any right under the SUN Indenture and each such SUN Noteholder directs the SUN Trustee not to register any such disposal or transfer.
- (b) The Scheme Companies are under no obligation to recognise any assignment or transfer of interests in the TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt for the purposes of this Scheme after the Scheme Effective Date and have no obligations under this Scheme to any person other than the Unsecured Scheme Creditors, except that the Scheme Companies may, in their sole discretion and subject to the production of such other evidence in relation to such assignment or transfer as they may reasonably require (including an undertaking from the relevant transferee that it shall be bound by the terms of this Scheme as an Unsecured Scheme Creditor in relation to its interest in the TLA Unsecured Debt, TLB Unsecured Debt, SSN Unsecured Debt or SUN Debt (as applicable)) and to any other terms and conditions which the Scheme Companies may consider necessary or desirable, agree to recognise such assignment or transfer for the purpose of this Scheme.

### 14.3 **Consent, waiver and release**

The Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee, each Unsecured Scheme Creditor and each Obligor whose consent or agreement is necessary under the Creditors' Schemes Finance Documents (as applicable) to give effect to this Scheme:

- (a) irrevocably consents and agrees to each Obligor:
  - (i) entering into, or otherwise becoming bound by, each Restructuring Document of which that Obligor is a party;
  - (ii) performing its respective obligations and transactions under, or as contemplated by those Restructuring Documents (including, but not limited to, Court applications for the purposes of this Scheme) of which that Obligor is a party; and
  - (iii) carrying out any step for the purposes of, or otherwise acting consistently with, those Restructuring Documents of which that Obligor is a party;
- (b) agrees that no breach, non-compliance, default, event of default or potential event of default or termination event (in each case, howsoever described) under any Creditors' Schemes Finance Document:



- (i) has occurred (and agrees that it is taken to have not occurred), as a result of;
- (ii) has been caused by (and agrees that it is taken to have not been caused by);
- (iii) is continuing (and agrees that it is taken not to be continuing), as a result of; or
- (iv) will or can occur, as a result of or be caused by,

any Obligor entering into or performing any Restructuring Document or the obligations or transactions under, or contemplated by, any Restructuring Document (including, but not limited to, any court applications for the purposes of this Scheme) or carrying out any step for the purposes of, or otherwise acting consistently with the Restructuring Documents, and if any such event is deemed to have occurred then it is expressly waived notwithstanding any requirements relating to waiver in the Creditors' Schemes Finance Documents;

- (c) without limiting any other clause in this Scheme, agrees that if any change of control, in each case howsoever described, (**Change of Control Event**) has occurred under any of the Creditors' Schemes Finance Documents at any time, up to and including the Creditors' Scheme Implementation Date, any rights arising out of or in connection with the Change of Control Event are waived notwithstanding any requirements relating to waiver in the Creditors' Schemes Finance Documents;
- (d) agrees and consents to any releases which are given, or disposals of rights or other property which are made or occur, by any Obligor under, or which are otherwise contemplated by, the Restructuring Documents; and
- (e) agrees that the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee have committed no breach, non-compliance or default under the relevant Creditors' Schemes Finance Documents by executing the Undertakings, and if any such event is deemed to have occurred then it is expressly waived notwithstanding any requirements relating to waiver in the Creditors' Schemes Finance Documents.

## 15. **TERMINATION**

### 15.1 **Sunset Date**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, then with effect from that time, this Scheme will not be capable of implementation and this Scheme will lapse, terminate and be of no further force or effect.

### 15.2 **Obligations on termination**

- (a) If this document is terminated, all obligations of the parties under this Scheme, other than clauses 6.5 (*Liability*), 16 (*Notices*) and 17 (*General Provisions*), immediately cease to be of further effect.
- (b) The termination of this Scheme does not affect any Claim that a party may have against another party where that Claim arose before this Scheme is terminated.

## 16. **NOTICES**

Any notice, consent or other communication under this Scheme must be given in accordance with clause 16 (*Notices*) of the RID as though that clause was reproduced in this Scheme in its entirety.

## **17. GENERAL PROVISIONS**

### **17.1 Further assurances**

The Unsecured Scheme Administrator, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee, each Unsecured Scheme Creditor and each Obligor must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable (in the opinion of the Scheme Companies, acting in good faith) to give full effect to the terms of this Scheme and the transactions contemplated by it.

### **17.2 Binding effect of Scheme**

This Scheme binds the Scheme Companies, each Unsecured Scheme Creditor (including each Unsecured Scheme Creditor who did not attend the Unsecured Creditors' Scheme Meeting, who did not vote at the Unsecured Creditors' Scheme Meeting or who voted against this Scheme) and each Subordinate Claim Holder (despite the fact that a meeting of those creditors has not been ordered by the Court under section 411(1) of the Corporations Act) and, to the extent of any inconsistency, overrides the terms of the Creditors' Schemes Finance Documents. This Scheme also binds any party who agrees to be bound by this Scheme pursuant to a Deed Poll.

### **17.3 Costs and Stamp Duty**

- (a) The Scheme Companies must pay in full all Costs incurred by them in connection with the negotiation, preparation and implementation of this Scheme as and when they arise. For the avoidance of doubt, this includes all Costs incurred by the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee (including legal costs).
- (b) The Scheme Companies are liable for, and must pay all Stamp Duty on or relating to the execution, delivery and performance of this Scheme, any instrument executed under or in connection with this Scheme or any transaction evidenced, effected or contemplated by this Scheme.
- (c) If a person other than the Scheme Companies pays any Stamp Duty on or relating to the execution, delivery and performance of this Scheme, any instrument executed under or in connection with this Scheme or any transaction evidenced, effected or contemplated by this Scheme, then the Scheme Companies must pay that amount to the paying party on demand.
- (d) This clause 17.3 survives completion of this Scheme.

### **17.4 Governing Law and jurisdiction**

- (a) This Scheme is governed by the laws of the State of New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of that State and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of the Scheme.

## SCHEDULE 1

### Creditors' Schemes Finance Documents

No.	Document	Parties	Date
<b>Term Loan A</b>			
<b>Facility Agreements</b>			
1.	Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	31 December 2018
2.	First Amendment to Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	17 July 2019
3.	Second Amendment to Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), Centerbridge Special Credit Partners II AIV III, L.P., Centerbridge Credit Partners Master AIV III, L.P., CCP II Acquisition Holdings, LLC ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	24 June 2020
4.	Third Amendment to Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Acquisition Holdings, LLC, Centerbridge Credit Partners Master AIV III, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	1 June 2021
<b>Security Agreements</b>			
5.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust,	10 April 2018

No.	Document	Parties	Date
		National Association ( <b>Collateral Agent</b> )	
6.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	11 September 2018
7.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	24 September 2018
8.	General Security Deed – Term Loan A	Wilmington Trust, National Association ( <b>Secured Party</b> ), Boart Longyear Limited (ACN 123 052 728), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Australia Pty Ltd (ACN 000 401 025), Votrant No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Investments Pty Limited (ACN 124 070 373) (each a <b>Grantor</b> )	31 December 2018
9.	US Security and Pledge Agreement for the Term Loan A Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein as a grantor(each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
10.	Canadian Security and Pledge Agreement for Term Loan A Securities Agreement	Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada, Ltd., Boart Longyear Manufacturing and Distribution Inc., Votrant No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
11.	Restatement Amendment Agreement relating to the Assignment Agreement – Term Loan A Securities Agreement	Boart Longyear Suisse SARL ( <b>Assignor</b> ), Wilmington Trust, National Association ( <b>Administrative Agent</b> )	31 December 2018
12.	Restatement Amendment Agreement relating to the Bank Account Assignment Agreement – Term Loan A Securities Agreement	Boart Longyear Suisse SARL ( <b>Assignor</b> ), Wilmington Trust, National Association ( <b>Administrative Agent</b> )	31 December 2018
13.	Pledge over Inventory - Term Loan A	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
14.	Pledge over Fixed Assets – Term Loan A	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust,	31 December 2018

No.	Document	Parties	Date
		National Association ( <b>Collateral Agent</b> )	
15.	Pledge over Assets	Boart Longyear S.A.C ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
16.	Pledge over Shares	Longyear Canada ULC ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of Notes Indenture Agreement</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
<b>Term Loan B</b>			
<b>Facility Agreement</b>			
17.	Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	31 December 2018
18.	First Amendment to Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), CCP II Dutch Acquisition – ND2, B.V., CCP Credit SC II Dutch Acquisition – ND, B.V. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	17 July 2019
19.	Second Amendment to Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Guarantor</b> ), Centerbridge Special Credit Partners II AIV III, L.P., Centerbridge Credit Partners Master AIV III, L.P., CCP II Acquisition Holdings, LLC ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	24 June 2020
20.	Third Amendment to Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other	1 June 2021

No.	Document	Parties	Date
		company listed therein (each a <b>Guarantor</b> ), CCP II Acquisition Holdings, LLC, Centerbridge Credit Partners Master AIV III, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. ( <b>Purchasers</b> ), Wilmington Trust, National Association ( <b>Agent</b> )	
<b>Security Agreements</b>			
21.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	10 April 2018
22.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	11 September 2018
23.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	24 September 2018
24.	General Security Deed – Term Loan B	Wilmington Trust, National Association ( <b>Secured Party</b> ) and, amongst other, Boart Longyear Limited (ACN 123 052 728), Boart Longyear Management Pty Limited (ACN 123 283 545) and each other company listed therein (each a <b>Grantor</b> )	31 December 2018
25.	US Security and Pledge Agreement for the Term Loan B Securities Agreement	BL Capital Management LLC ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company listed therein (each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
26.	Canadian Security and Pledge Agreement for Term Loan B Securities Agreement	Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada, Ltd., Boart Longyear Manufacturing and Distribution Inc., Votrant No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
27.	Pledge over Inventory – Term Loan B Securities Agreement	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
28.	Pledge over Fixed Assets – Term Loan B Securities Agreement	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	31 December 2018
29.	Pledge over Assets	Boart Longyear S.A.C ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent</b> )	31 December 2018

No.	Document	Parties	Date
		<b>Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	
30.	Pledge over Shares	Longyear Canada ULC ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of Notes Indenture Agreement</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
31.	Amended and Restated SSN Indenture, TLB and Incremental Financing U.S. Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent, Trustee</b> ), Wilmington Trust, National Association ( <b>Authorized Representative</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545) (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) (ACN 123 052 728) and the other grantors party thereto (each a <b>Grantor</b> )	1 June 2021
32.	Amended and Restated SSN Indenture, TLB and Incremental Financing Canadian Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent, Trustee</b> ), Wilmington Trust, National Association ( <b>Authorized Representative</b> ), Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada Ltd., Votrant No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> )	1 June 2021
<b>SSN Indenture</b>			
<b>Facility Agreements</b>			
33.	SSN Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) ( <b>Parent</b> ), Boart Longyear Australia Pty Ltd (ACN 000 401 025) and each other company party thereto, (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	27 September 2013
34.	First Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), BLY IP Inc., Boart Longyear Limited (ACN 123 052 728) and each other company party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	31 August 2017
35.	Second Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), BLY IP Inc., BL DDL NY Holdings Inc., Boart Longyear Limited (ACN 123 052 728), Boart Longyear Australia Pty	18 September 2017

No.	Document	Parties	Date
		Ltd (ACN 000 401 025) and each other company a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	
36.	Third Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	31 December 2018
37.	Fourth Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	17 July 2019
38.	Fifth Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728), Boart Longyear Australia Pty Ltd (ACN 000 401 025) and each other company a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	24 June 2020
39.	Sixth Supplemental SSN Indenture to the Senior Secured Indenture and the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company a party thereto (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	1 June 2021
<b>Security Agreements</b>			
40.	Amended and Restated SSN Indenture, TLB and Incremental Financing U.S. Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent</b> ) Boart Longyear Management Pty Limited (ACN 123 283 545) (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728) and the other grantors party thereto (each a <b>Grantor</b> )	1 June 2021
41.	Amended and Restated SSN Indenture, TLB and Incremental Financing Canadian Security and Pledge Agreement	U.S. Bank National Association ( <b>Collateral Agent</b> )Longyear Canada, ULC, Boart Longyear Canada, Boart Longyear Manufacturing Canada Ltd., Votrait No. 1609 Pty Limited (ACN 119 244 272) (each a <b>Grantor</b> )	1 June 2021
42.	SSN Indenture Amendment Security Deed to the	U.S. Bank National Association ( <b>Secured Party</b> ), Boart Longyear Management Pty Limited (ACN 123	1 June 2021



No.	Document	Parties	Date
	General Security Deed dated 27 September 2013	283 545), Boart Longyear Limited (ACN 123 052 728), Votrant No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Australia Pty Ltd (ACN 000 401 025) (each a <b>Grantor</b> )	
43.	SSN Indenture Australian General Security Deed	U.S. Bank National Association ( <b>Secured Party</b> ), Boart Longyear Management Pty Limited (ACN 123 283 545), Boart Longyear Limited (ACN 123 052 728), Votrant No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Australia Pty Ltd (ACN 000 401 025) (each a <b>Grantor</b> )	27 September 2013
44.	Pledge over Assets – SSN Indenture	Boart Longyear S.A.C. ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent</b> )	19 December 2013
45.	Pledge over Shares in Boart Longyear S.A.C. – SSN Indenture	Longyear Canada, ULC ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent</b> )	19 December 2013
46.	Pledge over Inventory – SSN Indenture	Boart Longyear Chile Limitada ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ) Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	13 February 2015
47.	Pledge over Fixed Assets – SSN Indenture	Boart Longyear Chile Limitada ( <b>Grantor</b> ), US Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ) Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	13 February 2015
48.	Pledge over Assets – SSN Indenture (First Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Agent in respect of Term Loan A and Term Loan B</b> )	12 March 2015
49.	Pledge over Shares in Boart Longyear S.A.C – SSN Indenture (First Amendment)	Longyear Canada, ULC ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Agent in respect of Term Loan A and Term Loan B</b> )	12 March 2015
50.	Pledge over Assets – SSN Indenture (Second Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Agent</b> ), Wilmington Trust, National	2 November 2016

No.	Document	Parties	Date
		Association ( <b>Agent in respect of Term Loan A and Term Loan B</b> )	
51.	Pledge over Assets – SSN Indenture (Third Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	2 March 2018
52.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	10 April 2018
53.	Pledge over Assets – SSN Indenture (Fourth Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	26 July 2018
54.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	11 September 2018
55.	Pledge over Goods in Transit	Boart Longyear Chile Limitada ( <b>Grantor</b> ), Wilmington Trust, National Association ( <b>Collateral Agent</b> )	24 September 2018
56.	Pledge over Assets – SSN Indenture (Fifth Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), Bank of America N.A ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	10 December 2018
57.	SSN Indenture General Security Deed	U.S. Bank National Association ( <b>Secured Party</b> ), Boart Longyear Investments Pty Limited (ACN 124 070 373) ( <b>Grantor</b> )	1 June 2021
58.	Pledge over Assets – SSN Indenture (Sixth Amendment)	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018
59.	Pledge over Shares in Boart Longyear S.A.C – SSN Indenture (Second Amendment)	Longyear Canada, ULC ( <b>Grantor</b> ), Bank of America N.A ( <b>Agent</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	31 December 2018

No.	Document	Parties	Date
60.	Pledge over Assets – SSN Indenture	Boart Longyear S.A.C. ( <b>Grantor</b> ), U.S. Bank National Association ( <b>Collateral Agent in respect of SSN Indenture</b> ), Wilmington Trust, National Association ( <b>Collateral Agent in respect of Term Loan A and Term Loan B</b> )	23 January 2020
<b>SUN Indenture</b>			
61.	SUN Indenture to the Notes issued thereunder	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	28 March 2011
62.	First Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Manufacturing USA Inc., Boart Longyear Manufacturing Canada Ltd. (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	14 June 2013
63.	Second Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Chile Limitada, Votraint No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Comercializadora Limitada (each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	27 September 2013
64.	Third Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), U.S. Bank National Association ( <b>Trustee</b> )	2 April 2017
65.	Fourth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	31 August 2017
66.	Fifth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	18 September 2017

No.	Document	Parties	Date
67.	Sixth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	31 December 2018
68.	Seventh Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	17 July 2019
69.	Eighth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728) and each other company specified as a party thereto(each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	15 June 2020
70.	Ninth Supplemental SUN Indenture to the Unsecured Notes	Boart Longyear Management Pty Limited (ACN 123 283 545) ( <b>Issuer</b> ), Boart Longyear Limited (ACN 123 052 728), Boart Longyear Australia Pty Ltd (ACN 000 401 025), Boart Longyear Investments Pty Limited (ACN 124 070 373), Votraint No. 1609 Pty Limited (ACN 119 244 272), Boart Longyear Chile Limitada, Boart Longyear S.A.C., BLY US Holdings Inc., Boart Longyear Company, BL Capital Management LLC, Longyear TM, Inc., Boart Longyear Manufacturing and Distribution Inc., Boart Longyear Manufacturing Canada Ltd., Longyear Canada, ULC, Boart Longyear Canada, BLY IP Inc., Boart Longyear Suisse SARL (each a <b>Guarantor</b> ), Delaware Trust Company ( <b>Trustee</b> )	1 June 2021

## **SCHEDULE 2**

### **Restructuring Implementation Deed**



## Restructuring Implementation Deed

2021

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**THIS DEED** is made on

2021

**BETWEEN:**

- (1) **Boart Longyear Limited** ACN 123 052 728 (**BLY**);
- (2) each other **Scheme Company** listed in the table under the row "Scheme Companies" in schedule 1;
- (3) the **Secured Scheme Creditors** (as defined in the Secured Creditors' Scheme (as defined below)) acting by the Secured Scheme Administrator pursuant to the authority conferred upon the Secured Scheme Administrator by the Secured Scheme Creditors under clause 5 of the Secured Creditors' Scheme;
- (4) the **Unsecured Scheme Creditors** (as defined in the Unsecured Creditors' Scheme (as defined below)) acting by the Unsecured Scheme Administrator pursuant to the authority conferred upon the Unsecured Scheme Administrator by the Unsecured Scheme Creditors under clause 5 of the Unsecured Creditors' Scheme;
- (5) **Christopher Clarke Hill** and **David Peter McGrath** of FTI Consulting, together being the Secured Scheme Administrators and Unsecured Scheme Administrators (**Scheme Administrators**);
- (6) **Wilmington Trust, National Association**, in its capacity as administrative agent and collateral agent under the Term Loan A and Term Loan B;
- (7) **U.S. Bank National Association**, in its capacity as trustee and collateral agent under the SSN Indenture (the **SSN Trustee**);
- (8) **U.S. Bank National Association**, in its capacity as collateral agent for the TLB Purchasers (the **TLB Collateral Agent**);
- (9) **Delaware Trust Company**, in its capacity as trustee under the SUN Indenture (the **SUN Trustee**);
- (10) **Boart Longyear Ltd.** (Ontario Corporation No. 002854330), a limited company incorporated in Ontario, Canada, with registered address Suite 2400, 333 Bay Street, Toronto, Canada (**New BLY Parent**);
- (11) each **Incremental Financier** listed in the table under the row "Incremental Financiers" in schedule 1;
- (12) **U.S. Bank National Association**, in its capacity as collateral agent under the Incremental Finance Facility (the **Incremental Collateral Agent**);
- (13) **Wilmington Trust, National Association**, in its capacity as agent under the Incremental Finance Facility (the **Incremental Agent**);
- (14) each **Existing Backstop ABL Financier** listed in the table under the row "Existing Backstop ABL Financiers" in schedule 1;
- (15) **Wilmington Trust, National Association**, in its capacity as collateral agent under the Existing Backstop ABL (the **Backstop Collateral Agent**); and
- (16) **Wilmington Trust, National Association**, in its capacity as agent under the Existing Backstop ABL (**Backstop Agent**).

## RECITALS:

- (A) The Scheme Companies have proposed a restructuring of BLY and its subsidiaries' financial indebtedness to be implemented in accordance with the BLY Creditors' Schemes, this document and the other Restructuring Documents.
- (B) This is the "Restructuring Implementation Deed" referred to in the RSA, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, the Creditors' Schemes Explanatory Statement, the Members' Scheme and the Members' Scheme Explanatory Statement.
- (C) The purpose of this document is to give effect to certain of the steps in the Restructuring Documents and to formalise the consents, instructions, directions, waivers, steps and timing required to implement the Restructuring.

## THE PARTIES AGREE AS FOLLOWS:

### 1. INTERPRETATION

#### 1.1 Definitions

In this document the following words, expressions and abbreviations have the following meanings, unless the context otherwise requires:

**Adviser** means each of the Scheme Companies' Advisers, AHG Advisers or the CBP Advisers (as applicable).

**Agent** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Agent Claim** has the meaning given to that term in clause 10.1(d)(ii).

**Agent Deed Poll** means the Agent Deed Poll set out in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme respectively and to be executed by the Agents in accordance with clause 7(b).

**Agent Demands** has the meaning given to that term in clause 10.1(d)(ii)(C).

**Agent Liabilities** has the meaning given to that term in clause 10.1(d)(ii)(A).

**Agent Losses** has the meaning given to that term in clause 10.1(d)(ii)(B).

**AHG** means each person listed in the table under the row "AHG" in schedule 1, or any of their permitted transferees or assignees and **AHG Member** means any one of them.

**AHG Advisers** means Paul Weiss Rifkind Wharton & Garrison LLP, Gilbert + Tobin and Clifford Chance, Sydney (as legal advisers).

**AHG Director Nomination Agreements** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Allocation Confirmation** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Allocations Spreadsheet** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Assumption Deed Poll** means the deed poll of that name to be entered into by New BLY Parent in favour of holders of the New Warrants, the holders of the Existing Warrants, the holders of the Existing Options and the participants in the Long Term Incentive Plan.

**ASX** means ASX Limited or the financial market operated by ASX Limited, as the context requires.

**Authorised Nominee** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Backstop ABL Outgoing Consideration** means an amount equal to all Obligations (other than contingent indemnification obligations) (as defined in the Existing Backstop ABL) outstanding as at the Creditors' Scheme Implementation Date.

**Backstop ABL Pay Out Letter** means the pay-out letter provided to the BLY Issuer by the Backstop Agent confirming the Backstop ABL Outgoing Consideration.

**Backstop Agent Claim** has the meaning given to that term in clause 10.5(d)(ii).

**Backstop Agent Demands** has the meaning given to that term in clause 10.5(d)(ii)(C).

**Backstop Agent Liabilities** has the meaning given to that term in clause 10.5(d)(ii)(A).

**Backstop Agent Losses** has the meaning given to that term in clause 10.5(d)(ii)(B).

**Backstop Collateral Agent Claim** has the meaning given to that term in clause 10.6(d)(ii).

**Backstop Collateral Agent Demands** has the meaning given to that term in clause 10.6(d)(ii)(C).

**Backstop Collateral Agent Liabilities** has the meaning given to that term in clause 10.6(d)(ii)(A).

**Backstop Collateral Agent Losses** has the meaning given to that term in clause 10.6(d)(ii)(B).

**Backstop Finance Documents** means together:

- (a) the Existing Backstop ABL;
- (b) any security granted by any or all of the members of the Group for the benefit of the Existing Backstop ABL Financiers; and
- (c) any document designated a Loan Document (as that term is defined in the Existing Backstop ABL).

**BLY Creditors' Schemes** means, collectively, the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**BLY Register** means the register of members of BLY.

**BLY Shareholder** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Business Day** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**CBP** means each person listed in the table under the row "CBP" in schedule 1, or any of their permitted transferees or assignees and **CBP Member** means any one of them.

**CBP Advisers** means Kirkland & Ellis LLP and MinterEllison (as legal advisers).

**CBP Director Nomination Agreement** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**CDI** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Claim** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Collateral Agent** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Costs** means costs, charges, fees and expenses.

**Court** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditor Share Purchase Option** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditors' Implementation Period** has the meaning given to that term in clause 4.2(b).

**Creditors' Scheme Implementation Date** means the Proposed Creditors' Scheme Implementation Date, unless another date is determined and notified by a Scheme Administrator in accordance with clause 4.1(a), in which case that new date will be the Creditors' Scheme Implementation Date.

**Creditors' Schemes Effective Date** means the date on which the Scheme Effective Date under both the Secured Creditors' Scheme and the Unsecured Creditors' Scheme has occurred.

**Creditors' Schemes Explanatory Statement** means the explanatory statement prepared in accordance with the Corporations Act explaining the BLY Creditors' Schemes.

**Creditors' Schemes Finance Documents** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditors' Schemes Restructuring Effective Time** means the time at which all of the Implementation Steps in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) to 8(h) (*Step 8 (Confirmation of Scheme Restructuring Effective Time)*) have been completed.

**CSPO Allocation Principles** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**CSPO Creditors** means each Participating SUN Noteholder and each Other CSPO Participant.

**CSPO Issue Price** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Demands** has the meaning given to that term in clause 11.1(c).

**Designated Recipient** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Effective** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**EGM** means the extraordinary general meeting of BLY Shareholders to consider and vote on the shareholder resolutions to approve the Restructuring.

**Execution Effective Date** has the meaning given to it in clause 3.

**Existing Backstop ABL** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Existing Backstop ABL Financiers** means each entity listed in the table under the row "Existing Backstop ABL Financiers" in schedule 1.

**Existing Options** means the options granted to eligible participants to purchase Shares in accordance with:

- (a) the 2014 option plan established by BLY entitled "Boart Longyear Limited Option Plan";
- (b) the 2015 option plan established by BLY entitled "Boart Longyear Limited Option Plan"; and
- (c) the 2016 option plan established by BLY entitled "Boart Longyear Limited Option Plan".

**Existing Warrants** means each of the following instruments:

- (a) the quoted ordinary warrants trading on ASX initially issued in September 2017 to all eligible BLY Shareholders, which are subject to an Ordinary Warrant Deed Poll dated 31 August 2017 in favour of the warrant holders;
- (b) unquoted Class A 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class A 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders; and
- (c) unquoted Class B 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class B 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Exit Financier** means each bank, fund or other financial institution who is designated a lender (howsoever described) pursuant to the terms of the Exit Financing Facility.

**Exit Financing Documents** means:

- (a) the Exit Financing Facility;
- (b) the Exit Financing Security; and
- (c) any other document designated a loan document or a finance document (howsoever described) under the Exit Financing Facility.

**Exit Financing Facility** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Exit Financing Security** means security granted by any or all of the Group members that are party to the documents for the Exit Financing Facility for the benefit of the financiers and other finance parties under the Exit Financing Facility.

**Funds Flow** means the funds flow document prepared by BLY as the funds flow for the purpose of this document which sets out each party's entitlement to the funds distributed in accordance with the Implementation Steps, which will be provided to each CBP Member, each AHG Member, the Incremental Agent on behalf of the Incremental Financiers and the Backstop Agent on behalf of the Backstop ABL Financiers.

**Government Agency** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Group** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**GST** means the same as "GST" means in the GST Law.

**GST Law** means the same as "GST Law" means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Implementation Steps** means each of the steps set out in clause 8.

**Incremental Agent Claim** has the meaning given to that term in clause 10.7(d)(ii).

**Incremental Agent Demands** has the meaning given to that term in clause 10.7(d)(ii)(C).

**Incremental Agent Liabilities** has the meaning given to that term in clause 10.7(d)(ii)(A).

**Incremental Agent Losses** has the meaning given to that term in clause 10.7(d)(ii)(B).

**Incremental Collateral Agent Claim** has the meaning given to that term in clause 10.8(d)(ii).

**Incremental Collateral Agent Demands** has the meaning given to that term in clause 10.1(d)(ii)(C).

**Incremental Collateral Agent Liabilities** has the meaning given to that term in clause 10.1(d)(ii)(A).

**Incremental Collateral Agent Losses** has the meaning given to that term in clause 10.1(d)(ii)(B).

**Incremental Finance Documents** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Incremental Finance Facility** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Incremental Finance Outgoing Consideration** means the amount equal to all Obligations (other than contingent indemnification obligations) (as defined in the Incremental Finance Facility) outstanding as at the Creditors' Scheme Implementation Date.

**Incremental Finance Pay Out Letter** means the pay out letter provided to the BLY Issuer by the Incremental Agent confirming the Incremental Finance Outgoing Consideration.

**Incremental Financier** means each person listed in the table under the row "Incremental Financiers" in schedule 1.

**Liabilities** has the meaning given to that term in clause 11.1(a).

**Long Term Incentive Plan** means Boart Longyear's 2020 Long Term Incentive Plan effective 30 July 2020.

**Losses** has the meaning given to that term in clause 11.1(b).

**Members' Scheme** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Members' Scheme Consideration** means one (1) New BLY Parent Share in the form of a CDI, for each one (1) Share held by a Re-domiciliation Member.

**Members' Scheme Explanatory Statement** means the explanatory statement prepared in accordance with the Corporations Act explaining the Members' Scheme.

**Members' Scheme Implementation Date** means the Proposed Members' Scheme Implementation Date, unless another date is determined and notified by a Scheme Administrator in accordance with clause 4.2(c), in which case that new date will be the Members' Scheme Implementation Date.

**Members' Scheme Second Court Orders** means the orders of the Court approving the Members' Scheme under section 411(6) of the Corporations Act.

**New BLY Parent CDI** means a CDI representing a beneficial interest in one New BLY Parent Share.

**New BLY Parent Shares** means one common share in the capital of New BLY Parent.

**New Common Equity** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**New Warrants** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Nominee** has the meaning given to that term in clause 8.1(a) of the Secured Creditors' Scheme and clause 8.1(a) of the Unsecured Creditors' Scheme.

**Non-Associated Shareholder** means a BLY Shareholder who is not any of the following:

- (a) a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder on the SBB Record Date or at any time after that date; or
- (b) an associate of any of the persons referred to in paragraph (a).

**Obligors** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Other CSPO Participant** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Participating SUN Noteholder** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Proposed Creditors' Scheme Implementation Date** has the meaning given to it in clause 4.1(a).

**Proposed Members' Scheme Implementation Date** has the meaning given to it in clause 4.1(b).

**Re-domiciliation Member** means each BLY Shareholder recorded in the BLY Register as at the record date for the Members' Scheme, being those BLY Shareholders to receive the Members' Scheme Consideration under the Members' Scheme.

**Restructuring** means the proposed restructuring of the existing indebtedness and equity of the Group to be effected by completing the Implementation Steps.

**Restructuring Documents** means this document and each of the documents listed in schedule 2 of this document.

**RSA** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Sale Agent** has the meaning given to that term in the Members' Scheme.

**SBB Record Date** means the date for determination of BLY Shareholders who are entitled to participate in the Selective Buy-Back, being 7.00 pm (Sydney time) on 28 July 2021.

**Scheme Administrators** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, being the Secured Scheme Administrators and Unsecured Scheme Administrators.

**Scheme Companies** means BLY and each other Scheme Company listed in the table under the row "Scheme Companies" in schedule 1.

**Scheme Companies Advisers** means Ashurst, Milbank LLP, Dorsey & Whitney LLP, Fasken (as legal advisers).

**Scheme Effective Date** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme respectively.

**Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors (as defined in the Secured Creditors' Scheme), being the compromise or arrangement proposed by the Scheme Companies and approved by the Court immediately prior to the entry into this document.

**Secured Creditors' Scheme Deed Poll** has the meaning given to that term in the Secured Creditors' Scheme.

**Secured Scheme Administrator** has the meaning given to that term in the Secured Creditors' Scheme.

**Secured Scheme Consideration** means the New Common Equity to be issued to Secured Scheme Creditors in accordance with clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*).

**Secured Scheme Creditors** has the meaning given to that term in the Secured Creditors' Scheme.

**Selective Buy-Back** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Selective Buy-Back Consideration** means the amount payable by BLY to a Selective Buy-Back Shareholder for the purchase of Shares from the Selective Buy-Back Shareholder in accordance with the Selective Buy-Back.



**Selective Buy-Back Shareholders** means an eligible Non-Associated Shareholder who offers to sell their Shares to BLY by electing to participate in the Selective Buy-Back and from whose offer to sell Shares is accepted by BLY in its absolute discretion.

**Share Purchase Plan** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Shares** means fully paid ordinary shares in the capital of BLY.

**SPP Shareholders** means those eligible BLY Shareholders who elect to purchase Shares in accordance with the Share Purchase Plan.

**SSN Indenture** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Noteholders** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Notes Registered Holder** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Secured Equity Entitlement** has the meaning given to that term in the Secured Creditors' Scheme.

**SSN Trustee** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SSN Trustee Claim** has the meaning given to that term in clause 10.3(d)(ii)(A).

**SSN Trustee Deed Poll** means each SSN Trustee Deed Poll set out in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme and to be executed by the SSN Trustee in accordance with clause 7(b).

**SSN Trustee Demands** has the meaning given to that term in clause 10.3(d)(ii)(C).

**SSN Trustee Liabilities** has the meaning given to that term in clause 10.3(d)(ii)(A).

**SSN Trustee Losses** has the meaning given to that term in clause 10.3(d)(ii)(B).

**SSN Unsecured Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Stamp Duty** means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount in respect of the above.

**Subordinate Claim Holder** has the meaning given to that term in the in Unsecured Creditors' Scheme.

**SUN Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**SUN Indenture** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SUN Noteholders** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SUN Notes Registered Holder** has the meaning given to that term in the Unsecured Creditors' Scheme.

**SUN Trustee** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**SUN Trustee Claim** has the meaning given to that term in clause 10.4(d)(ii)(A).

**SUN Trustee Deed Poll** means the SUN Trustee Deed Poll set out in the Unsecured Creditors' Scheme and to be executed by the SUN Trustee in accordance with clause 7(c).

**SUN Trustee Demands** has the meaning given to that term in clause 10.4(d)(ii)(C).

**SUN Trustee Liabilities** has the meaning given to that term in clause 10.4(d)(ii)(A).

**SUN Trustee Losses** has the meaning given to that term in clause 10.4(d)(ii)(B).

**Sunset Date** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Term Loan A** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Term Loan B** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**TLA Purchasers** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**TLA Secured Equity Entitlement** has the meaning give to that term in the Secured Creditors' Scheme.

**TLA Unsecured Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**TLB Collateral Agent Claim** has the meaning given to that term in clause 10.2(d)(ii).

**TLB Collateral Agent Deed Poll** means each TLB Collateral Agent Deed Poll set out in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme and to executed by the TLB Collateral Agent in accordance with clause 7(c).

**TLB Collateral Agent Demands** has the meaning given to that term in clause 10.2(d)(ii)(C).

**TLB Collateral Agent Liabilities** has the meaning given to that term in clause 10.2(d)(ii)(A).

**TLB Collateral Agent Losses** has the meaning given to that term in clause 10.2(d)(ii)(B).

**TLB Proxy Form** means the TLB Proxy Form completed by a TLB Purchaser in accordance with and substantially in the form set out in the Creditors' Schemes Explanatory Statement.

**TLB Purchasers** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**TLB Secured Equity Entitlement** has the meaning given to that term in the Secured Creditors' Scheme.

**TLB Unsecured Equity Entitlement** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Total New Warrants** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Transaction Securities** means:

- (a) the New Common Equity;
- (b) the Shares to be issued by BLY in accordance with the Share Purchase Plan;
- (c) the Shares to be issued by BLY in accordance with the Creditor Share Purchase Option; and
- (d) the New Warrants.

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by the Scheme Companies and approved by the Court in 2021.

**Unsecured Creditors' Scheme Deed Poll** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Unsecured Scheme Administrator** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Unsecured Scheme Consideration** means the New Common Equity and, if applicable, New Warrants to be issued to Unsecured Scheme Creditors in accordance with clause 8(a) (*Step 1 (Issue of Shares and New Warrants)*).

**Unsecured Scheme Creditors** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Voting Entitlement Record Date** has the meaning given to that term in the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

## 1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party is a reference to a person who is bound by this document, and any person who agrees to be bound whether by deed poll or otherwise;
  - (iv) a person includes a natural person, partnership, joint venture, Government Agency, association, corporation or other body corporate;

- (v) a clause, term, schedule or attachment is a reference to a clause or term of, or, schedule or attachment to this document;
- (vi) this document includes all schedules and attachments to it;
- (vii) a law includes:
  - (A) any constitutional provision, treaty, decree, statute, regulation, by-law, ordinance or instrument;
  - (B) any order, direction, determination, approval requirement, licence or licence condition made, granted or imposed under any of them;
  - (C) any judgment; and
  - (D) any rule or principle of common law or equity,
 and is a reference to that law as amended, supplemented, consolidated, replaced, overruled or applied to new or different facts;
- (viii) an agreement other than this document includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing;
- (ix) "**dollars**" or "**US\$**" or "**\$**" is to an amount in the currency of the United States of America unless otherwise indicated;
- (x) "**AU\$**" is to an amount in the currency of the Commonwealth of Australia;
- (xi) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing; and
- (xii) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) Unless expressly provided otherwise, an agreement on the part of two or more persons binds them severally.
- (g) Unless expressly provided otherwise, a reference to a date or time is to that date or time in Sydney, New South Wales.
- (h) The expressions **subsidiary**, **holding company** and **related body corporate** have the same meanings as in the Corporations Act.

### 1.3 **Non Business Days**

If the day on or by which a person must do something under this document is not a Business Day the person must do it on or by the next Business Day.

#### 1.4 **Multiple parties**

If a party to this document is made up of more than one person, or a term is used in this document to refer to more than one party, then unless otherwise specified in this document:

- (a) an obligation of those persons is several and not joint or joint and several;
- (b) a right of those persons is held by each of them severally; and
- (c) any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking relates to each of them separately.

#### 1.5 **The rule about "contra proferentem"**

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision of it or because that party relies on a provision of this document to protect itself.

### 2. **THIRD PARTIES**

#### 2.1 **Capacity of the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee**

Any action taken (including the giving of any release) in connection with this document by:

- (a) the Agent, or on its behalf, is done in its capacity as administrative agent or collateral agent, or both, under the Term Loan A or Term Loan B, as the context requires, and not in the Agent's personal capacity;
- (b) the TLB Collateral Agent, or on its behalf, is done in its capacity as collateral agent for the TLB Purchasers, and not in the TLB Collateral Agent's personal capacity or in its capacity as agent or collateral agent for any other person;
- (c) the SSN Trustee, or on its behalf, is done in its capacity as trustee or collateral agent under the SSN Indenture and not in the SSN Trustee's personal capacity; and
- (d) the SUN Trustee, or on its behalf, is done in its capacity as trustee under the SUN Indenture and not in the SUN Trustee's personal capacity.

#### 2.2 **Relationship with Other Documents**

- (a) This document, the RSA and each of the other Restructuring Documents set out the parties' entire understanding of the Restructuring and supersede any previous agreement between any of the parties with respect to the Restructuring.
- (b) In the event of any inconsistency between this document and:
  - (i) the RSA, this document shall prevail, provided that nothing in this document should be interpreted as affecting or limiting any party's consent rights under the RSA; and
  - (ii) any of the other Restructuring Documents, the relevant Restructuring Document shall prevail.

### 3. **EFFECTIVENESS**

This document in its entirety will become effective and legally binding among the parties, on and from the date on which a Scheme Administrator gives notice to all parties to this document and the Advisers in writing that (the **Execution Effective Date**):

- (a) the Creditors' Schemes Effective Date has occurred;
- (b) a Scheme Administrator (on behalf of the Scheme Administrators and on behalf of the Secured Scheme Creditors and the Unsecured Scheme Creditors, as applicable) has duly executed this document; and
- (c) each of the other parties has duly executed this document.

### 4. **IMPLEMENTATION**

#### 4.1 **Proposed Implementation Dates**

On the same Business Day as the Execution Effective Date, or as soon as reasonably practicable thereafter, a Scheme Administrator (acting reasonably) must give notice to the Scheme Companies, the Agent, the SSN Trustee, the TLB Collateral Agent, the SUN Trustee, the Incremental Collateral Agent, the Incremental Agent, the Backstop Collateral Agent, the Backstop Agent and the Advisers notifying them of the date on which the Scheme Administrators propose the Implementation Steps:

- (a) in clauses 8(a) to 8(h) (inclusive) to implement the BLY Creditors' Schemes (including the Creditor Share Purchase Option), Share Purchase Plan and Selective Buy-Back will be commenced (the **Proposed Creditors' Scheme Implementation Date**); and
- (b) subject to the Court making the Members' Scheme Second Court Orders, in clauses 8(i) to 8(j) (inclusive) to implement the Members' Scheme will be commenced, which must be a date that is no later than 30 days after the Creditors' Schemes Restructuring Effective Time or such other date as the Scheme Administrators deem reasonably necessary in the circumstances (the **Proposed Members' Scheme Implementation Date**).

#### 4.2 **Timing of BLY Creditors' Scheme Implementation Steps**

- (a) As soon as reasonably practicable after BLY has received notice of the Proposed Creditors' Scheme Implementation Date and the Proposed Members' Scheme Implementation Date, BLY must make a public announcement published on ASX setting out the Proposed Creditors' Scheme Implementation Date and the Proposed Members' Scheme Implementation Date.
- (b) Subject to clause 4.2(c), all of the Implementation Steps set out in clauses 8(a) to 8(h) (inclusive) must occur within 3 Business Days (**Creditors' Implementation Period**) following the Proposed Creditors' Scheme Implementation Date in accordance with their terms.
- (c) If a Scheme Administrator forms the view that not all of the Implementation Steps in clauses 8(a) to 8(h) (inclusive) can be completed during the Creditors' Implementation Period a Scheme Administrator must determine a new Proposed Creditors' Scheme Implementation Date and:
  - (i) a Scheme Administrator must, as soon as reasonably practicable after the change, give notice to the Advisers of the details of that change (including the reasons for it); and

- (ii) BLY as soon as reasonably practicable must make a further public announcement published on ASX setting out the change to the Proposed Creditors' Scheme Implementation Date and the Proposed Members' Scheme Implementation Date.

## 5. **ALLOCATIONS AND DELIVERY OF TOTAL RESTRUCTURING CONSIDERATION**

Each party's entitlement to the Transaction Securities and funds issued pursuant to the applicable Restructuring Documents and distributed in accordance with the Implementation Steps must be set out in the Allocations Spreadsheet and Funds Flow and shall be calculated as follows:

- (a) each Secured Scheme Creditors' applicable share of the Secured Scheme Consideration shall be determined as set out in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;
- (b) each Unsecured Scheme Creditors' applicable share of the Unsecured Scheme Consideration shall be determined as set out in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;
- (c) the number of new Shares to be issued to each CSPO Creditor under the Creditor Share Purchase Option shall be determined by BLY in accordance with the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the CSPO Allocation Principles;
- (d) the number of new Shares to be issued to each SPP Shareholder under the Share Purchase Plan shall be determined by BLY as set out in the terms of the Share Purchase Plan;
- (e) the Selective Buy-Back Consideration payable to each Selective Buy-Back Shareholder shall be determined by BLY in accordance with the terms of the Selective Buy-Back;
- (f) the Incremental Finance Outgoing Consideration, as set out in the Incremental Finance Pay Out Letter; and
- (g) the Backstop ABL Outgoing Consideration, as set out in the Backstop ABL Pay Out Letter.

## 6. **MECHANICS OF IMPLEMENTATION STEPS**

### 6.1 **Definitions, interpretation and undertaking not to make Claims**

- (a) Subject to clause 6.1(c), all releases and discharges in clause 8 are irrevocable at and from the time they are expressed to take effect.
- (b) Anything (including an issue, allotment, release or discharge) occurring under an Implementation Step is binding and effective even if there is no consideration for it.
- (c) Where, in the opinion of the Scheme Administrators, acting reasonably, as a result of a release, discharge, allotment, issue or other event referred to or contemplated by an Implementation Step failing to occur or to take effect, it is not possible to give effect to the intent and purpose of the Restructuring in all material respects:
  - (i) no other release, discharge, allotment, issue or other event referred to or contemplated by the Implementation Steps has effect (including as a result of non-satisfaction of a condition to a released Claim or released obligation, if any), and each such release, discharge, allotment, issue or other event is deemed not to have effect; and

- (ii) each party shall do all things reasonably necessary to put each other party in the position it would have been in if none of the Implementation Steps had occurred. This clause 6.1(c)(ii) survives and continues in effect notwithstanding the effect of clause 12.2 (*Sunset date*).

## 6.2 **Scheme Administrators' register and certification**

- (a) The Scheme Administrators must keep a register noting the time of completion of the Implementation Steps and a Scheme Administrator must sign it where indicated following completion of each Implementation Step. Each of the register and a copy of the register certified by a Scheme Administrator will be conclusive evidence that the Implementation Step was completed at the time noted in the register.
- (b) As soon as practicable after:
  - (i) completion of the Implementation Steps in clauses 8(a) and 8(b); and
  - (ii) completion of the remaining Implementation Steps in clauses 8(c) to 8(j),
 a Scheme Administrator will give a copy of the register showing the status of the completion of the Implementation Steps, certified by the Scheme Administrators, to the Advisers, and the legal advisers of the Incremental Financiers, the legal advisers of the Exit Financier, the legal advisers of the Agent, the legal advisers of the TLB Collateral Agent, the legal advisers of the SSN Trustee and the legal advisers of the SUN Trustee.

## 7. **PRE-IMPLEMENTATION STEPS**

On and from Scheme Effective Date, prior to any Implementation Step commencing:

- (a) first, the Scheme Administrators must execute and deliver the Secured Creditors' Scheme Deed Poll and the Unsecured Creditors' Scheme Deed Poll;
- (b) second:
  - (i) each TLA Purchaser which is a Secured Scheme Creditor or Unsecured Scheme Creditor, each TLB Purchaser which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the Agent all instructions, consents and directions to execute and deliver the Agent Deed Poll and to perform its obligations under the Agent Deed Poll and the BLY Creditors' Schemes;
  - (ii) each TLB Purchaser which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the TLB Collateral Agent all instructions, consents and directions to execute and deliver the TLB Collateral Agent Deed Poll and to perform its obligations under the TLB Collateral Agent Deed Poll and the BLY Creditors' Schemes;
  - (iii) each SSN Noteholder and the SSN Notes Registered Holder which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the SSN Trustee all instructions, consents and directions to execute and deliver the SSN Trustee Deed Poll and to perform its obligations under the SSN Trustee Deed Poll and the BLY Creditors' Schemes;
  - (iv) each SUN Noteholder and the SUN Notes Registered Holder which is a Secured Scheme Creditor or Unsecured Scheme Creditor, and each Obligor gives the SUN Trustee all instructions, consents and directions to execute and deliver the SUN Trustee Deed Poll and to perform its obligations under the SUN Trustee Deed Poll and the Unsecured Creditors' Scheme; and



- (v) a Scheme Administrator must provide to the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee (as applicable) written notice of the respective instructions and consents referred to this clause 7(b) on behalf of each Secured Scheme Creditor and Unsecured Scheme Creditor (as applicable);
- (c) third, in accordance with the instructions set out in clauses 7(b)(i), 7(b)(ii), 7(b)(iii) and 7(b)(iv) of this document and under the BLY Creditors' Schemes:
  - (i) the Agent will execute and deliver to the Scheme Administrators the Agent Deed Poll;
  - (ii) the TLB Collateral Agent will execute and deliver to the Scheme Administrators the TLB Collateral Agent Deed Poll;
  - (iii) the SSN Trustee will execute and deliver to the Scheme Administrators the SSN Trustee Deed Poll; and
  - (iv) the SUN Trustee will execute and deliver to the Scheme Administrators the SUN Trustee Deed Poll;
- (d) fourth, the Agent shall provide to the Scheme Administrators and BLY a table which shows, according to the Agent's records the amount outstanding under the Term Loan A and Term Loan B as at the Voting Entitlement Record Date;
- (e) fifth, BLY must provide to the Scheme Administrators a table which shows according to BLY's records the full name, postal address and email address of each Secured Scheme Creditor and Unsecured Scheme Creditor; and
- (f) sixth, a Scheme Administrator will:
  - (i) confirm that he or she has a copy of the Allocations Spreadsheet and Funds Flow and in the absence of manifest error, all of the calculations in the Allocations Spreadsheet and Funds Flow shall be final and binding on the parties;
  - (ii) give a copy of the Allocations Spreadsheet to the Advisers, the legal advisers of the Agent, the legal advisers of the TLB Collateral Agent, the legal advisers of the SSN Trustee and the legal advisers of the SUN Trustee; and
  - (iii) give a copy of the Funds Flow to the Advisers, and the legal advisers of the Incremental Financiers and the legal advisers of the Exit Financiers.

## 8. IMPLEMENTATION STEPS

### (a) **Step 1 (Issue of Shares and New Warrants)**

Subject to clause 7, on the Creditors' Scheme Implementation Date, in accordance with clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme and clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme, BLY:

- (i) shall issue to each:
  - (A) TLA Purchaser which is a Secured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLA Secured Equity Entitlement as set forth in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;

- (B) TLB Purchaser which is a Secured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLB Secured Equity Entitlement as set forth in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;
- (C) SSN Noteholder which is a Secured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the SSN Secured Equity Entitlement as set forth in clause 7 (*Secured scheme creditor consideration*) of the Secured Creditors' Scheme;
- (D) TLA Purchaser which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLA Unsecured Equity Entitlement, as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;
- (E) TLB Purchaser which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the TLB Unsecured Equity Entitlement, as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;
- (F) SSN Noteholder which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of the SSN Unsecured Equity Entitlement, as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme; and
- (G) SUN Noteholder which is an Unsecured Scheme Creditor or their Designated Recipient or the Nominee (as applicable), its applicable share of:
  - (aa) the SUN Equity Entitlement; and
  - (bb) the Total New Warrants,
 as set forth in clause 7 (*Unsecured scheme creditor consideration*) of the Unsecured Creditors' Scheme;

in each case, in the amounts set out in the Allocations Spreadsheet.

(b) **Step 2 (Releases)**

On and from completion of Step 1 (*Issue of Shares and New Warrants*) each of the waivers, releases and discharges in clause 10.1(a) of the Secured Creditors' Scheme and clause 10.1(a) of the Unsecured Creditors' Scheme take effect.

(c) **Step 3 (Exit Financing)**

Immediately after completion of Step 2 (*Releases*) the Exit Financing Facility is made available for drawing and the proceeds of the first drawing are applied in accordance with the Funds Flow to repay the Backstop ABL Outgoing Consideration and the Incremental Finance Outgoing Consideration.

(d) **Step 4 (Share Purchase Plan)**

Immediately after completion of Step 3 (*Exit Financing*), BLY will issue new Shares to each of the SPP Shareholders pursuant to the terms of the Share Purchase Plan.

(e) **Step 5 (Creditor Share Purchase Option)**

Immediately after completion of Step 4 (*Share Purchase Plan*), BLY will issue to each CSPO Creditor the number of Shares allocated to that CSPO Creditor under the Creditor Share Purchase Option in accordance with the CSPO Allocation Principles, provided that BLY has received payment from that CSPO Creditor of the aggregate CSPO Issue Price payable by that CSPO Creditor for those Shares by the date required in the Allocation Confirmation given to that CSPO Creditor.

(f) **Step 6 (Selective Buy-Back)**

(i) Provided that:

- (A) the Selective Buy-Back is approved by BLY Shareholders at the EGM;
- (B) the Members' Scheme is approved by BLY Shareholders; and
- (C) the Secured Creditors' Scheme and the Unsecured Creditors' Scheme have become Effective,

immediately after completion of Step 5 (*Creditor Share Purchase Option*), all of the Shares which BLY elects to purchase under the Selective Buy-Back will be transferred to BLY and cancelled in accordance with the Corporations Act.

(ii) Provided that:

- (A) the Selective Buy-Back is approved by BLY Shareholders at the EGM;
- (B) the Members' Scheme is approved by BLY Shareholders; and
- (C) the Secured Creditors' Scheme and the Unsecured Creditors' Scheme have become Effective,

the Selective Buy-Back Consideration will be paid (by electronic bank transfer or mailing a cheque) to BLY Shareholders on or about 3 Business Days after the Creditors' Schemes Restructuring Effective Time.

(g) **Step 7 (Subordinate Claim Releases)**

Immediately after completion of clause 8(f)(i) of Step 6 (*Selective Buy-Back*) or, if the conditions in sub-clauses 8(f)(i)(A) to 8(f)(i)(C) are not satisfied such that Step 6 (*Selective Buy-Back*) does not proceed, immediately after completion of Step 5 (*Creditor Share Purchase Option*), the releases provided for in clause 10.2 (*Subordinate Claim releases*) of the Unsecured Creditors' Scheme take effect.

(h) **Step 8 (Confirmation of Scheme Restructuring Effective Time)**

Immediately after completion of Step 7 (*Subordinate Claim Releases*):

- (i) BLY will cause the BLY share register to be updated and provide a copy of it to the Scheme Administrators; and
- (ii) a Scheme Administrator will issue a certificate to the Secured Scheme Creditors and the Unsecured Scheme Creditors advising of the Creditors' Schemes Restructuring Effective Time and notifying each Secured Scheme Creditor and each Unsecured Scheme Creditor of their respective shareholdings in BLY.

(i) **Step 9 (Assumption Deed Poll)**

If the Members' Scheme is approved by the Court and becomes effective under section 411(10) of the Corporations Act, then the Assumption Deed Poll will take effect on the date that the Members' Scheme becomes effective under section 411(10) of the Corporations Act.

(j) **Step 10 (Members' Scheme Implementation)**

If the Members' Scheme is approved by the Court and becomes effective under section 411(10) of the Corporations Act, then, on the Members' Scheme Implementation Date, the Members' Scheme shall be implemented in accordance with clause 3.1 of the Members' Scheme pursuant to which:

- (i) New BLY Parent will issue to the Authorised Nominee one New BLY Parent Share in respect of each Share held by Re-domiciliation Members on the record date for the Members' Scheme;
- (ii) New BLY Parent will issue or procure the issue to each Re-domiciliation Member or the Sale Agent (as applicable) of one New BLY Parent CDI for each Share held by the Re-domiciliation Member on the record date for the Members' Scheme; and
- (iii) BLY, as agent for each Re-domiciliation Member, will procure the transfer to New BLY Parent of all of the Shares held by each Re-domiciliation Member as at the record date for the Members' Scheme.

9. **HOLDING STATEMENTS**

- (a) BLY will procure that each person who is issued new Shares under the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, the Creditor Share Purchase Option and Share Purchase Plan is sent a holding statement (or equivalent document) on or as soon as practicable after the Creditors' Scheme Implementation Date.
- (b) If the Members' Scheme becomes effective under section 411(10) of the Corporations Act, New BLY Parent will procure that each Re-domiciliation Member is sent a holding statement (or equivalent document) representing the number of New BLY Parent CDIs issued to that Re-domiciliation Member under the Members' Scheme within one Business Day following the Members' Scheme Implementation Date.

10. **THE AGENT, THE TLB COLLATERAL AGENT, THE SSN TRUSTEE, THE SUN TRUSTEE, THE BACKSTOP AGENT, THE BACKSTOP COLLATERAL AGENT, THE INCREMENTAL AGENT AND THE INCREMENTAL COLLATERAL AGENT**

10.1 **The Agent**

- (a) The Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Term Loan A and Term Loan B are responsible for their own management functions and decisions relating to the performance of any duty or function by the Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Agent may rely on and assume that (and shall not be required to verify):

- (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
- (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
- (iii) the authority granted pursuant to the Agent Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for the Agent to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.

(d) **(Limitation of liability)**

- (i) If the Agent does not perform any of its obligations under this document and the Agent Deed Poll, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.1(d) only applies to the extent the restriction in the first sentence in this clause 10.1(d)(i) is unenforceable or invalid for any reason.
- (ii) The Agent is not, in the performance or exercise of its obligations, functions and duties under this document or the Agent Deed Poll, personally liable for:
  - (A) any cause of action, claim or loss arising under this document or the Agent Deed Poll (**Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Agent Liabilities**);
  - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Agent Losses**); or
  - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.1(d)(ii) and subject to clause 10.1(d)(v) and to the extent permitted by law:
  - (A) the liability of the Agent to any other party in respect of any Agent Claim is limited to the extent that the Agent is entitled and able to recover the amount of that liability pursuant to the Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further Agent Claim may be made against the Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the Agent's liability applies despite any other provision of this document or the Agent Deed Poll and extends to all liabilities and obligations of the Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the Agent Deed Poll.
- (iv) Each party agrees and acknowledges that it will not, in respect of any Agent Claim:

- (A) subject to clause 10.1(d)(v), bring proceedings against the Agent for any Agent Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the Creditors' Schemes Finance Documents) appointed to the Agent or its assets.
  - (v) The limitation in clause 10.1(d)(iii) does not apply in respect of an Agent Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the Creditors' Schemes Finance Documents; or
    - (B) the actual amount recoverable pursuant to the Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Agent Claim.
  - (vi) This clause 10.1(d) survives completion or termination of this document, the Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Agent for:
    - (A) all Agent Liabilities, Agent Losses and Agent Demands (as defined in clause 10.1(d)); and
    - (B) all personal liability that the Agent may incur in respect of,

the execution of and performance of obligations under, this document and the Agent Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.1(e)(i) is without limitation as to time notwithstanding the removal of the Agent as administrative agent or collateral agent under the Creditors' Schemes Finance Documents and the appointment of a replacement administrative agent or collateral agent, the resignation of the Agent or the termination of this document, the Agent Deed Poll, the Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
  - (iii) The indemnity under clause 10.1(e) shall not:
    - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Agent and shall extend to all actions, suits, proceedings, accounts, Agent Liabilities, Agent Claims and Agent Demands arising in any way out of any defect in the appointment of the Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or

- (B) affect or prejudice all or any rights that the Agent may have against any other person to be indemnified against the Costs, Agent Losses and Agent Liabilities incurred by the Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Agent by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.

## 10.2 **TLB Collateral Agent**

- (a) TLB Collateral Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to the Term Loan B, SSN Indenture and Incremental Finance Documents are responsible for their own management functions and decisions relating to the performance of any duty or function by TLB Collateral Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, TLB Collateral Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) TLB Collateral Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to the TLB Collateral Agent Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for TLB Collateral Agent to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the TLB Collateral Agent does not perform any of its obligations under this document and the TLB Collateral Agent Deed Poll, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.2(d) only applies to the extent the restriction in the first sentence in this clause 10.2(d)(i) is unenforceable or invalid for any reason.
  - (ii) The TLB Collateral Agent is not, in the performance or exercise of its obligations, functions and duties under this document or the TLB Collateral Agent Deed Poll, personally liable for:
    - (A) any cause of action, claim or loss arising under this document or the TLB Collateral Agent Deed Poll (**TLB Collateral Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**TLB Collateral Agent Liabilities**);

- (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**TLB Collateral Agent Losses**); or
- (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**TLB Collateral Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.2(d)(ii) and subject to clause 10.2(d)(v) and to the extent permitted by law:
  - (A) the liability of the TLB Collateral Agent to any other party in respect of any TLB Collateral Agent Claim is limited to the extent that the TLB Collateral Agent is entitled and able to recover the amount of that liability pursuant to the Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further TLB Collateral Agent Claim may be made against the TLB Collateral Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the TLB Collateral Agent's liability applies despite any other provision of this document or the TLB Collateral Agent Deed Poll and extends to all liabilities and obligations of the TLB Collateral Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the TLB Collateral Agent Deed Poll.
- (iv) Each party agrees and acknowledges that it will not, in respect of any TLB Collateral Agent Claim:
  - (A) subject to clause 10.2(d)(v), bring proceedings against the TLB Collateral Agent for any TLB Collateral Agent Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the Creditors' Schemes Finance Documents) appointed to the TLB Collateral Agent or its assets.
- (v) The limitation in clause 10.2(d)(iii) does not apply in respect of a TLB Collateral Agent Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the Creditors' Schemes Finance Documents; or
  - (B) the actual amount recoverable pursuant to the Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the TLB Collateral Agent acting negligently, with wilful misconduct or fraudulently giving rise to the TLB Collateral Agent Claim.



- (vi) This clause 10.2(d) survives completion or termination of this document, the TLB Collateral Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the TLB Collateral Agent for:
  - (A) all TLB Collateral Agent Liabilities, TLB Collateral Agent Losses and TLB Collateral Agent Demands (as defined in clause 10.2(d)); and
  - (B) all personal liability that the TLB Collateral Agent may incur in respect of,  
  
the execution of and performance of obligations under, this document and the TLB Collateral Agent Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
- (ii) The indemnity under clause 10.2(e)(i) is without limitation as to time notwithstanding the removal of the TLB Collateral Agent as trustee or collateral agent under the Creditors' Schemes Finance Documents and the appointment of a replacement trustee or collateral agent, the resignation of the TLB Collateral Agent or the termination of this document, the TLB Collateral Agent Deed Poll, the Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
- (iii) The indemnity under clause 10.2(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the TLB Collateral Agent and shall extend to all actions, suits, proceedings, accounts, TLB Collateral Agent Liabilities, TLB Collateral Agent Claims and TLB Collateral Agent Demands arising in any way out of any defect in the appointment of the TLB Collateral Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the TLB Collateral Agent may have against any other person to be indemnified against the Costs, TLB Collateral Agent Losses and TLB Collateral Agent Liabilities incurred by the TLB Collateral Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the TLB Collateral Agent by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the TLB Collateral Agent Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Creditors' Schemes Finance Documents.

### 10.3 **The SSN Trustee**

- (a) The SSN Trustee's duties and functions under this document are solely mechanical and administrative in nature. The other parties to SSN Indenture are responsible for their own management functions and decisions relating to the performance of any duty or function by the SSN Trustee under this document.

- (b) Notwithstanding any other provision of this document to the contrary, the SSN Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The SSN Trustee may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to the SSN Trustee Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for the SSN Trustee to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the SSN Trustee does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.3(d) only applies to the extent the restriction in the first sentence in this clause 10.3(d)(i) is unenforceable or invalid for any reason.
  - (ii) The SSN Trustee is not, in the performance or exercise of its obligations, functions and duties under this document or the SSN Trustee Deed Poll, personally liable for:
    - (A) any cause of action, claim or loss arising under this document or the SSN Trustee Deed Poll (**SSN Trustee Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**SSN Trustee Liabilities**);
    - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**SSN Trustee Losses**); or
    - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**SSN Trustee Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
  - (iii) Without in any way limiting clause 10.3(d)(ii) and subject to clause 10.3(d)(v) and to the extent permitted by law:
    - (A) the liability of the SSN Trustee to any other party in respect of any SSN Trustee Claim is limited to the extent that the SSN Trustee is entitled and able to recover the amount of that liability pursuant to the SSN Indenture or any other Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
    - (B) no further SSN Trustee Claim may be made against the SSN Trustee for any amount outstanding after exercise of such rights; and

- (C) this limitation of the SSN Trustee's liability applies despite any other provision of this document or the SSN Trustee Deed Poll and extends to all liabilities and obligations of the SSN Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the SSN Trustee Deed Poll.
  - (iv) Each party agrees and acknowledges that it will not, in respect of any SSN Trustee Claim:
    - (A) subject to clause 10.3(d)(v), bring proceedings against the SSN Trustee for any SSN Trustee Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the SSN Indenture) appointed to the SSN Trustee or its assets.
  - (v) The limitation in clause 10.3(d)(iii) does not apply in respect of a SSN Trustee Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the SSN Indenture or any other Creditors' Schemes Finance Documents; or
    - (B) the actual amount recoverable pursuant to the SSN Indenture or any other Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the SSN Trustee acting negligently, with wilful misconduct or fraudulently giving rise to the SSN Trustee Claim.
  - (vi) This clause 10.3(d) survives completion or termination of this document, the SSN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the SSN Indenture, and any other Creditors' Schemes Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the SSN Trustee for:
    - (A) all SSN Trustee Liabilities, SSN Trustee Losses and SSN Trustee Demands (as defined in clause 10.3(d)); and
    - (B) all personal liability that the SSN Trustee may incur in respect of,

the execution of and performance of obligations under, this document and the SSN Trustee Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.3(e)(i) is without limitation as to time notwithstanding the removal of the SSN Trustee as trustee or collateral agent under the SSN Indenture or any other Creditors' Schemes Finance Documents and the appointment of a replacement trustee or collateral agent, the resignation of the SSN Trustee or the termination of this document, the SSN Trustee Deed Poll, the SSN Indenture, any other Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.

- (iii) The indemnity under clause 10.3(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the SSN Trustee and shall extend to all actions, suits, proceedings, accounts, SSN Trustee Liabilities, SSN Trustee Claims and SSN Trustee Demands arising in any way out of any defect in the appointment of the SSN Trustee, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the SSN Trustee may have against any other person to be indemnified against the Costs, SSN Trustee Losses and SSN Trustee Liabilities incurred by the SSN Trustee in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the SSN Trustee by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the SSN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, and the SSN Indenture, and any other Creditors' Schemes Finance Documents.

#### 10.4 **The SUN Trustee**

- (a) The SUN Trustee's duties and functions under this document are solely mechanical and administrative in nature. The other parties to SUN Indenture are responsible for their own management functions and decisions relating to the performance of any duty or function by the SUN Trustee under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the SUN Trustee is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The SUN Trustee may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to the SUN Trustee Deed Poll or any other Restructuring Document includes such powers and authorities as are sufficient for the SUN Trustee to comply with any instruction or otherwise execute any and all Restructuring Documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the SUN Trustee does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.4(d) only applies to the extent the restriction in the first sentence in this clause 10.4(d)(i) is unenforceable or invalid for any reason.
  - (ii) The SUN Trustee is not, in the performance or exercise of its obligations, functions and duties under this document or the SUN Trustee Deed Poll, personally liable for:

- (A) any cause of action, claim or loss arising under this document or the SUN Trustee Deed Poll (**SUN Trustee Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**SUN Trustee Liabilities**);
- (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**SUN Trustee Losses**); or
- (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**SUN Trustee Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.4(d)(ii) and subject to clause 10.4(d)(v) and to the extent permitted by law:
  - (A) the liability of the SUN Trustee to any other party in respect of any SUN Trustee Claim is limited to the extent that the SUN Trustee is entitled and able to recover the amount of that liability pursuant to the SUN Indenture or any other Creditors' Schemes Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further SUN Trustee Claim may be made against the SUN Trustee for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the SUN Trustee's liability applies despite any other provision of this document or the SUN Trustee Deed Poll and extends to all liabilities and obligations of the SUN Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the SUN Trustee Deed Poll.
- (iv) Each party agrees and acknowledges that it will not, in respect of any SUN Trustee Claim:
  - (A) subject to clause 10.4(d)(v), bring proceedings against the SUN Trustee for any SUN Trustee Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official under Bankruptcy Law (as defined in the SUN Indenture) appointed to the SUN Trustee or its assets.
- (v) The limitation in clause 10.4(d)(iii) does not apply in respect of a SUN Trustee Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the SUN Indenture or any other Creditors' Schemes Finance Documents; or
  - (B) the actual amount recoverable pursuant to the SUN Indenture or any other Creditors' Schemes Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the SUN Trustee acting negligently, with wilful misconduct or fraudulently giving rise to the SUN Trustee Claim.

- (vi) This clause 10.4(d) survives completion or termination of this document, the SUN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the SUN Indenture, and any other Creditors' Schemes Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the SUN Trustee for:
  - (A) all SUN Trustee Liabilities, SUN Trustee Losses and SUN Trustee Demands (as defined in clause 10.4(d)); and
  - (B) all personal liability that the SUN Trustee may incur in respect of, the execution of and performance of obligations under, this document and the SUN Trustee Deed Poll, unless attributable to fraud, wilful misconduct or gross negligence.
- (ii) The indemnity under clause 10.4(e)(i) is without limitation as to time notwithstanding the removal of the SUN Trustee as trustee or collateral agent under the SUN Indenture or any other Creditors' Schemes Finance Documents and the appointment of a replacement trustee or collateral agent, the resignation of the SUN Trustee or the termination of this document, the SUN Trustee Deed Poll, the SUN Indenture, any other Creditors' Schemes Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
- (iii) The indemnity under clause 10.4(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the SUN Trustee and shall extend to all actions, suits, proceedings, accounts, SUN Trustee Liabilities, SUN Trustee Claims and SUN Trustee Demands arising in any way out of any defect in the appointment of the SUN Trustee, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the SUN Trustee may have against any other person to be indemnified against the Costs, SUN Trustee Losses and SUN Trustee Liabilities incurred by the SUN Trustee in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the SUN Trustee by or in connection with the Creditors' Schemes Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the SUN Trustee Deed Poll, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme, and the SUN Indenture, and any other Creditors' Schemes Finance Documents.

## 10.5 **The Backstop Agent**

- (a) The Backstop Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Existing Backstop ABL are

responsible for their own management functions and decisions relating to the performance of any duty or function by the Backstop Agent under this document.

- (b) Notwithstanding any other provision of this document to the contrary, the Backstop Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Backstop Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Backstop Finance Documents includes such powers and authorities as are sufficient for the Backstop Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Backstop Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.5(d) only applies to the extent the restriction in the first sentence in this clause 10.5(d)(i) is unenforceable or invalid for any reason.
  - (ii) The Backstop Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:
    - (A) any cause of action, claim or loss arising under this document (**Backstop Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Backstop Agent Liabilities**);
    - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Backstop Agent Losses**); or
    - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Backstop Agent Demands**),whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
  - (iii) Without in any way limiting clause 10.5(d)(ii) and subject to clause 10.5(d)(v) and to the extent permitted by law:
    - (A) the liability of the Backstop Agent to any other party in respect of any Backstop Agent Claim is limited to the extent that the Backstop Agent is entitled and able to recover the amount of that liability pursuant to the Backstop Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);

- (B) no further Backstop Agent Claim may be made against the Backstop Agent for any amount outstanding after exercise of such rights; and
    - (C) this limitation of the Backstop Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Backstop Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
  - (iv) Each party agrees and acknowledges that it will not, in respect of any Backstop Agent Claim:
    - (A) subject to clause 10.5(d)(v), bring proceedings against the Backstop Agent for any Backstop Agent Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Backstop Agent or its assets.
  - (v) The limitation in clause 10.5(d)(iii) does not apply in respect of a Backstop Agent Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the Backstop Finance Documents; or
    - (B) the actual amount recoverable pursuant to the Backstop Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Backstop Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Backstop Agent Claim.
  - (vi) This clause 10.5(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Backstop Agent for:
    - (A) all Backstop Agent Liabilities, Backstop Agent Losses and Backstop Agent Demands (as defined in clause 10.5(d)); and
    - (B) all personal liability that the Backstop Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.5(e)(i) is without limitation as to time notwithstanding the removal of the Backstop Agent as agent under the Backstop Finance Documents and the appointment of a replacement agent, the resignation of the Backstop Agent or the termination of this document, the Backstop Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.
  - (iii) The indemnity under clause 10.5(e) shall not:



- (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Backstop Agent and shall extend to all actions, suits, proceedings, accounts, Backstop Agent Liabilities, Backstop Agent Claims and Backstop Agent Demands arising in any way out of any defect in the appointment of the Backstop Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
- (B) affect or prejudice all or any rights that the Backstop Agent may have against any other person to be indemnified against the Costs, Backstop Agent Losses and Backstop Agent Liabilities incurred by the Backstop Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Backstop Agent by or in connection with the Backstop Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.

#### 10.6 **The Backstop Collateral Agent**

- (a) The Backstop Collateral Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Existing Backstop ABL are responsible for their own management functions and decisions relating to the performance of any duty or function by the Backstop Collateral Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the Backstop Collateral Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Backstop Collateral Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Backstop Finance Documents includes such powers and authorities as are sufficient for the Backstop Collateral Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Backstop Collateral Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.6(d) only applies to the extent the restriction in the first sentence in this clause 10.6(d)(i) is unenforceable or invalid for any reason.
  - (ii) The Backstop Collateral Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:

- (A) any cause of action, claim or loss arising under this document (**Backstop Collateral Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Backstop Collateral Agent Liabilities**);
- (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Backstop Collateral Agent Losses**); or
- (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Backstop Collateral Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.

- (iii) Without in any way limiting clause 10.6(d)(ii) and subject to clause 10.6(d)(v) and to the extent permitted by law:
  - (A) the liability of the Backstop Collateral Agent to any other party in respect of any Backstop Collateral Agent Claim is limited to the extent that the Backstop Collateral Agent is entitled and able to recover the amount of that liability pursuant to the Backstop Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further Backstop Collateral Agent Claim may be made against the Backstop Collateral Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the Backstop Collateral Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Backstop Collateral Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (iv) Each party agrees and acknowledges that it will not, in respect of any Backstop Collateral Agent Claim:
  - (A) subject to clause 10.6(d)(v), bring proceedings against the Backstop Collateral Agent for any Backstop Collateral Agent Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Backstop Collateral Agent or its assets.
- (v) The limitation in clause 10.6(d)(iii) does not apply in respect of a Backstop Collateral Agent Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the Backstop Finance Documents; or
  - (B) the actual amount recoverable pursuant to the Backstop Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Backstop Collateral Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Backstop Collateral Agent Claim.

- (vi) This clause 10.6(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Backstop Collateral Agent for:

- (A) all Backstop Collateral Agent Liabilities, Backstop Collateral Agent Losses and Backstop Collateral Agent Demands (as defined in clause 10.6(d)); and
- (B) all personal liability that the Backstop Collateral Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.

- (ii) The indemnity under clause 10.6(e)(i) is without limitation as to time notwithstanding the removal of the Backstop Collateral Agent as collateral agent under the Backstop Finance Documents and the appointment of a replacement collateral agent, the resignation of the Backstop Collateral Agent or the termination of this document, the Backstop Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.

- (iii) The indemnity under clause 10.6(e) shall not:

- (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Backstop Collateral Agent and shall extend to all actions, suits, proceedings, accounts, Backstop Collateral Agent Liabilities, Backstop Collateral Agent Claims and Backstop Collateral Agent Demands arising in any way out of any defect in the appointment of the Backstop Collateral Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
- (B) affect or prejudice all or any rights that the Backstop Collateral Agent may have against any other person to be indemnified against the Costs, Backstop Collateral Agent Losses and Backstop Collateral Agent Liabilities incurred by the Backstop Collateral Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Backstop Collateral Agent by or in connection with the Backstop Finance Documents.

- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Backstop Finance Documents.

## 10.7 **The Incremental Agent**

- (a) The Incremental Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to Incremental Finance Facility are responsible for their own management functions and decisions relating

to the performance of any duty or function by the Incremental Agent under this document.

- (b) Notwithstanding any other provision of this document to the contrary, the Incremental Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Incremental Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Incremental Finance Documents includes such powers and authorities as are sufficient for the Incremental Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Incremental Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.7(d) only applies to the extent the restriction in the first sentence in this clause 10.7(d)(i) is unenforceable or invalid for any reason.
  - (ii) The Incremental Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:
    - (A) any cause of action, claim or loss arising under this document (**Incremental Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Incremental Agent Liabilities**);
    - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Incremental Agent Losses**); or
    - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Incremental Agent Demands**),whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
  - (iii) Without in any way limiting clause 10.7(d)(ii) and subject to clause 10.7(d)(v) and to the extent permitted by law:
    - (A) the liability of the Incremental Agent to any other party in respect of any Incremental Agent Claim is limited to the extent that the Incremental Agent is entitled and able to recover the amount of that liability pursuant to the Incremental Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);

- (B) no further Incremental Agent Claim may be made against the Incremental Agent for any amount outstanding after exercise of such rights; and
    - (C) this limitation of the Incremental Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Incremental Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
  - (iv) Each party agrees and acknowledges that it will not, in respect of any Incremental Agent Claim:
    - (A) subject to clause 10.7(d)(v), bring proceedings against the Incremental Agent for any Incremental Agent Claim or amount that is not provided for in this clause; or
    - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Incremental Agent or its assets.
  - (v) The limitation in clause 10.7(d)(iii) does not apply in respect of an Incremental Agent Claim to the extent that:
    - (A) the right of indemnity, exoneration or recoupment pursuant to the Incremental Finance Documents; or
    - (B) the actual amount recoverable pursuant to the Incremental Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Incremental Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Incremental Agent Claim.
  - (vi) This clause 10.7(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.
- (e) **(Indemnity)**
- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Incremental Agent for:
    - (A) all Incremental Agent Liabilities, Incremental Agent Losses and Incremental Agent Demands (as defined in clause 10.7(d)); and
    - (B) all personal liability that the Incremental Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.
  - (ii) The indemnity under clause 10.7(e)(i) is without limitation as to time notwithstanding the removal of the Incremental Agent as agent under the Incremental Finance Documents and the appointment of a replacement agent, the resignation of the Incremental Agent or the termination of this document, the Incremental Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.

- (iii) The indemnity under clause 10.7(e) shall not:
  - (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Incremental Agent and shall extend to all actions, suits, proceedings, accounts, Incremental Agent Liabilities, Incremental Agent Claims and Incremental Agent Demands arising in any way out of any defect in the appointment of the Incremental Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or
  - (B) affect or prejudice all or any rights that the Incremental Agent may have against any other person to be indemnified against the Costs, Incremental Agent Losses and Incremental Agent Liabilities incurred by the Incremental Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Incremental Agent by or in connection with the Incremental Finance Documents.
- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.

#### 10.8 **The Incremental Collateral Agent**

- (a) The Incremental Collateral Agent's duties and functions under this document are solely mechanical and administrative in nature. The other parties to the Incremental Finance Facility are responsible for their own management functions and decisions relating to the performance of any duty or function by the Incremental Collateral Agent under this document.
- (b) Notwithstanding any other provision of this document to the contrary, the Incremental Collateral Agent is not obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any applicable law or regulation.
- (c) The Incremental Collateral Agent may rely on and assume that (and shall not be required to verify):
  - (i) any representation, notice, confirmation or other document or information delivered to it is genuine, complete, correct and appropriately authorised;
  - (ii) any statement, confirmation or representation made by a director, authorised signatory, employee or otherwise on behalf of any person in accordance with this document regarding any matters is within that person's knowledge and/or within that person's power to verify; and
  - (iii) the authority granted pursuant to Incremental Finance Documents includes such powers and authorities as are sufficient for the Incremental Collateral Agent to comply with any instruction or otherwise execute any and all documents necessary to give effect to the Restructuring.
- (d) **(Limitation of liability)**
  - (i) If the Incremental Collateral Agent does not perform any of its obligations under this document, the parties may choose to proceed for specific performance; but may not seek damages for the default. The remainder of this clause 10.8(d) only applies to the extent the restriction in the first sentence in this clause 10.8(d)(i) is unenforceable or invalid for any reason.

- (ii) The Incremental Collateral Agent is not, in the performance or exercise of its obligations, functions and duties under this document, personally liable for:
  - (A) any cause of action, claim or loss arising under this document (**Incremental Collateral Agent Claim**) or obligations of any kind whatsoever incurred by or on behalf of the parties (**Incremental Collateral Agent Liabilities**);
  - (B) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Incremental Collateral Agent Losses**); or
  - (C) any actions, suits, proceedings, accounts, Claims or demands arising out of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme which may be commenced, incurred by or made by any person and all costs incurred in respect thereof (**Incremental Collateral Agent Demands**),

whether before, during or after the date of this document, unless attributable to fraud, wilful misconduct, or gross negligence.
- (iii) Without in any way limiting clause 10.8(d)(ii) and subject to clause 10.8(d)(v) and to the extent permitted by law:
  - (A) the liability of the Incremental Collateral Agent to any other party in respect of any Incremental Collateral Agent Claim is limited to the extent that the Incremental Collateral Agent is entitled and able to recover the amount of that liability pursuant to the Incremental Finance Documents (after first deducting the costs of exercising its right of indemnity or exoneration);
  - (B) no further Incremental Collateral Agent Claim may be made against the Incremental Collateral Agent for any amount outstanding after exercise of such rights; and
  - (C) this limitation of the Incremental Collateral Agent's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Incremental Collateral Agent in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (iv) Each party agrees and acknowledges that it will not, in respect of any Incremental Collateral Agent Claim:
  - (A) subject to clause 10.8(d)(v), bring proceedings against the Incremental Collateral Agent for any Incremental Collateral Agent Claim or amount that is not provided for in this clause; or
  - (B) seek to have a trustee, assignee, liquidator, provisional liquidator, administrator, custodian, controller, sequestrator, receiver, receiver and manager or similar official appointed to the Incremental Collateral Agent or its assets.
- (v) The limitation in clause 10.8(d)(iii) does not apply in respect of an Incremental Collateral Agent Claim to the extent that:
  - (A) the right of indemnity, exoneration or recoupment pursuant to the Incremental Finance Documents; or

- (B) the actual amount recoverable pursuant to the Incremental Finance Documents in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of the Incremental Collateral Agent acting negligently, with wilful misconduct or fraudulently giving rise to the Incremental Collateral Agent Claim.

- (vi) This clause 10.8(d) survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.

(e) **(Indemnity)**

- (i) BLY, the other Scheme Companies and New BLY Parent shall jointly and severally indemnify the Incremental Collateral Agent for:

- (A) all Incremental Collateral Agent Liabilities, Incremental Collateral Agent Losses and Incremental Collateral Agent Demands (as defined in clause 10.8(d)); and

- (B) all personal liability that the Incremental Collateral Agent may incur in respect of,

the execution of and performance of obligations under, this document, unless attributable to fraud, wilful misconduct or gross negligence.

- (ii) The indemnity under clause 10.8(e)(i) is without limitation as to time notwithstanding the removal of the Incremental Collateral Agent as collateral agent under the Incremental Finance Documents and the appointment of a replacement collateral agent, the resignation of the Incremental Collateral Agent or the termination of this document, the Incremental Finance Documents, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme for any reason whatsoever.

- (iii) The indemnity under clause 10.8(e) shall not:

- (A) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Incremental Collateral Agent and shall extend to all actions, suits, proceedings, accounts, Incremental Collateral Agent Liabilities, Incremental Collateral Agent Claims and Incremental Collateral Agent Demands arising in any way out of any defect in the appointment of the Incremental Collateral Agent, the approval and implementation of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme or otherwise; or

- (B) affect or prejudice all or any rights that the Incremental Collateral Agent may have against any other person to be indemnified against the Costs, Incremental Collateral Agent Losses and Incremental Collateral Agent Liabilities incurred by the Incremental Collateral Agent in, or incidental to, the exercise or performance of any of the powers or authorities conferred on the Incremental Collateral Agent by or in connection with the Incremental Finance Documents.

- (iv) This indemnity survives completion or termination of this document, the Secured Creditors' Scheme, the Unsecured Creditors' Scheme and the Incremental Finance Documents.



## 11. **LIABILITY OF SCHEME ADMINISTRATORS**

### 11.1 **Liability**

The Scheme Administrators are not, in the performance or exercise of its powers, obligations, functions and duties under this document, personally liable for:

- (a) any Claims or obligations of any kind whatsoever incurred by or on behalf of any party including, without limitation, any monies borrowed and interest thereon and any contracts adopted or otherwise agreed and any Stamp Duty payable on this document and any tax liable to be remitted or otherwise paid (**Liabilities**);
- (b) any loss or damage of any kind whatsoever caused by or resulting from any act, default or omission (**Losses**); or
- (c) any actions, suits, proceedings, accounts, Claims or demands arising out of this document which may be commenced, incurred by or made by any person and all Costs incurred in respect thereof (**Demands**),

whether before, during or after the Execution Effective Date, unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.

### 11.2 **Indemnity**

- (a) The Scheme Companies shall indemnify each Scheme Administrator for:
  - (i) all Liabilities, Losses and Demands (as defined in clause 11.1); and
  - (ii) all personal liability that a Scheme Administrator may incur in respect of his or her role as Scheme Administrator,unless attributable to fraud, wilful misconduct, reckless or gross negligence or breach of fiduciary duty.
- (b) The indemnity under clause 11.2(a) takes effect on and from the Execution Effective Date and is without limitation as to time notwithstanding the removal of a Scheme Administrator and the appointment of a replacement Scheme Administrator, the resignation of a Scheme Administrator or the termination of this document for any reason whatsoever.
- (c) The indemnity under clause 11.2(a) shall not:
  - (i) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of a Scheme Administrator and shall extend to all actions, suits, proceedings, accounts, Liabilities, Claims and Demands arising in any way out of any defect in the appointment of a Scheme Administrator, the approval and implementation of this document or otherwise; or
  - (ii) affect or prejudice all or any rights that a Scheme Administrator may have against any other person to be indemnified against the Costs, Losses and Liabilities incurred by a Scheme Administrator in, or incidental to the exercise or performance of any of the powers or authorities conferred on a Scheme Administrator by or in connection with this document.
- (d) This indemnity survives completion or termination of this document.

## 12. **TERMINATION**

### 12.1 **Complete implementation**

This document will terminate following the completion of each of the Implementation Steps.

### 12.2 **Sunset date**

If the Creditors' Schemes Restructuring Effective Time has not occurred by 11.59 pm on the Sunset Date, then with effect from that time, this document will not be capable of implementation and this document will lapse, terminate and be of no further force or effect.

### 12.3 **Obligations on termination**

- (a) If this document is terminated, all obligations of the parties under this document, other than clauses 6.1(c)(ii), 10.1(d) (*Limitation of liability*), 10.1(e) (*Indemnity*), 10.2(d) (*Limitation of liability*), 10.2(e) (*Indemnity*), 10.3(d) (*Limitation of liability*), 10.3(e) (*Indemnity*), 10.4(d) (*Limitation of liability*), 10.4(e) (*Indemnity*), 10.5(d) (*Limitation of liability*), 10.5(e) (*Indemnity*), 10.6(d) (*Limitation of liability*), 10.6(e) (*Indemnity*), 10.7(d) (*Limitation of liability*), 10.7(e) (*Indemnity*), 10.8(d) (*Limitation of liability*), 10.8(e) (*Indemnity*), 11 (*Liability of Scheme Administrators*), 14 (*Representations and warranties*), 15 (*GST*), 16 (*Notices*), 17 (*General*), immediately cease to be of further effect.
- (b) The termination of this document does not affect any Claim that a party may have against another party where that Claim arose before this document is terminated.

## 13. **VARIATIONS BY THE COURT**

Each party shall be bound by any alterations or conditions to this document required by the Court under section 411(6) of the Corporations Act, provided the alterations or conditions do not change the substance of this document in any material respect or impose unduly onerous obligations on any of the parties, acting reasonably.

## 14. **REPRESENTATIONS AND WARRANTIES**

### 14.1 **Mutual representations and warranties**

Each party represents and warrants to each other party that:

- (a) **(status)** it is a validly existing corporation under the laws of its place of incorporation;
- (b) **(power)** it has full legal capacity and power to:
  - (i) own its property and to carry on its business; and
  - (ii) enter into this document and carry out the transactions that this document contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this document and carrying out the transactions that this document contemplates in accordance with its terms; and
- (d) **(document effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms.

#### 14.2 **Reliance on representations and warranties**

Each party acknowledges that each other party has executed this document and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made in clause 14.1.

#### 14.3 **When warranties are given**

Each representation and warranty given or made under clause 14.1 is given:

- (a) as at the date of this document; and
- (b) at any other date at which the representation or warranty is expressed to be given under this document.

### 15. **GST**

#### 15.1 **GST pass on**

If GST is or will be payable on a supply made under or in connection with this document, to the extent that the consideration otherwise provided for that supply under this document is not stated to include an amount for GST on the supply:

- (a) the consideration otherwise provided for that supply under this document is increased by the amount of that GST; and
- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within seven days of receiving a written demand from the supplier.

#### 15.2 **Tax Invoice**

The right of the supplier to recover any amount in respect of GST under this document on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient.

#### 15.3 **Consideration exclusive of GST**

Any consideration otherwise provided for a supply or payment obligation in connection with this document is exclusive of GST unless stated otherwise.

#### 15.4 **Adjustments**

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier within 14 days of becoming aware of the adjustment event:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the supplier is entitled to a refund or credit from the Commissioner of Taxation.

## 15.5 **Reimbursements**

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party, or used as the basis for calculation of consideration for a supply, under this document must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

## 16. **NOTICES**

### 16.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it (which includes typing the person's name in an email);
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) sent by pre-paid mail (by airmail, if the addressee is overseas) or delivered to that person's address;
  - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full without error; or
  - (iii) sent in electronic form (such as email).

### 16.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is sent by fax or delivered, if received:
  - (i) by 5.00 pm (local time in the place of receipt) on a Business Day - on that day; or
  - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day;
- (b) if it is sent by mail:
  - (i) within Australia - three Business Days after posting; or
  - (ii) to or from a place outside Australia - seven Business Days after posting; and
- (c) if it is sent in electronic form - when the sender receives confirmation on its server that the message has been transmitted:
  - (i) if it is transmitted by 5.00 pm (Sydney time) on a Business Day - on that Business Day; or
  - (ii) if it is transmitted after 5.00 pm (Sydney time) on a Business Day, or on a day that is not a Business Day - on the next Business Day.

### 16.3 Address for notices

A person's mail and email address are those set out below, or as the person notifies the sender:

#### **BLY / Scheme Companies**

As set out in the table in the column "Notice details" in schedule 1.

#### **Secured Scheme Creditors**

Address: FTI Consulting, Level 22, Gateway, 1 Macquarie Place, Sydney NSW 2000

Email Address: chris.hill@fticonsulting.com and david.mcgrath@fticonsulting.com

Attention: Chris Hill and David McGrath

#### **Unsecured Scheme Creditors**

Address: FTI Consulting, Level 22, Gateway, 1 Macquarie Place, Sydney NSW 2000

Email Address: chris.hill@fticonsulting.com and david.mcgrath@fticonsulting.com

Attention: Chris Hill and David McGrath

#### **Scheme Administrators**

Address: FTI Consulting, Level 22, Gateway, 1 Macquarie Place, Sydney NSW 2000

Email Address: chris.hill@fticonsulting.com and david.mcgrath@fticonsulting.com

Attention: Chris Hill and David McGrath

#### **Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890

Email Address: JFeil@WilmingtonTrust.com

Phone: +1-302-636-6466

Fax: +1-302-636-4145

Attention: Joseph B. Feil

#### **TLB Collateral Agent**

Address: U.S. National Association  
Global Corporate Trust  
101 North First Avenue, Suite 1600  
Phoenix, AZ 85003

Email Address: mary.ambrizreyes@usbank.com

Attention: Mary Ambriz-Reyes

With a copy to:

Address: Greenberg Traurig, LLP  
90 South 7th Street, Suite 3500  
Minneapolis, MN 55402

Email Address: fiscom@gtlaw.com and kieselbachp@gtlaw.com

Attention: Michael B. Fisco and Peter Kieselbach

#### **SSN Trustee**

Address: U.S. National Association  
Global Corporate Trust  
101 North First Avenue, Suite 1600  
Phoenix, AZ 85003

Email Address: mary.ambrizreyes@usbank.com

Attention: Mary Ambriz-Reyes

With a copy to:

Address: Greenberg Traurig, LLP  
90 South 7th Street, Suite 3500  
Minneapolis, MN 55402  
Email Address: fiscom@gtlaw.com and kieselbachp@gtlaw.com  
Attention: Michael B. Fisco and Peter Kieselbach

**SUN Trustee**

Address: Delaware Trust Company  
251 Little Falls Drive  
Wilmington, Delaware 19808  
Email Address: trust@delawaretrust.com  
Attention: Trust Administration

With a copy to:

Address: Golenbock Eiseman Assor Bell & Peskoe LLP  
711 Third Avenue, 17th Floor  
New York, New York 10017  
Email Address: jflaxer@golenbock.com  
Attention: Jonathan L. Flaxer

**New BLY Parent**

Address: 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in  
the State of South Australia  
Email Address: nora.pincus@boartlongyear.com  
Attention: Nora Pincus

With a copy to:

Address: c/o Ashurst  
Level 11, 5 Martin Place, Sydney, NSW 2000  
Email Address: James.Marshall@ashurst.com and Alinta.Kemeny@ashurst.com  
Attention: James Marshall and Alinta Kemeny

**Incremental Financiers**

As set out in the table in the column "Notice details" in schedule 1.

**Incremental Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Email Address: JFeil@WilmingtonTrust.com  
Phone: +1-302-636-6466  
Fax: +1-302-636-4145  
Attention: Joseph B. Feil

**Incremental Collateral Agent**

Address: U.S. National Association  
Global Corporate Trust  
101 North First Avenue, Suite 1600  
Phoenix, AZ 85003  
Email Address: mary.ambrizreyes@usbank.com  
Attention: Mary Ambriz-Reyes

With a copy to:

Address: Greenberg Traurig, LLP  
90 South 7th Street, Suite 3500  
Minneapolis, MN 55402  
Email Address: fiscom@gtlaw.com and kieselbachp@gtlaw.com  
Attention: Michael B. Fisco and Peter Kieselbach

**Existing Backstop ABL Financiers**

As set out in the in the column "Notice details" in table in Schedule 1.

**Backstop Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Email Address: JFeil@WilmingtonTrust.com  
Phone: +1-302-636-6466  
Fax: +1-302-636-4145  
Attention: Joseph B. Feil

**Backstop Collateral Agent**

Address: Wilmington Trust, National Association  
1100 North Market Street  
Wilmington, DE 19890  
Email Address: JFeil@WilmingtonTrust.com  
Phone: +1-302-636-6466  
Fax: +1-302-636-4145  
Attention: Joseph B. Feil

**17. GENERAL**

**17.1 Giving effect to this document**

Each party must do anything within its power (including execute any document) that the other party may reasonably require to give full effect to this document.

**17.2 Governing Law**

- (a) This document is governed by the laws of the State of New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of that State and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this document.

**17.3 Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

**17.4 No partnership or agency**

Nothing in this document is to be treated as creating a partnership and, except as specifically provided in this document, no party may act as agent of or in any way bind another party to any obligation.

#### 17.5 **Consents**

Where this document contemplates that a party may agree or consent to something (however it is described), unless this document expressly contemplates otherwise, the party may:

- (a) agree or consent, or not agree or consent, in its sole and absolute discretion; and
- (b) agree or consent subject to conditions.

#### 17.6 **Counterparts**

This document may be executed in counterparts. Delivery of a counterpart of this document by email attachment constitutes an effective mode of delivery.



## SCHEDULE 1

### 1. Parties

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
Scheme Companies			
Boart Longyear Limited	ACN 123 052 728	Address: 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport in the State of South Australia  Email: nora.pincus@boartlongyear.com  With a copy to:  c/o Ashurst  Level 11, 5 Martin Place, Sydney, NSW 2000  Email Address: James.Marshall@ashurst.com Alinta.Kemeny@ashurst.com  Attention: James Marshall and Alinta Kemeny	BLY
Boart Longyear Management Pty Limited	ACN 123 283 545		BLY Issuer
Boart Longyear Australia Pty Ltd	ACN 000 401 025		BLA
Boart Longyear Investments Pty Limited	ACN 124 070 373		BLI
Votraint No. 1609 Pty Limited	ACN 119 244 272		Votraint
BL Capital Management LLC	ARBN 649 445 321		BCM
BLY US Holdings Inc.	ARBN 649 445 394		BLY US
Incremental Financiers			
Corre Opportunities Qualified Master Fund, LP		c/o Corre Partners Management, LLC  Email: john@correpartners.com and skapadia@correpartners.com  Attention: John Barrett and Saurabh Kapadia  12 E. 49th St., 40th Fl.  New York, NY 10017  United States    - with a copy, which shall not constitute notice, to –  Paul, Weiss, Rifkind, Wharton & Garrison LLP  Email: arosenberg@paulweiss.com, emccolm@paulweiss.com.	
Corre Horizon Fund, LP			

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>mturkel@paulweiss.com and xpang@paulweiss.com</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Willkie Farr &amp; Gallagher LLP</p> <p>787 Seventh Avenue New York, NY 10019</p> <p>Attention: Brian Lennon</p> <p>Facsimile: 212-728-9295</p> <p>Email: blennon@willkie.com</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>- with a copy, which shall not constitute notice, to –</p> <p>Corrs Chambers Westgarth 8 Chifley Square Sydney NSW 2000 Attention: Ben Emblin Email: ben.emblin@corrs.com.au</p>	
First Pacific Advisors, LP, (as investment advisor of Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, The Health Plan of West Virginia, Inc., The Nature Conservancy)		<p>c/o First Pacific Advisors, LP Email: ebrown@fpa.com, abhi@fpa.com and jchoi@fpa.com Attention: Eric Brown, Abhi Patwardhan and Joe Choi 11601 Wilshire Boulevard, Suite 1200 Los Angeles, California 90025 United States</p> <p>- with a copy, which shall not constitute notice, to – Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p>	
FPA New Income, Inc.		<p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang 1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to – Gilbert + Tobin Email: DEmmett@gtlaw.com.au Attention: Dominic Emmett L35, Tower Two, International Towers Sydney 200 Barangaroo Avenue, Barangaroo NSW 2000</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney Email: David.Clee@CliffordChance.com Attention: David Clee Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Willkie Farr &amp; Gallagher LLP 787 Seventh Avenue New York, NY 10019 Attention: Brian Lennon Facsimile: 212-728-9295 Email: blennon@willkie.com</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Corrs Chambers Westgarth 8 Chifley Square Sydney NSW 2000 Attention: Ben Emblin Email: ben.emblin@corrs.com.au</p>	
Nut Tree Capital Management LP, (as investment advisor of Nut Tree Master Fund, LP)		<p>c/o Nut Tree Capital Management Email: ssilver@nuttreecapital.com Attention: Scott Silver 55 Hudson Yards, 22 FL New York, NY 10001 United States</p> <p>- with a copy, which shall not constitute notice, to –</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Willkie Farr &amp; Gallagher LLP</p> <p>787 Seventh Avenue New York, NY 10019 Attention: Brian Lennon</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Facsimile: 212-728-9295</p> <p>Email: blennon@willkie.com</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Corrs Chambers Westgarth</p> <p>8 Chifley Square</p> <p>Sydney NSW 2000</p> <p>Attention: Ben Emblin</p> <p>Email: ben.emblin@corrs.com.au</p>	
<b>Existing Backstop ABL Financiers</b>			
CCP II Acquisition Holdings, LLC		<p>375 Park Ave, 11th Floor</p> <p>New York, New York 10152</p>	
Centerbridge Credit Partners Master AIV III, LP		<p>United States</p> <p>Attention: The Office of the General Counsel</p>	
Centerbridge Special Credit Partners Master II AIV III, L.P.		<p>Email: legalnotices@centerbridge.com and</p> <p>c/o Centerbridge Partners, L.P.</p> <p>Email: ctotchilin@centerbridge.com</p> <p>Attention: Conor Tochilin</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Kirkland &amp; Ellis LLP</p> <p>Email: asathy@kirkland.com and john.luze@kirkland.com</p> <p>Attention: Anup Sathy, P.C., and John R. Luze</p> <p>300 North LaSalle</p> <p>Chicago, Illinois 60654</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>MinterEllison</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Email: ron.forster@minterellison.com and michael.hughes@minterellison.com</p> <p>Attention: Ron Forster and Michael Hughes</p> <p>Governor Macquarie Tower</p> <p>1 Farrer Place Sydney NSW 2000</p> <p>Australia</p>	
Corre Horizon Fund, LP		<p>c/o Corre Partners Management, LLC</p> <p>Email: john@correpartners.com and skapadia@correpartners.com</p>	
Corre Opportunities Qualified Master Fund, LP		<p>Attention: John Barrett and Saurabh Kapadia</p> <p>12 E. 49th St., 40th Fl.</p> <p>New York, NY 10017</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	
FPA New Income, Inc.		<p>c/o First Pacific Advisors, LP</p> <p>Email: ebrown@fpa.com, abhi@fpa.com and jchoi@fpa.com</p>	
Motion Picture Industry Health Plan (Active)		<p>Attention: Eric Brown, Abhi Patwardhan and Joe Choi</p>	
Motion Picture Industry Health Plan (Retiree)		<p>11601 Wilshire Boulevard, Suite 1200</p> <p>Los Angeles, California 90025</p> <p>United States</p>	
Motion Picture Industry Individual Account Plan		<p>- with a copy, which shall not constitute notice, to –</p>	
The Nature Conservancy		<p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Email: arosenberg@paulweiss.com, emccolm@paulweiss.com, mturkel@paulweiss.com and xpang@paulweiss.com</p>	
SAG-AFTRA Health Plan (FKA Screen Actors Guild – Producers Health Plan)		<p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p>	
The Health Plan (FKA The Health Plan of Upper Ohio Valley, Inc)		<p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Email: DEmmett@gtlaw.com.au</p>	



Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000</p> <p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Email: David.Clee@CliffordChance.com</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	

## 2. CBP and AHG

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
<b>CBP</b>			
CCP II Acquisition Holdings, LLC.		375 Park Ave, 11th Floor New York, New York 10152	<b>CBP</b>
Centerbridge Credit Partners Master AIV III, L.P.		United States Attention: The Office of the General Counsel	
Centerbridge Credit Partners Master, L.P.		Email: legalnotices@centerbridge.com and	
Centerbridge Special Credit Partners Master II AIV III, L.P.		c/o Centerbridge Partners, L.P. Email: ctchilin@centerbridge.com Attention: Conor Tochilin	
Centerbridge Special Credit Partners II, L.P.		- with a copy, which shall not constitute notice, to – Kirkland & Ellis LLP	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Email: asathy@kirkland.com and john.luze@kirkland.com</p> <p>Attention: Anup Sathy, P.C., and John R. Luze</p> <p>300 North LaSalle</p> <p>Chicago, Illinois 60654</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>MinterEllison</p> <p>Email: ron.forster@minterellison.com and michael.hughes@minterellison.com</p> <p>Attention: Ron Forster and Michael Hughes</p> <p>Governor Macquarie Tower</p> <p>1 Farrer Place Sydney NSW 2000</p> <p>Australia</p>	
<b>AHG</b>			
Ascribe II Investments LLC		<p>c/o Ascribe Capital</p> <p>Attention: Lawrence First and Eric Schondorf</p> <p>590 Madison Avenue, 38th Floor</p> <p>New York, New York 10022</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p>	<b>Ascribe</b>

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p> <p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000</p> <p>Australia</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	
Corre Opportunities Qualified Master Fund, LP		c/o Corre Partners Management, LLC	<b>Corre</b>
Corre Horizon Fund, LP		<p>Attention: John Barrett and Saurabh Kapadia</p> <p>12 E. 49th St., 40th Fl.</p> <p>New York, NY 10017</p> <p>United States</p>	
Corre Horizon II Fund, LP		<p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p> <p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p> <p>United States</p> <p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p>	

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>Attention: Dominic Emmett L35, Tower Two, International Towers Sydney 200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to – Clifford Chance, Sydney Attention: David Clee Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p>	
FPA New Income, Inc.		c/o First Pacific Advisors, LP	<b>FPA</b>
Motion Picture Industry Health Plan (Active)		<p>Attention: Eric Brown, Abhi Patwardhan and Joe Choi 11601 Wilshire Boulevard, Suite 1200 Los Angeles, California 90025 United States</p> <p>Email: ebrown@fpa.com, abhi@fpa.com and jchoi@fpa.com</p>	
Motion Picture Industry Health Plan (Retiree)			
Motion Picture Industry Individual Account Plan			
SAG-AFTRA Health Plan		- with a copy, which shall not constitute notice, to – Paul, Weiss, Rifkind, Wharton & Garrison LLP	
The Health Plan of West Virginia, Inc.		<p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang 1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to – Gilbert + Tobin Attention: Dominic Emmett</p>	
The Nature Conservancy			

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p> <p>- with a copy, which shall not constitute notice, to – Clifford Chance, Sydney Attention: David Clee Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia</p>	
Nut Tree Master Fund, LP		<p>c/o Nut Tree Capital Management Attention: Scott Silver 55 Hudson Yards, 22 FL New York, NY 10001 United States</p> <p>- with a copy, which shall not constitute notice, to – Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang 1285 Avenue of the Americas New York, NY 10019 United States</p> <p>- with a copy, which shall not constitute notice, to – Gilbert + Tobin Attention: Dominic Emmett L35, Tower Two, International Towers Sydney 200 Barangaroo Avenue, Barangaroo NSW 2000 Australia</p>	<b>Nut Tree</b>

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
		<p>- with a copy, which shall not constitute notice, to –</p> <p>Clifford Chance, Sydney</p> <p>Attention: David Clee</p> <p>Level 16, No. 1 O'Connell Street</p> <p>Sydney NSW 2000</p> <p>Australia</p>	
ARES Institutional High Yield Master Fund LP		c/o Ares Management LLC	<b>Ares</b>
Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust		<p>Attention: Russell Almeida and Joanne Hanson Bonney</p> <p>800 Corporate Point Suite 300</p> <p>Los Angeles, CA 90230</p> <p>United States</p>	
Kaiser Foundation Hospitals		<p>- with a copy, which shall not constitute notice, to –</p> <p>Paul, Weiss, Rifkind, Wharton &amp; Garrison LLP</p>	
Lucent Technologies Inc. Master Pension Trust		<p>Attention: Andrew N. Rosenberg, Elizabeth McColm, Michael M. Turkel and Xu Pang</p> <p>1285 Avenue of the Americas</p> <p>New York, NY 10019</p>	
Seattle City Employees' Retirement System		United States	
SEI Global Master Fund PLC			
SEI Institutional Investment Trust - High Yield Bond Fund		<p>- with a copy, which shall not constitute notice, to –</p> <p>Gilbert + Tobin</p>	
SEI Institutional Managed Trust - High Yield Bond Fund		<p>Attention: Dominic Emmett</p> <p>L35, Tower Two, International Towers Sydney</p> <p>200 Barangaroo Avenue,</p> <p>Barangaroo NSW 2000</p> <p>Australia</p>	
SEI Investments Canada Company – U.S. High Yield Bond Fund		<p>- with a copy, which shall not constitute notice, to –</p>	
Superannuation Funds Management			

Name	ACN / ARBN / Other company number (if applicable)	Notice details	Defined term (if applicable)
Corporation of South Australia		Clifford Chance, Sydney Attention: David Clee	
Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund		Level 16, No. 1 O'Connell Street Sydney NSW 2000 Australia	

## SCHEDULE 2

### Restructuring Documents

	Document
1.	Restructuring Implementation Deed
2.	Secured Creditors' Scheme
3.	Unsecured Creditors' Scheme
4.	Members' Scheme
5.	Share Purchase Plan
6.	Selective Buy-Back
7.	Exit Financing Documents
8.	Assumption Deed Poll
9.	New Warrants
10.	CBP Director Nomination Agreement
11.	AHG Director Nomination Agreements



**EXECUTED** as a deed

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**Scheme Companies**

**EXECUTED by BOART LONGYEAR  
LIMITED ACN 123 052 728:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BOART LONGYEAR  
MANAGEMENT PTY LIMITED ACN 123  
283 545:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BOART LONGYEAR  
AUSTRALIA PTY LTD ACN 000 401  
025:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BOART LONGYEAR  
INVESTMENTS PTY LIMITED ACN 124  
070 373:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by VOTRAINT NO. 1609  
PTY LIMITED ACN 119 244 272:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BL CAPITAL  
MANAGEMENT LLC ARBN 649 445  
321:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED by BLY US HOLDINGS INC.  
ARBN 649 445 394:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**Secured Scheme Creditors**

**SIGNED, SEALED and DELIVERED by A  
SECURED SCHEME ADMINISTRATOR  
FOR AND ON BEHALF OF THE  
SECURED SCHEME CREDITORS** in the  
presence of:

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**Unsecured Scheme Creditors**

**SIGNED, SEALED and DELIVERED by  
AN UNSECURED SCHEME  
ADMINISTRATOR FOR AND ON  
BEHALF OF THE UNSECURED SCHEME  
CREDITORS** in the presence of:

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date of power of attorney

\_\_\_\_\_  
Address of witness

**Scheme Administrators**

**SIGNED, SEALED and DELIVERED** by  
**CHRISTOPHER CLARKE HILL** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**SIGNED, SEALED and DELIVERED** by  
**DAVID PETER MCGRATH** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
administrative agent and collateral agent  
under the Term Loan A and the Term Loan  
B in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SSN Trustee**

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as trustee and collateral  
agent under the SSN Indenture in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**TLB Collateral Agent**

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as collateral agent for the  
TLB Purchasers in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SUN Trustee**

**SIGNED, SEALED AND DELIVERED** by  
**DELAWARE TRUST COMPANY** in its  
capacity as trustee under the SUN  
Indenture in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory



**New BLY Parent**

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR LTD.** in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Incremental Financiers**

**SIGNED, SEALED AND DELIVERED** by  
**CORRE OPPORTUNITIES QUALIFIED**  
**MASTER FUND, LP** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CORRE HORIZON FUND, LP** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**FIRST PACIFIC ADVISORS, LP, (AS  
INVESTMENT ADVISOR OF MOTION  
PICTURE INDUSTRY HEALTH PLAN  
(ACTIVE), MOTION PICTURE  
INDUSTRY HEALTH PLAN (RETIREE),  
MOTION PICTURE INDUSTRY  
INDIVIDUAL ACCOUNT PLAN, THE  
HEALTH PLAN OF WEST VIRGINIA,  
INC., THE NATURE CONSERVANCY)** in  
the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**FPA NEW INCOME, INC.** in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**NUT TREE CAPITAL MANAGEMENT LP**  
in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Incremental Collateral Agent**

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as collateral agent under  
the Incremental Finance Facility in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Incremental Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as agent  
under the Incremental Finance Facility in  
the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Existing Backstop ABL Financiers**

**SIGNED, SEALED AND DELIVERED** by  
**CCP II ACQUISITION HOLDINGS, LLC**  
in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CENTERBRIDGE CREDIT PARTNERS**  
**MASTER AIV III, LP** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CENTERBRIDGE SPECIAL CREDIT**  
**PARTNERS MASTER II AIV III, L.P.** in  
the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CORRE HORIZON FUND, LP** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**CORRE OPPORTUNITIES QUALIFIED  
MASTER FUND, LP** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory



**SIGNED, SEALED AND DELIVERED** by  
**FPA NEW INCOME, INC.** in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**MOTION PICTURE INDUSTRY HEALTH  
PLAN (ACTIVE)** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**MOTION PICTURE INDUSTRY HEALTH  
PLAN (RETIREE)** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**MOTION PICTURE INDUSTRY**  
**INDIVIDUAL ACCOUNT PLAN** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**THE NATURE CONSERVANCY** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**SAG-AFTRA HEALTH PLAN (FKA**  
**SCREEN ACTORS GUILD –**  
**PRODUCERS HEALTH PLAN)** in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**THE HEALTH PLAN (FKA THE HEALTH  
PLAN OF UPPER OHIO VALLEY, INC)** in  
the presence of:



---

Signature of witness

---

Signature of authorised signatory

---

Name of witness

---

Name of authorised signatory

**Backstop Collateral Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
collateral agent under the Existing  
Backstop ABL in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**Backstop Agent**

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as agent  
under the Existing Backstop ABL in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

### **SCHEDULE 3**

#### **Unsecured Scheme Administrators Deed Poll**



# Unsecured Scheme Administrators Deed Poll

The Unsecured Scheme Administrators

2021

**THIS DEED POLL** is made on

2021

**MADE BY:**

- (1) **Christopher Clarke Hill** and **David Peter McGrath** of FTI Consulting, (the **Unsecured Scheme Administrators**)

**IN FAVOUR OF:**

- (2) each Unsecured Scheme Creditor;  
(3) the Agent;  
(4) the TLB Collateral Agent;  
(5) the SSN Trustee;  
(6) the SUN Trustee;  
(7) each Released Individual; and  
(8) each Obligor,  
(each, a **Recipient**).

**THE UNSECURED SCHEME ADMINISTRATORS DECLARE:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders substantially in the form set out in Schedule 1 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Unsecured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Scheme Administrator in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

1.4 **Joint and several obligations**

This deed poll binds each Scheme Administrator jointly and severally.

### 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

### 2. **CONDITIONS TO OBLIGATIONS**

The obligations of the Unsecured Scheme Administrators under this deed poll are subject to the Unsecured Creditors' Scheme becoming Effective.

### 3. **CONSENT TO ACT**

Each Scheme Administrator:

- (a) consents to act as a scheme administrator in accordance with the terms and conditions of the Unsecured Creditors' Scheme;
- (b) acknowledges that another person may be appointed to act as scheme administrator under the Unsecured Creditors' Scheme;
- (c) represents and warrants that he or she is not disqualified from acting as a scheme administrator of the Unsecured Creditors' Scheme pursuant to section 411(7) of the Corporations Act; and
- (d) undertakes to notify the Scheme Companies, the Agent, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee immediately if the representation and warranty in clause 3(c) ceases to be correct.

### 4. **OBLIGATIONS IN RELATION TO SCHEME**

With effect on and from the Scheme Effective Date, each Scheme Administrator irrevocably:

- (a) consents to the Unsecured Creditors' Scheme;
- (b) agrees to be bound by the Unsecured Creditors' Scheme as if he or she were a party to the Unsecured Creditors' Scheme; and
- (c) undertakes in favour of each Recipient:
  - (i) to perform all obligations and to undertake all actions attributed to him or her under the Unsecured Creditors' Scheme;
  - (ii) to accept, and act in accordance with, any instructions, authorisations, directions or appointments given to him or her under the Unsecured Creditors' Scheme;
  - (iii) to do all things and execute all further documents necessary to give full effect to the Unsecured Creditors' Scheme and the transactions contemplated by it; and
  - (iv) not to act inconsistently with any provision of the Unsecured Creditors' Scheme.

### 5. **LIMITATION OF LIABILITY**

In the performance or exercise of the Unsecured Scheme Administrators' powers, obligations and duties under the Unsecured Creditors' Scheme, the Unsecured Scheme Administrators' liability is limited in accordance with the Unsecured Creditors' Scheme.



## **6. GENERAL**

### **6.1 Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### **6.2 Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

### **6.3 Continuing obligations**

This deed poll is irrevocable.

### **6.4 Waiver**

The Unsecured Scheme Administrators may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

### **6.5 Inconsistency**

The terms of the Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

### **6.6 Variation**

- (a) A provision of this deed poll may be varied on or before the time of the Second Court Orders provided that:
  - (i) the variation is consistent with the Unsecured Creditors' Scheme;
  - (ii) the variation is agreed to in writing by the Scheme Companies and a majority of the Unsecured Scheme Creditors; and
  - (iii) the Court has not indicated on or before the Second Court Date that the variation would of itself preclude approval of the Unsecured Creditors' Scheme.
- (b) Where the conditions set out in clause 6.6(a) are satisfied in relation to a variation, the Unsecured Scheme Administrators will enter into a further deed poll in favour of each Recipient giving effect to the variation.

### **6.7 Cumulative Rights**

Except as expressly provided in this deed poll, the rights of the Unsecured Scheme Administrators and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

### **6.8 Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.

(b) Any purported dealing in contravention of clause 6.8(a) is void.

## **SCHEDULE 1**

### **Unsecured Creditors' Scheme**

**EXECUTED** as a deed poll.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**SIGNED, SEALED and DELIVERED** by  
**CHRISTOPHER CLARKE HILL** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

**SIGNED, SEALED and DELIVERED** by  
**DAVID PETER MCGRATH** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

## **SCHEDULE 4**

### **Unsecured Creditors' Scheme Deed Poll**



# Unsecured Creditors' Scheme Deed Poll

The Unsecured Scheme Creditors

2021

**Made by:**

- (1) Each **Unsecured Scheme Creditor** as that term is defined in the Unsecured Creditors' Scheme.

**In favour of:**

- (2) Each other Unsecured Scheme Creditor, the Scheme Companies, the Unsecured Scheme Administrators, the Agent, the SSN Trustee, the SUN Trustee, the TLB Collateral Agent, each Obligor and each Released Individual (each a **Recipient**).

**EACH UNSECURED SCHEME CREDITOR DECLARES:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders substantially in the form set out in Schedule 1 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Unsecured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Unsecured Scheme Creditor in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

1.4 **Several obligations**

This deed poll binds each Unsecured Scheme Creditor severally and not jointly.

1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

2. **RELEASES AND WAIVERS**

- (a) Each Unsecured Scheme Creditor:
  - (i) gives each release, waiver and indemnity which is to be given by it under the Unsecured Creditors' Scheme:

- (A) at the time that release, waiver or indemnity is to be given under Step 2 of clause 8(b) of the RID; and
  - (B) in favour of the Recipient to whom the release, waiver or indemnity is to be given under the Unsecured Creditors' Scheme; and
- (ii) acknowledges and agrees that each Recipient may rely on this deed poll in order to enforce the releases, waivers and indemnities given in its favour under the Unsecured Creditors' Scheme and this deed poll.

### 3. **CONSENTS AND INSTRUCTIONS**

Each Unsecured Scheme Creditor gives each consent and instruction which is required to be given by it for the purposes of the Unsecured Creditors' Scheme in accordance with the Unsecured Creditors' Scheme.

### 4. **GENERAL**

#### 4.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

#### 4.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

#### 4.3 **Continuing obligations**

This deed poll is irrevocable.

#### 4.4 **Waiver**

Each Unsecured Scheme Creditor may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

#### 4.5 **Inconsistency**

The terms of the Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

#### 4.6 **Cumulative Rights**

Except as expressly provided in this deed poll, the rights of each Unsecured Scheme Creditor and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

#### 4.7 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 4.7(a) is void.



**EXECUTED** as a deed poll.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**SIGNED, SEALED** and **DELIVERED** by  
**[•]** as attorney and agent for each  
Unsecured Scheme Creditor in the  
presence of:

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness

## **SCHEDULE 1**

### **Unsecured Creditors' Scheme**

**SCHEDULE 5**  
**Agent Deed Poll**



# Agent Deed Poll

The Agent

2021

**THIS DEED POLL** is made on

2021

**Made by:**

- (1) Wilmington Trust, National Association in its capacity as administrative agent and collateral agent under the Term Loan A; and
  - (2) Wilmington Trust, National Association in its capacity as administrative agent and collateral agent under the Term Loan B,
- (together, the **Agent**)

**In favour of:**

- (1) each Secured Scheme Creditor;
  - (2) each Unsecured Scheme Creditor;
  - (3) the Secured Scheme Administrators;
  - (4) the Unsecured Scheme Administrators;
  - (5) the TLB Collateral Agent;
  - (6) the SSN Trustee;
  - (7) the SUN Trustee;
  - (8) each Obligor; and
  - (9) each Released Individual,
- (each a **Recipient**)

**THE AGENT DECLARES:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (b) **Unsecured Creditors' Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (c) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme or Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

## 1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the RID applies to the interpretation of this deed poll as if references to "this document" were references to "this deed poll".

## 1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against the Agent in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

## 1.4 **Capacity of Agent**

Any reference to the Agent in this deed poll is to be read as a reference to the Agent in its capacity as administrative agent and collateral agent under the Term Loan A and Term Loan B respectively and in no other capacity (including any personal capacity).

## 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

## 2. **OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME AND UNSECURED CREDITORS' SCHEME**

The Agent, in accordance with the instructions given to it by the TLA Purchasers, TLB Purchasers and Obligors under the Secured Creditors' Scheme and Unsecured Creditors' Scheme:

- (a) consents to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
- (b) undertakes in favour of each Recipient:
  - (i) to perform all actions attributed to the Agent under the Secured Creditors' Scheme and Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Secured Creditors' Scheme or Unsecured Creditors' Scheme,

but, subject to clause 10.3(c) of the Secured Creditors' Scheme and clause 10.4(c) of the Unsecured Creditors' Scheme, in each case, provided that any such act, matter or thing, does not require or involve the Agent doing any act, matter or thing after it has ceased to be the "Agent" under the Term Loan A or Term Loan B.

## 3. **GENERAL**

### 3.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### 3.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

### 3.3 **Continuing obligations**

This deed poll is irrevocable.

### 3.4 **Waiver**

The Agent may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

### 3.5 **Inconsistency**

The terms of the Secured Creditors' Scheme and Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

### 3.6 **Cumulative Rights**

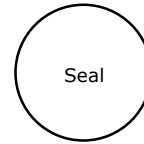
Except as expressly provided in this deed poll, the rights of the Agent and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

### 3.7 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 3.7(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
administrative agent and collateral agent  
under the Term Loan A, in the presence  
of:



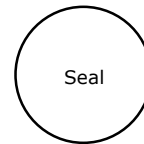
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**WILMINGTON TRUST, NATIONAL  
ASSOCIATION** in its capacity as  
administrative agent and collateral agent  
under the Term Loan B, in the presence  
of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory



**SCHEDULE 6**

**TLB Collateral Agent Deed Poll**



# TLB Collateral Agent Deed Poll

The TLB Collateral Agent

2021

**THIS DEED POLL** is made on 2021

**Made by:**

- (1) U.S. Bank National Association in its capacity as collateral agent for the TLB Purchasers (the **TLB Collateral Agent**)

**In favour of:**

- (1) each Secured Scheme Creditor;  
(2) each Unsecured Scheme Creditor;  
(3) the Secured Scheme Administrators;  
(4) the Unsecured Scheme Administrators;  
(5) the Agent;  
(6) the SSN Trustee;  
(7) the SUN Trustee;  
(8) each Obligor; and  
(9) each Released Individual,  
(each a **Recipient**)

**THE TLB COLLATERAL AGENT DECLARES:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (b) **Unsecured Creditors' Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 the other Scheme Companies and approved by the Court in 2021.
- (c) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme or Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

**1.2 Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the RID applies to the interpretation of this deed poll as if references to "this document" were references to "this deed poll".

### 1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against the SSN Trustee in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

### 1.4 **Capacity of the TLB Collateral Agent**

Any reference to the TLB Collateral Agent in this deed poll is to be read as a reference to the TLB Collateral Agent in its capacity as the TLB Collateral Agent under the Creditor's Schemes Finance Documents and in no other capacity (including any personal capacity).

### 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

## 2. **OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME AND UNSECURED CREDITORS' SCHEME**

The TLB Collateral Agent, in accordance with the instructions given to it by the TLB Purchasers and Obligors under the Secured Creditors' Scheme and Unsecured Creditors' Scheme:

- (a) consents to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
- (b) undertakes in favour of each Recipient:
  - (i) to perform all actions attributed to the TLB Collateral Agent under the Secured Creditors' Scheme and Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Secured Creditors' Scheme or Unsecured Creditors' Scheme,

but, subject to clause 10.3(c) of the Secured Creditors' Scheme and clause 10.4(c) of the Unsecured Creditors' Scheme, in each case, provided that any such act, matter or thing, does not require or involve the TLB Collateral Agent doing any act, matter or thing after it has ceased to be the "TLB Collateral Agent" under the Creditors' Schemes Finance Documents.

## 3. **GENERAL**

### 3.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### 3.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

**3.3 Continuing obligations**

This deed poll is irrevocable.

**3.4 Waiver**

The TLB Collateral Agent may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

**3.5 Inconsistency**

The terms of the Secured Creditors' Scheme and Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

**3.6 Cumulative Rights**

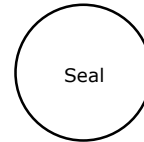
Except as expressly provided in this deed poll, the rights of the TLB Collateral Agent and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

**3.7 Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 3.7(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity collateral agent for the TLB  
Purchasers, in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SCHEDULE 7**

**SSN Trustee Deed Poll**



# SSN Trustee Deed Poll

The SSN Trustee

2021



**THIS DEED POLL** is made on 2021

**Made by:**

- (1) U.S. Bank National Association in its capacity as trustee and collateral agent under the SSN Indenture (the **SSN Trustee**)

**In favour of:**

- (1) each Secured Scheme Creditor;
- (2) each Unsecured Scheme Creditor;
- (3) the Secured Scheme Administrators;
- (4) the Unsecured Scheme Administrators;
- (5) the Agent;
- (6) the TLB Collateral Agent;
- (7) the SUN Trustee;
- (8) each Obligor; and
- (9) each Released Individual,  
(each a **Recipient**)

**THE SSN TRUSTEE DECLARES:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

- (a) **Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (b) **Unsecured Creditors' Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (c) Unless the context requires otherwise, a capitalised term or expression which is defined in the Secured Creditors' Scheme or Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

**1.2 Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the RID applies to the interpretation of this deed poll as if references to "this document" were references to "this deed poll".

### 1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against the SSN Trustee in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

### 1.4 **Capacity of the SSN Trustee**

Any reference to the SSN Trustee in this deed poll is to be read as a reference to the SSN Trustee in its capacity as the SSN Trustee under the Creditor's Schemes Finance Documents and in no other capacity (including any personal capacity).

### 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

## 2. **OBLIGATIONS IN RELATION TO SECURED CREDITORS' SCHEME AND UNSECURED CREDITORS' SCHEME**

The SSN Trustee, in accordance with the instructions given to it by the SSN Noteholders and Obligors under the Secured Creditors' Scheme and Unsecured Creditors' Scheme:

- (a) consents to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
- (b) undertakes in favour of each Recipient:
  - (i) to perform all actions attributed to the SSN Trustee under the Secured Creditors' Scheme and Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to the Secured Creditors' Scheme and Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Secured Creditors' Scheme or Unsecured Creditors' Scheme,

but, subject to clause 10.3(c) of the Secured Creditors' Scheme and clause 10.4(c) of the Unsecured Creditors' Scheme, in each case, provided that any such act, matter or thing, does not require or involve the SSN Trustee doing any act, matter or thing after it has ceased to be the "SSN Trustee" under the Creditors' Schemes Finance Documents.

## 3. **GENERAL**

### 3.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### 3.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

**3.3 Continuing obligations**

This deed poll is irrevocable.

**3.4 Waiver**

The SSN Trustee may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

**3.5 Inconsistency**

The terms of the Secured Creditors' Scheme and Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

**3.6 Cumulative Rights**

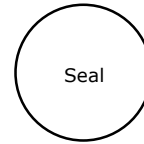
Except as expressly provided in this deed poll, the rights of the SSN Trustee and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

**3.7 Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 3.7(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**U.S. BANK NATIONAL ASSOCIATION**  
in its capacity as trustee and collateral  
agent under the SSN Indenture, in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SCHEDULE 8**

**SUN Trustee Deed Poll**



# SUN Trustee Deed Poll

The SUN Trustee

2021

**THIS DEED POLL** is made on

2021

**Made by:**

- (1) **Delaware Trustee Company** in its capacity as trustee under the SUN Indenture (the **SUN Trustee**)

**In favour of:**

- (1) each Unsecured Scheme Creditor;  
(2) the Unsecured Scheme Administrators;  
(3) the Agent;  
(4) the TLB Collateral Agent;  
(5) the SSN Trustee;  
(6) each Obligor; and  
(7) each Released Individual,  
(each a **Recipient**)

**THE SUN TRUSTEE DECLARES:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Unsecured Creditors' Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by Boart Longyear Limited ACN 123 052 728 and the other Scheme Companies and approved by the Court in 2021.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the RID applies to the interpretation of this deed poll as if references to "this document" were references to "this deed poll".

1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against the SUN Trustee in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

1.4 **Capacity of the SUN Trustee**

Any reference to the SUN Trustee in this deed poll is to be read as a reference to the SUN Trustee in its capacity as the SUN Trustee under the Creditors' Schemes Finance Documents and in no other capacity (including any personal capacity).

### 1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

## 2. **OBLIGATIONS IN RELATION TO UNSECURED CREDITORS' SCHEME**

The SUN Trustee, in accordance with the instructions given to it by the SUN Noteholders and Obligors under the Unsecured Creditors' Scheme:

- (a) consents to the Unsecured Creditors' Scheme; and
- (b) undertakes in favour of each Recipient:
  - (i) to perform all actions attributed to the SUN Trustee under the Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to the Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Unsecured Creditors' Scheme,

but, subject to clause 10.4(c) of the Unsecured Creditors' Scheme, in each case, provided that any such act, matter or thing, does not require or involve the SUN Trustee doing any act, matter or thing after it has ceased to be the "SUN Trustee" under the Creditors' Schemes Finance Documents.

## 3. **GENERAL**

### 3.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis.

### 3.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

### 3.3 **Continuing obligations**

This deed poll is irrevocable.

### 3.4 **Waiver**

The SUN Trustee may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

### 3.5 **Inconsistency**

The terms of the Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.



**3.6 Cumulative Rights**

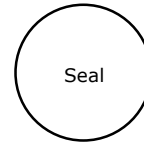
Except as expressly provided in this deed poll, the rights of the SUN Trustee and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

**3.7 Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 3.7(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**DELAWARE TRUST COMPANY** in its  
capacity as the trustee under the SUN  
Indenture, in the presence of:



---

Signature of witness

---

Signature of authorised signatory

---

Name of witness

---

Name of authorised signatory

**SCHEDULE 9**

**Released Individuals Deed Poll**



## Released Individuals Deed Poll

Released Individuals

2021

**THIS DEED POLL** is made on

2021

**Made by:**

- (1) **Released Individuals listed in Schedule 1** (each a **Released Individual**)

**In favour of:**

- (1) each Unsecured Scheme Creditor, the Agent, the SSN Trustee, the SUN Trustee, the TLB Collateral Agent, each Obligor and the Unsecured Scheme Administrators (each a **Recipient**).

**THE RELEASED INDIVIDUAL DECLARES:**

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

- (a) **Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders substantially in the form set out in Schedule 2 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

1.2 **Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Unsecured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

1.3 **Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Released Individual in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

1.4 **Several obligations**

This deed poll binds each Released Individual severally and not jointly.

1.5 **Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59pm on the Sunset Date this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

2. **OBLIGATIONS IN RELATION TO UNSECURED CREDITORS' SCHEME**

Each Released Individual irrevocably:

- (a) consents to the Unsecured Creditors' Scheme;

- (b) agrees to be bound by the Unsecured Creditors' Scheme as if it were a party to the Unsecured Creditors' Scheme; and
- (c) undertakes in favour of each Recipient:
  - (i) to perform all obligations and undertake all actions attributed to the Released Individual under the Unsecured Creditors' Scheme;
  - (ii) to do all things and execute all further documents necessary to give full effect to its obligations under the Unsecured Creditors' Scheme; and
  - (iii) not to act inconsistently with any provision of the Unsecured Creditors' Scheme.

### 3. **RELEASES**

- (a) Without limiting clause 2 above, each Released Individual:
  - (i) gives each release which is to be given by it under clause 10 (*Releases*) of the Unsecured Creditors' Scheme:
    - (A) at the time that release is to be given under Step 2 of clause 8(b) of the RID; and
    - (B) in favour of each Recipient to whom the release is to be given under the Unsecured Creditors' Scheme; and
  - (ii) acknowledges and agrees that each Recipient may rely on this deed poll in order to enforce the releases given in its favour under the Unsecured Creditors' Scheme and this deed poll.

### 4. **GENERAL**

#### 4.1 **Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis and the Released Individuals adopt the address for notices of BLY.

#### 4.2 **Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

#### 4.3 **Continuing obligations**

This deed poll is irrevocable.

#### 4.4 **Waiver**

The Released Individual may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

#### 4.5 **Inconsistency**

The terms of the Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

#### 4.6 **Variation**

- (a) A provision of this deed poll may be varied on or before the time of the Second Court Orders provided that:
  - (i) the variation is consistent with the Unsecured Creditors' Scheme;
  - (ii) the variation is agreed to in writing by the Scheme Companies and a majority of the Unsecured Creditors' Scheme (by value); and
  - (iii) the Court has not indicated on or before the Second Court Date that the variation would of itself preclude approval of the Unsecured Creditors' Scheme.
- (b) Where the conditions set out in clause 4.6(a) are satisfied in relation to a variation, the Released Individual will enter into a further deed poll in favour of each Recipient giving effect to the variation.

#### 4.7 **Cumulative Rights**

Except as expressly provided in this deed poll, the rights of each Released Individual and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

#### 4.8 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 4.8(a) is void.

**EXECUTED** as a deed poll.

**SIGNED, SEALED** and **DELIVERED** by  
**[RELEASED INDIVIDUAL]** in the  
presence of:

\_\_\_\_\_  
Signature of party

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address of witness



**SCHEDULE 1**  
**Released Individuals**

<b>1.</b>	<b>[name]</b>
<b>2.</b>	
<b>3.</b>	
<b>4.</b>	
<b>5.</b>	
<b>6.</b>	

**SCHEDULE 2**

**Unsecured Creditors' Scheme**

**SCHEDULE 10**  
**Obligors Deed Poll**



## Obligors Deed Poll

The Obligors listed in Schedule 1 to this deed poll

2021

**THIS DEED POLL** is made on

2021

**Made by:**

- (1) Each Obligor listed in Schedule 1 to this deed poll (together, the **Obligors**).

**In favour of:**

- (1) Each Unsecured Scheme Creditor, the Unsecured Scheme Administrators, the Agent, the SSN Trustee, the SUN Trustee, the TLB Collateral Agent, each other Obligor and each Released Individual (each a **Recipient**).

**EACH OBLIGOR DECLARES:**

**1. INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this document.

- (a) **Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act in relation to the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders substantially in the form set out in Schedule 2 to this deed poll, subject to any alterations made or conditions imposed by the Court pursuant to section 411(6) of the Corporations Act.
- (b) Unless the context requires otherwise, a capitalised term or expression which is defined in the Unsecured Creditors' Scheme has the same meaning when used in this deed poll.

**1.2 Rules for interpreting this document**

Clause 1.2 (*Rules for interpreting this document*) of the Unsecured Creditors' Scheme applies to the interpretation of this deed poll as if references to "this Scheme" were references to "this deed poll".

**1.3 Nature of deed poll**

This deed poll is made for the benefit of the Recipients and may be relied on and enforced against each Obligor in accordance with its terms by each Recipient on and from the date of this deed poll even though the Recipients are not party to this deed poll.

**1.4 Several obligations**

This deed poll binds each Obligor severally and not jointly.

**1.5 Termination**

If all of the Implementation Steps in clauses 8(a) to 8(h) of the RID have not been completed by 11.59 pm on the Sunset Date, this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect.

**2. CONDITIONS TO OBLIGATIONS**

The obligations of each Obligor under this deed poll are subject to the Unsecured Creditors' Scheme becoming Effective.

**3. OBLIGATIONS IN RELATION TO UNSECURED CREDITORS' SCHEME**

With effect on and from the Scheme Effective Date, each Obligor irrevocably:

- (a) consents to the Unsecured Creditors' Scheme;
- (b) agrees to be bound by the Unsecured Creditors' Scheme as if it were a party to the Unsecured Creditors' Scheme; and
- (c) undertakes in favour of each Recipient:
  - (i) to perform all obligations and to undertake all actions attributed to it under the Unsecured Creditors' Scheme including, without limitation, to give the directions and make the appointments attributed to it under the Unsecured Creditors' Scheme;
  - (ii) to accept, and act in accordance with, any instructions, authorisations, directions or appointments given to it under the Unsecured Creditor's Scheme;
  - (iii) to do all things and execute all further documents necessary to give full effect to the Unsecured Creditors' Scheme and the transactions contemplated by it; and
  - (iv) not to act inconsistently with any provision of the Unsecured Creditors' Scheme.

**4. RELEASES AND WAIVERS**

Each Obligor:

- (a) gives each release, waiver and indemnity which is to be given by it under the Unsecured Creditor's Scheme:
  - (i) at the time that release, waiver or indemnity is to be given under Step 2 of clause 8(b) of the RID; and
  - (ii) in favour of the Recipient to whom the release, waiver or indemnity is to be given under the Unsecured Creditors' Scheme; and
- (b) acknowledges and agrees that each Recipient may rely on this deed poll in order to enforce the releases, waivers and indemnities given in its favour under the Unsecured Creditors' Scheme and this deed poll.

**5. GENERAL**

**5.1 Notices**

The provisions of clause 16 (*Notices*) of the RID are incorporated into this document by reference as if set out in this document in full, mutatis mutandis and the Obligors adopt the address for notices of BLY.

**5.2 Governing law and jurisdiction**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales.

- (b) Each party submits to the exclusive jurisdiction of the courts of that State and courts of appeal from them in respect of any proceedings arising out of or in connection with this document.

### 5.3 **Continuing obligations**

This deed poll is irrevocable.

### 5.4 **Waiver**

The Obligors may not rely on the words or conduct of any Recipient as a waiver of any right arising under or in connection with this deed poll unless the waiver is in writing and signed by the Recipient granting the waiver.

### 5.5 **Inconsistency**

The terms of the Unsecured Creditors' Scheme prevail over the terms of this deed poll to the extent of any inconsistency between them.

### 5.6 **Variation**

- (a) A provision of this deed poll may be varied on or before the time of the Second Court Orders provided that:
  - (i) the variation is consistent with the Unsecured Creditors' Scheme;
  - (ii) the variation is agreed to in writing by the Scheme Companies and a majority of the Unsecured Scheme Creditors (by value); and
  - (iii) the Court has not indicated on or before the Second Court Date that the variation would of itself preclude approval of the Unsecured Creditors' Scheme.
- (b) Where the conditions set out in clause 5.6(a) are satisfied in relation to a variation, the Obligors will enter into a further deed poll in favour of each Recipient giving effect to the variation.

### 5.7 **Cumulative Rights**

Except as expressly provided in this deed poll, the rights of the Obligors and of each Recipient under this deed poll are in addition to and do not exclude or limit any other rights or remedies provided by law.

### 5.8 **Assignment and other dealings**

- (a) The rights and remedies of each Recipient under this deed poll are personal and must not be assigned or otherwise dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 5.8(a) is void.

### 5.9 **Counterparts**

This deed poll may be executed in counterparts. Delivery of a counterpart of this deed poll by email attachment or fax constitutes an effective mode of delivery.

**EXECUTED** as a deed poll.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**EXECUTED** by **BOART LONGYEAR LIMITED ACN 123 052 728:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **BOART LONGYEAR MANAGEMENT PTY LIMITED ACN 123 283 545:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **BOART LONGYEAR AUSTRALIA PTY LTD ACN 000 401 025:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**EXECUTED** by **BOART LONGYEAR INVESTMENTS PTY LTD ACN 124 070 373:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name



**EXECUTED by VOTRAINT NO. 1609  
PTY LTD ACN 119 244 272:**

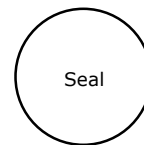
\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

**SIGNED, SEALED AND DELIVERED** by  
**BL CAPITAL MANAGEMENT LLC** in the  
presence of:



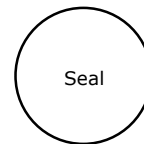
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Signature of witness

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BLY US HOLDINGS INC.** in the presence  
of:



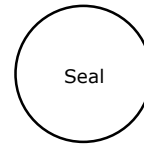
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Name of witness

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Signature of authorised signatory

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Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR CANADA** in the  
presence of:



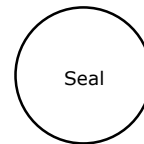
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Signature of witness

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Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR CHILE LIMITADA** in  
the presence of:



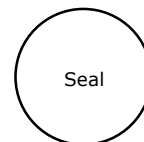
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Signature of witness

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Signature of authorised signatory

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Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR COMPANY** in the  
presence of:



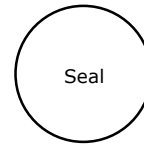
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Signature of witness

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Signature of authorised signatory

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Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR MANUFACTURING  
AND DISTRIBUTION INC.** in the  
presence of:



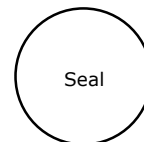
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Signature of witness

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Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR MANUFACTURING  
CANADA LTD.** in the presence of:



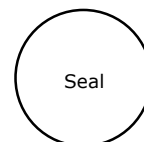
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Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR S.A.C.** in the  
presence of:



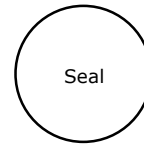
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Signature of witness

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Signature of authorised signatory

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Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR SUISSE SARL** in the  
presence of:



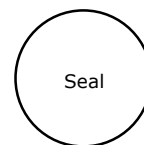
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Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**LONGYEAR CANADA, ULC** in the  
presence of:



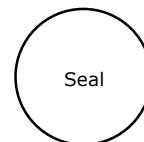
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Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**LONGYEAR TIM, INC.** in the presence  
of:



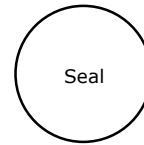
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Signature of witness

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Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SIGNED, SEALED AND DELIVERED** by  
**BLY IP INC.** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Name of authorised signatory

**SCHEDULE 1****Obligors**

<b>Obligors</b>	
1.	Boart Longyear Limited ACN 123 052 728
2.	Boart Longyear Management Pty Limited ACN 123 283 545
3.	Boart Longyear Australia Pty Ltd ACN 000 401 025
4.	Boart Longyear Investments Pty Ltd ACN 124 070 373
5.	BL Capital Management LLC ARBN 649 445 321
6.	BLY US Holdings Inc. ARBN 649 445 394
7.	Boart Longyear Canada
8.	Boart Longyear Chile Limitada
9.	Boart Longyear Company
10.	Boart Longyear Manufacturing and Distribution Inc.
11.	Boart Longyear Manufacturing Canada Ltd.
12.	Boart Longyear S.A.C.
13.	Boart Longyear Suisse Sarl
14.	Longyear Canada, ULC
15.	Longyear TM, Inc.
16.	Votrant No. 1609 Pty Limited ACN 119 244 272
17.	BLY IP Inc.

**SCHEDULE 2**

**Unsecured Creditors' Scheme**

**SCHEDULE 11**  
**New Warrants**





## New Warrant Deed Poll

Boart Longyear Limited

ACN 123 052 728

2021

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**THIS DEED POLL** is made on

2021

**BY:**

- (1) **Boart Longyear Limited** (ACN 123 052 728) whose registered office is at 26 Butler Boulevard, Burbridge Business Park, Adelaide Airport, South Australia 5950, Australia (the **Company**).

**FOR THE BENEFIT OF:**

- (2) the New Warrant Holders (as defined below).

**RECITALS:**

- (A) The Company has determined to create New Warrants, exercisable into Shares on the terms and subject to the conditions set out in this Deed Poll.
- (B) The Company enters into this Deed Poll for the benefit of each person who is a New Warrant Holder from time to time.

**THE COMPANY DECLARES AS FOLLOWS:**

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

The following definitions apply unless the context requires otherwise.

**AHG Member** means each of Ares, Ascribe, Corre, FPA and Nut Tree.

**Alternative Exchange** means, if the Company is no longer listed on ASX, a national or internationally recognised securities exchange other than ASX on which the Company, or a Successor Company, is listed.

**Ares** means Ares Management LLC, on behalf of its affiliated funds and accounts being ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Fund, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust – High Yield Bond Fund, SEI Institutional Managed Trust – High Yield Bond Fund, SEI Investments Canada Company – U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust – Touchstone Credit Opportunities II Fund.

**Ascribe** means Ascribe II Investments LLC.

**ASX** means ASX Limited (ABN 98 008 624 691).

**bonus issue** has the meaning given to the expression in the Listing Rules at the date of this Deed Poll.

**Business Day** means a day, other than Saturday or Sunday, on which banks are open in Sydney and Adelaide.

**Change in Capital** means any recapitalization, reorganization, reclassification, consolidation, merger, amalgamation, sale of all or substantially all of the Company's assets or other transaction, which in each case is effected in such a way that Shares are converted into the right to receive (either directly or upon subsequent liquidation) stock, securities, other equity interests or assets (including cash), but does not include:

- (a) a Redomiciling Event;
- (b) a Change of Control;
- (c) a Public Stock Merger; or
- (d) a Small Public Stock Merger.

**Change of Control** occurs when a Third Party (other than as custodian, nominee or bare trustee):

- (a) acquires an interest in, or a relevant interest in or becomes the holder of, 50% or more of the Shares provided that where a Third Party acquires a relevant interest in 50% or more of the Shares by way of an off market takeover bid in accordance with Chapter 6 of the Corporations Act, the Change of Control will not occur until such time as that bid is declared free from all conditions;
- (b) acquires an interest in all or a substantial part of the assets of the Company;
- (c) otherwise acquires control (within the meaning of section 50AA of the Corporations Act) of the Company; or
- (d) otherwise directly or indirectly acquires, merges or amalgamates with the Company or a substantial part of its assets or business, whether by way of takeover offer, scheme or plan of arrangement, shareholder approval acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding company for the Company or other synthetic merger or any other similar transaction or arrangement which for the avoidance of doubt does not include where the Third Party is a new holding company and the shares or common stock in the new holding company are held by the holders of Shares in substantially the same proportion as they hold Shares in the Company immediately before the transaction,

but does not include:

- (a) a Redomiciling Event;
- (b) a Public Stock Merger; or
- (c) a Small Public Stock Merger.

**Company** means:

- (a) Boart Longyear Limited (ACN 123 052 728); or
- (b) if there is a Redomiciling Event, a Successor Company.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Corre** means Corre Partners Management, LLC and those entities affiliated with it including Corre Opportunities Qualified Master Fund, LP, Corre Horizon Fund, LP and Corre Horizon II Fund, LP.

**Distribution** means the making of a distribution of:

- (a) any evidences of its indebtedness, any shares of its capital stock or any other securities or property of any nature whatsoever (including cash); or

- (b) any options, warrants or other rights to subscribe for or purchase any evidences of its indebtedness, any shares of its capital stock or any other securities or property of any nature whatsoever,

to the holders of Shares (other than a dividend, a pro rata issue covered by clause 6.2, a bonus issue covered by clause 6.3 or a corporate action covered by clause 6.4).

**Exercise Date** means, in respect of a New Warrant, the date on which the exercise of that New Warrant becomes effective in accordance with the terms of this Deed Poll.

**Exercise Notice** means a notice substantially in the form set out in Attachment 1.

**Exercise Period** means the period commencing on the date of issue of the New Warrants and ending at 5.00 pm (Sydney time) on the sixth anniversary of that date.

**Exercise Price** means, in respect of a New Warrant, A\$2.79 (as adjusted in accordance with clause 6).

**Fair Value** of:

- (a) a Share means on any day:
  - (i) if the Shares are quoted on a Securities Exchange on that day, the VWAP of Shares during the 10 Trading Days ending on, but excluding that day;
  - (ii) if the Shares are not quoted on any Securities Exchange on that day, the fair value as of a date not earlier than 10 Business Days preceding that day as determined by the Independent Expert;
- (b) of cash on any day means the amount of that cash;
- (c) of any other property means on any day, the fair market value of that property as determined by an Independent Expert appointed for such purpose, using one or more valuation methods that the Independent Expert in its best professional judgement determines to be the most appropriate, assuming such property is to be sold in an arm's-length transaction and there was no compulsion on the part of any party to such sale to buy or sell and taking into account all relevant factors

**FPA** means First Pacific Advisors, LP and those entities affiliated with it including FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**Independent Expert** means an independent expert selected by the board of the Company with the supporting vote of at least one director nominated by the AHG Members.

**Listing Rules** means the official listing rules of ASX as waived or modified by ASX in respect of the Company or the New Warrants in any particular case.

**New Warrant** means an option to subscribe for one Share at the Exercise Price on and subject to the terms and conditions in this Deed Poll.

**New Warrant Certificate** means a certificate evidencing the New Warrant Holder as the registered holder of any one or more New Warrants, and substantially in the form set out in Attachment 3.

**New Warrant Holder** means a person whose name appears in the Warrants Register as the holder of any one or more New Warrants from time to time.

**Nut Tree** means Nut Tree Capital Management and Nut Tree Master Fund, LP.

**pro rata issue** has the meaning given to that expression in the Listing Rules at the date of this Deed Poll.

**Public Stock** means common stock or shares of a company listed on ASX or an Alternative Exchange with an aggregate market capitalisation in excess of US\$500 million.

**Public Stock Merger** means an event described in any of paragraphs (a) to (d) of the definition of a Change of Control pursuant to which all of the Shares held by shareholders who are not affiliated with the Company or any entity acquiring the Company are exchanged for, converted into or constitute solely (except to the extent of applicable appraisal rights or cash received in lieu of fractional shares) the right to receive as consideration Public Stock.

**Redomiciling Event** means completion of the implementation of the redomiciling of the place of incorporation or organisation of the Company to a jurisdiction outside of Australia.

**relevant interest** has the meaning given to that expression in the Corporations Act at the date of this Deed Poll.

**Representation Letter** means a letter to be delivered with the Exercise Notice where the New Warrant is exercised for cash in substantially the form set out in Attachment 2.

**Restructuring Implementation Deed** means the restructuring implementation deed dated on or about the date of this Deed Poll between, amongst others, the Company, Boart Longyear Management Pty Limited (ACN 123 283 545), the AHG Members (in their individual capacities as secured scheme creditors and unsecured scheme creditors (as applicable)), and others.

**Restructuring Support Agreement** means the agreement of the same name dated 12 May 2021 between the Company, Boart Longyear Management Pty Limited (ACN 123 283 545), the AHG Members and others.

**Securities Act** means the *U.S. Securities Act of 1933*, as amended.

**Securities Exchange** means:

- (a) for so long as the Company is listed on ASX, ASX; or
- (b) if the Company ceases to be listed on ASX and the Company, or a Successor Company, is listed on an Alternative Exchange, the Alternative Exchange.

**Share** means:

- (a) one (1) fully paid ordinary share in the capital of Boart Longyear Limited (ACN 123 052 728); or
- (b) if there is a Redomiciling Event, the Substitute Property received in place of one (1) fully paid ordinary share in the capital of Boart Longyear Limited (ACN 123 052 728) as a result of the Redomiciling Event.

**Shareholder** means the registered holder of a Share.

**Small Public Stock** means common stock or shares of a company listed on ASX or an Alternative Exchange with an aggregate market capitalisation less than or equal to US\$500 million.

**Small Public Stock Merger** means an event described in any of clauses (a) to (d) of the definition of Change of Control pursuant to which all of the Shares held by shareholders who are not affiliated with the Company or any entity acquiring the Company are exchanged for, converted into or constitute solely (except to the extent of applicable appraisal rights or cash received in lieu of fractional shares) the right to receive as consideration Small Public Stock.

**Substitute Property** means any shares, stock, securities, other equity interests or assets issued to a Shareholder in respect of their Shares pursuant to a Change in Capital or a Redomiciling Event.

**Successor Company** means, if there is a Redomiciling Event, such other company which becomes the parent company of the corporate group of which the Company is currently the parent company.

**Third Party** means a person other than a person who at the day after the date that the New Warrants are issued:

- (a) has an interest in, or a relevant interest in or holds, 20% or more of the Shares; or
- (b) controls (within the meaning of section 50AA of the Corporations Act) the Company.

**Trading Day** means:

- (a) for so long as the Company is listed on ASX, has the meaning given to that term in the Listing Rules; or
- (b) if the Company or a Successor Company is admitted to an Alternative Exchange, means a day on which that Alternative Exchange is open for the trading of Shares.

**VWAP** means, for any period, the arithmetic average (rounded to the nearest cent) of the daily volume weighted average sale price of Shares (rounded to four decimal places) sold on the Securities Exchange on which Shares are quoted during that period excluding any trades the board of the Company, in good faith and acting reasonably, with the supporting vote of at least one director nominated by the AHG Members, determines are not fairly reflective of natural supply or demand.

**Warrants Register** means the register of New Warrants evidencing the New Warrant Holder in respect of each New Warrant.

**Warrant Value** at any time means the value of the New Warrant in cash at that time determined by an Independent Expert using the calculation methods and making the assumptions set out in Exhibit A.

## 1.2 Rules for interpreting this Deed Poll

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this Deed Poll, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this Deed Poll) or agreement, or a provision of a document (including this Deed Poll) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;

- (iii) a party to this Deed Poll or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party;
- (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
- (v) anything (including a right, obligation or concept) includes each part of it;
- (vi) dollars and \$ is to Australian currency; and
- (vii) time is to the time in Sydney Australia.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

### 1.3 Adjustments to VWAP

For the purposes of calculating the VWAP for a period (**Pricing Period**) in this Deed Poll:

- (a) where, on some or all of the Trading Days in the Pricing Period, the Shares have been quoted on the Securities Exchange as cum dividend or cum any other distribution or entitlement and a New Warrant will convert:
  - (i) into the Shares after the date those Shares no longer carry that entitlement (**ex date**), then the daily volume weighted average sale price of Shares on the Trading Days on which those Shares have been quoted cum dividend or cum entitlement shall be reduced by an amount (**cum value**) equal to:
    - (A) (in the case of a dividend or other distribution), the amount of that dividend or distribution including, if the dividend is franked the amount that would be included in the assessable income of a recipient of the dividend or distribution who is a natural person under the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*, jointly as applicable;
    - (B) (in the case of an entitlement which is traded on a Securities Exchange on any of those Trading Days), the daily volume weighted average sale price of all such entitlements sold on the Securities Exchange during the Pricing Period on the Trading Days on which those entitlements were traded; or
    - (C) (in the case of an entitlement not traded on a Securities Exchange during the Pricing Period), the value of the entitlement as reasonably determined by the board of the Company with the supporting vote of at least one director nominated by the AHG Members; and
- (b) where, on some or all of the Trading Days in the Pricing Period, the Shares have been quoted ex dividend, ex distribution or ex entitlement, and the New Warrants will convert into Shares which would be entitled to receive the relevant dividend, distribution or entitlement, then the daily volume weighted average sale price of



Shares on the Trading Days on which those Shares have been quoted ex dividend, ex distribution or ex entitlement shall be increased by the cum value.

## **2. TITLE AND RIGHTS**

### **2.1 Constitution and Form of New Warrants**

- (a) The New Warrants are issued on the terms and conditions of this Deed Poll, which are binding on the Company in favour of each New Warrant Holder and all persons claiming through or under them respectively.
- (b) Each New Warrant confers the right (but not the obligation) on the New Warrant Holder to subscribe for a Share on the terms and subject to the conditions set out in this Deed Poll.
- (c) The Company undertakes to comply with the terms and conditions of this Deed Poll and specifically, but without limitation, to give effect to the exercise of rights in accordance with the terms of this Deed Poll.
- (d) The Company undertakes to provide to each New Warrant Holder (upon request by that New Warrant Holder) a certified copy of this Deed Poll.

### **2.2 Benefit and Enforcement**

- (a) This Deed Poll is a deed poll. Each New Warrant Holder from time to time has the benefit of this Deed Poll and can enforce it even though they may not be in existence or their name does not appear in the Warrants Register as the holder of any one or more New Warrants at the time this Deed Poll is executed.
- (b) A New Warrant Holder may enforce its rights under this Deed Poll independently from any other New Warrant Holder.
- (c) Each New Warrant Holder, and any person claiming through a New Warrant Holder, who asserts an interest in a New Warrant is bound by this Deed Poll.

### **2.3 Warrants Register and Warrant Certificates**

- (a) The Company must create and maintain the Warrants Register in accordance with the Corporations Act, and must update the Warrants Register on the exercise or transfer of a New Warrant in accordance with this Deed Poll.
- (b) Title to the New Warrants passes by registration of a transfer in the Warrants Register.
- (c) The New Warrants may be evidenced by New Warrant Certificates.

### **2.4 Subscription Rights**

- (a) Each New Warrant gives the holder of that New Warrant the right to subscribe for one Share subject to clause 3.4 and subject to adjustment in accordance with clause 6.
- (b) Each New Warrant has an Exercise Price of A\$2.79 subject to adjustment in accordance with clause 6.

### 3. **EXERCISE OF THE NEW WARRANTS**

#### 3.1 **Exercise by Notice**

- (a) Subject to clause 3.1(b), a New Warrant Holder may, at any time during the Exercise Period, exercise any or all of its New Warrants by giving a duly completed Exercise Notice (accompanied, if New Warrant Certificates have been issued, by the New Warrant Certificate(s) for the New Warrants exercised) and, if the New Warrant is exercised for cash, a Representation Letter, to the Company.
- (b) A New Warrant Holder may only give an Exercise Notice in respect of:
  - (i) a minimum of at least 1,000 New Warrants, except that where a New Warrant Holder holds less than 1,000 New Warrants, an Exercise Notice given by that New Warrant Holder must be given in respect of all New Warrants held by that New Warrant Holder;
  - (ii) a multiple of 1,000 New Warrants or the number which equals the entire holding of New Warrants of that New Warrant Holder.
- (c) The exercise of a New Warrant does not prevent the New Warrant Holder from exercising at any later time any other New Warrants it may hold.

#### 3.2 **Manner of exercise**

- (a) To exercise a New Warrant, the New Warrant Holder must give an Exercise Notice to the Company, accompanied by:
  - (i) if New Warrant Certificates have been issued, the New Warrant Certificate(s) for the New Warrants exercised; and
  - (ii) payment in full of the Exercise Price unless the New Warrant Holder elects cashless exercise in accordance with clause 3.3.
- (b) Exercise of a New Warrant is only effective when the Company receives:
  - (i) if New Warrant Certificates have been issued, the New Warrant Certificate(s) for the New Warrants exercised; and
  - (ii) the Exercise Price in cleared funds unless the New Warrant Holder elects cashless exercise in accordance with clause 3.3, in which case, exercise of the New Warrant will be effective on receipt by the Company of a duly completed Exercise Notice and, if New Warrant Certificates have been issued, the New Warrant Certificate(s) for the New Warrants exercised.

#### 3.3 **Option to elect cashless exercise**

If the Fair Value of a Share exceeds the Exercise Price of a New Warrant on the day a New Warrant Holder gives the Company an Exercise Notice for that New Warrant, the New Warrant Holder may elect cashless exercise in respect of that New Warrant in the Exercise Notice.

#### 3.4 **Consequences of cashless exercise**

If a New Warrant Holder elects cashless exercise of a New Warrant pursuant to clause 3.3 then:

- (a) the New Warrant Holder is not required to pay to the Company the Exercise Price for that New Warrant; and

- (b) the net number of Shares to be issued on exercise of that New Warrant, subject to clause 4.2, will be calculated using the following formula:

$$N = \frac{(A - B)}{A}$$

Where:

N = the net number of Shares to be issued on exercise of the New Warrant which number can be a fraction of a Share

A = the Fair Value of a Share as at the Exercise Date

B = the Exercise Price for the New Warrant as at the Exercise Date

### 3.5 **Lapse of New Warrants**

Any New Warrant in respect of which an Exercise Notice has not been given to the Company during the Exercise Period will automatically lapse on the expiry of the Exercise Period.

## 4. **ALLOTMENT**

### 4.1 **Allotment of Shares on exercise of New Warrants**

- (a) The Company must issue to the New Warrant Holder the Shares to be issued on exercise of a New Warrant in accordance with clauses 3.2 or 3.3 (as applicable) by no later than the 5th Business Day after the Exercise Date.
- (b) The Company must enter the New Warrant Holder into the register of members of the Company as the registered holder of the Shares issued on exercise of the New Warrant.
- (c) If a New Warrant Holder exercises only part of its holding of New Warrants and New Warrant Certificates have been issued, the Company shall issue to the New Warrant Holder a new New Warrant Certificate in respect of the remaining New Warrants.

### 4.2 **Fractions of Shares**

No fractions of a Share will be issued on the exercise of any New Warrant including on cashless exercise in accordance with clause 3.3 and no refund will be made to a New Warrant Holder exercising their rights in respect of that part of the Exercise Price which represent such a fraction (if any), provided that if more than one New Warrant is exercised at the same time by the same New Warrant Holder then, for the purposes of determining the number of Shares to be issued upon the exercise of such New Warrants including in the case of cashless exercise in accordance with clause 3.3 and whether (and, if so, what) fraction of Shares arises, the number of Shares arising on the exercise of each New Warrant is to first be aggregated and if the number of Shares to be issued in aggregate includes a fraction of a Share, the fraction will be rounded-up to the nearest whole number (subject to any approvals required under the Listing Rules).

### 4.3 **Ranking**

Shares issued on exercise of a New Warrant will be fully paid, will rank pari passu with existing issued Shares (including in relation to dividend rights) and will be immediately transferable (subject only to the restrictions required or imposed under applicable laws and the Company's constituent or governing documents).

#### 4.4 **Quotation**

The Company will, in accordance with the rules of the Securities Exchange on which it is listed at the time, apply for Shares issued on exercise of a New Warrant to be listed for quotation on the Securities Exchange and cause to be issued to the New Warrant Holder a holding statement (or other applicable documentation) for the Shares issued on exercise of the New Warrant.

### 5. **NEW ISSUES OF SHARES**

#### 5.1 **Participation in new issues**

A New Warrant Holder does not have a right to participate in new issues of Shares without exercising the New Warrant and becoming the registered holder of Shares before the record date for the new issue of Shares.

### 6. **ADJUSTMENTS**

#### 6.1 **Adjustments not triggered by the Restructuring Implementation Deed**

With the exception of clauses 6.6, 6.8 and 6.9, the adjustments contemplated by this clause 6 shall not operate in respect of the Implementation Steps (as defined in the Restructuring Implementation Deed) set out in the Restructuring Implementation Deed.

#### 6.2 **Pro rata issues**

If there is a pro rata issue (except a bonus issue) of Shares during the Exercise Period, the Exercise Price reduces according to the formula in the Listing Rules.

#### 6.3 **Bonus issues**

If there is a bonus issue of Shares during the Exercise Period, the number of Shares over which the New Warrants are exercisable increases by the number of Shares which the New Warrant Holder would have received if the New Warrants had been exercised before the record date for the bonus issue.

#### 6.4 **New Warrants to be reorganised on reorganisation of capital**

Subject to clauses 6.5, 6.8 and 6.9:

- (a) in a consolidation of the Shares, the number of New Warrants must be consolidated in the same ratio as the Shares and the Exercise Price must be amended in inverse proportion to that ratio;
- (b) in a subdivision of the Shares, the number of New Warrants must be sub-divided in the same ratio as the Shares and the Exercise Price must be amended in inverse proportion to that ratio;
- (c) in a return of capital to Shareholders, the number of New Warrants must remain the same, and the Exercise Price of each New Warrant must be reduced by the same amount as the amount returned in relation to each Share;
- (d) in a reduction of capital by cancellation of capital paid up on Shares that is lost or not represented by available assets where no Shares are cancelled, the number of New Warrants and the Exercise Price of each New Warrant must remain unaltered;
- (e) in a pro rata cancellation of Shares, the number of New Warrants must be reduced in the same ratio as the Shares and Exercise Price of each New Warrant must be amended in inverse proportion to that ratio; and

- (f) in any other case where the Shares are reorganised, the number of New Warrants or the Exercise Price, or both, must be reorganised so that the New Warrant Holder will not receive a benefit that holders of Shares do not receive.

#### **6.5 Change in Capital**

- (a) Except where clause 6.4 applies, where there is a Change in Capital and the holder of a Share will be issued or receive Substitute Property pursuant to that Change in Capital then prior to the consummation of that Change in Capital, the Company must make appropriate provision to ensure that each New Warrant gives the holder of the New Warrant the right to acquire and receive the Substitute Property at the Exercise Price in effect immediately prior to such Change in Capital, in lieu of or in addition to (as the case may be) each Share that the New Warrant Holder would have received if the New Warrant had been exercised prior to the record date for that Change in Capital.
- (b) In any such case, the Company must make appropriate provision to ensure that the terms of the New Warrants shall thereafter be applicable to such Substitute Property.
- (c) The Company must not effect any Change in Capital where the obligations of the Company under the New Warrants will be assumed by a successor entity, unless prior to such transaction, the successor entity (if other than the Company) resulting from the Change in Capital assumes by written instrument the obligation to deliver to each such New Warrant Holder upon exercise of a New Warrant the Substitute Property as, in accordance with this clause 6, such New Warrant Holder may be entitled to acquire.

#### **6.6 Redomiciling Event**

- (a) Where there is a Redomiciling Event and the holder of a Share will be issued or receive Substitute Property pursuant to that Redomiciling Event then prior to the consummation of that Redomiciling Event, the Company must make appropriate provision to ensure that each New Warrant gives the holder of the New Warrant the right to acquire and receive the Substitute Property at the Exercise Price in effect immediately prior to such Redomiciling Event, in lieu of or in addition to (as the case may be) each Share that the New Warrant Holder would have received if the New Warrant had been exercised prior to the record date for that Redomiciling Event.
- (b) For any such Redomiciling Event, the Company must make appropriate provision to ensure that the terms of the New Warrants shall thereafter be applicable to such Substitute Property.
- (c) The Company must not effect any Redomiciling Event where the obligations of the Company under the New Warrants will be assumed by a successor entity, unless on or prior to such transaction, the successor entity (if other than the Company) resulting from the Redomiciling Event assumes by written instrument the obligation to deliver to each such New Warrant Holder upon exercise of a New Warrant the Substitute Property as, in accordance with this clause 6, such New Warrant Holder may be entitled to acquire.

#### **6.7 Adjustment for Distribution if not listed on ASX**

- (a) This clause 6.7 only applies if the Company is not listed on the ASX.
- (b) Subject to clause 6.7(c), if, at any time during the Exercise Period, the Company fixes a record date for the payment of a Distribution, then the Exercise Price of the New Warrant will be adjusted in accordance with the following formula:

$$EP^2 = EP^1 \times \frac{FV - D}{FV}$$

**EP<sup>2</sup>** is the new Exercise Price

**EP<sup>1</sup>** is the Exercise Price in effect immediately prior to the close of trading on the Securities Exchange on which Shares are quoted on the record date for the Distribution

**FV** is the Fair Value of a Share on the last Trading Day immediately preceding the first date on which the Shares trade "ex" Distribution on the Securities Exchange

**D** is, in respect of a Distribution, the amount of the cash and/or Fair Value of the securities, evidences of indebtedness, assets, rights or warrants to be distributed in respect of one Share.

- (c) If the Distribution referred to in clause 6.7(b), includes Shares as well as other property, then instead of adjusting for the entire Distribution under clause 6.7(b):
  - (i) the Share portion shall be treated as a bonus issue that triggers an adjustment to the number of Shares obtainable upon exercise of each New Warrant under clause 6.3; and
  - (ii) the remaining portion of the Distribution will constitute "D" for the purposes of clause 6.7(b).

## 6.8 **Compliance with Listing Rules**

Despite anything else in this deed, for so long as the Company is admitted to the official list of ASX, each adjustment contemplated by clause 6 is subject to being consistent with the Listing Rules, any Redomiciling Event and the laws of the jurisdiction of the place of incorporation or organisation of the Successor Company, and may be amended, together with the rights of the New Warrant Holders to the extent necessary, to ensure compliance with the Listing Rules and the laws of the applicable jurisdiction following a Redomiciling Event.

## 6.9 **Compliance with rules of an Alternative Exchange**

Despite anything else in this deed, if the Company is no longer listed on ASX, each adjustment contemplated by clause 6 may be amended by the Company without prior approval of the New Warrant Holders but only to the extent necessary and for the sole purpose of ensuring compliance, in the opinion of a law firm recognized in the jurisdiction of such Alternative Exchange in advising on the rules of such Alternative Exchange and the laws of the applicable jurisdiction, with the rules of the Alternative Exchange and the laws of the applicable jurisdiction or any waiver or other relief from compliance with such rules or laws.

## 7. **CHANGE OF CONTROL**

### 7.1 **Change of Control**

If a Change of Control occurs, the Company must, within 10 Business Days of the Change of Control occurring, cancel each New Warrant and pay to each New Warrant Holder the Warrant Value as of the date the Change of Control occurs.

### 7.2 **Public Stock Merger**

If a Public Stock Merger occurs the Company shall (as a condition to such Public Stock Merger occurring) procure that the acquirer or the successor entity (if applicable in such

Public Stock Merger) shall assume the obligations of the Company under this Deed Poll mutatis mutandis and to the extent applicable, such that each New Warrant shall give the holder of that New Warrant the right to subscribe at the Exercise Price for the Public Stock which that New Warrant Holder would have received if it had exercised the New Warrant and held a Share on the record date for the Public Stock Merger.

### **7.3 Small Public Stock Merger**

Not less than 10 Business Days prior to the effective date of a Small Public Stock Merger, each New Warrant Holder may elect by notice delivered to the Company that the Company shall (as a condition to such Small Public Stock Merger occurring) procure that the acquirer or the successor entity (if applicable in such Small Public Stock Merger) assume the obligations of the Company under this Deed Poll mutatis mutandis and to the extent applicable, such that each New Warrant shall give the holder of that New Warrant the right to subscribe at the Exercise Price for the Small Public Stock which that New Warrant Holder would have received if it had exercised the New Warrant and held a Share on the record date for the Small Public Stock Merger. If a New Warrant Holder does not make such election in respect of a New Warrant by notice, then that New Warrant shall be cancelled and the Company must pay to the holder of that New Warrant within 10 Business Days prior to or on the effective date of the Small Public Stock Merger, the Warrant Value as at the date of that Small Public Stock Merger.

## **8. MISCELLANEOUS**

### **8.1 Governing Law**

The New Warrants are governed by, and are to be construed in accordance with, the laws of New South Wales or, following a Redomiciling Event, the jurisdiction of the place of incorporation or organisation of the Successor Company.

### **8.2 Notices**

The provisions of the Company's constitution or other governing documents as to notices to shareholders apply mutatis mutandis to notices to New Warrant Holders.

### **8.3 Authorisation**

The Company is entitled to rely on the signatures on any form of transfer and any Exercise Notice, and shall have no duty to verify any signature on such documents.

### **8.4 New Warrants not registered under the Securities Act**

The New Warrants have not been registered with the U.S. Securities and Exchange Commission under the Securities Act or the securities laws of any state or other jurisdiction. Consequently, neither the New Warrants nor any interest or participation in the New Warrants, may be offered, sold, assigned, transferred, pledged, encumbered or otherwise disposed of in the U.S. or to a U.S. Person, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and applicable state or local securities laws.

### **8.5 Replacement New Warrant Certificates**

If a New Warrant Certificate is lost, stolen, worn out, defaced or destroyed, it may be renewed on such terms as to evidence, identity, indemnity and expense incurred by the Company in investigating or verifying title as the directors of the Company may reasonably think fit, provided that in the case of defacement or being worn out the New Warrant Certificate must be surrendered before a new New Warrant Certificate is issued.

**9. TRANSFER OF NEW WARRANTS**

**9.1 Transfer by the New Warrant Holder**

- (a) Subject to clause 8.4, New Warrants may only be transferred in lots of not less than 100,000 New Warrants (except in the case of a transfer by a New Warrant Holder of all New Warrants held by that New Warrant Holder or as otherwise permitted by the Company in its discretion) and otherwise in accordance with this Deed Poll and all applicable laws and regulations of each relevant jurisdiction.
- (b) Subject to compliance with this Deed Poll, New Warrants are transferable without the prior written consent of the Company.

**9.2 Effecting a transfer**

Any transfer of a New Warrant pursuant to clause 9.1 may be effected upon the delivery to the Company of the New Warrant Certificate, if any, in respect of the New Warrants transferred together with a duly executed instrument of transfer in any usual or common form or such other form approved by the Company, and at which time the Company will reflect the transfer in the Warrants Register and, if New Warrant Certificates have been issued, issue a new New Warrant Certificate in respect of the New Warrants in the name of the transferee (and, if applicable, in the name of the transferor if the transferor will retain New Warrants in its own name) in accordance with clause 2.3.



**Executed** as a Deed Poll.

**SIGNED, SEALED** and **DELIVERED** as a deed poll in accordance with section 127 of the *Corporations Act 2001* by **Boart Longyear Limited:**

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Director Signature

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Director/Secretary Signature

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Print Name

---

Print Name

**Attachment 1**

**New Warrant Exercise Notice**

To: The Company Secretary

**Boart Longyear Limited** ACN 123 052 728 (the **Company**)

This Notice is given pursuant to clause 3.1 of the deed poll entered into by the Company relating to the New Warrants to subscribe for Shares dated \_\_\_\_\_ 2021 (the **Deed Poll**). Terms defined in the Deed Poll have the same meanings when used in this Warrant Exercise Notice.

**TAKE NOTICE** that [\*insert name of New Warrant Holder] exercises [\*insert number] New Warrants in accordance with the Deed Poll.

The exercise of [\*insert number] New Warrants is on a [cash]/[cashless] basis.

If the exercise is on a cash basis, the undersigned also confirms the representations, warranties and undertakings in the accompanying Representation Letter.

Dated: [\*insert date]

**SIGNED** for and on behalf of [**\*INSERT  
NAME OF NEW WARRANT HOLDER**] by  
its authorised officer:

\_\_\_\_\_  
Authorised Officer's Signature

\_\_\_\_\_  
Print Name

## Attachment 2

### Form of Representation Letter

## LETTER OF REPRESENTATION

Ladies and Gentlemen:

This letter is delivered to the Company Secretary of Boart Longyear Limited ACN 123 052 728 (the "Company") in connection with the Shares to be issued by the Company as a result of the exercise for cash of the New Warrant that is the subject of the Warrant Exercise Notice delivered at the same time as this letter. The undersigned represents and warrants to you that:

1. We are either (a) an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3), (7) or (8) under the U.S. Securities Act of 1933, as amended (the "Securities Act")) and will receive the Shares the subject of the Warrant Exercise Notice in reliance on Rule 506(c) of Regulation D, or (b) outside the United States and will receive the Shares the subject of the Warrant Exercise Notice in and "offshore transaction" in reliance on Regulation S under the Securities Act.
2. We are acquiring the Shares not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Shares, and we invest in or purchase securities similar to the Shares in the normal course of our business. We, and any accounts for which we are acting, each understand and are each able to bear the economic risk of our or its investment (including the necessity of holding such shares for an indefinite period of time).
3. We understand and acknowledge that the Shares issuable upon the exercise of the New Warrants the subject of the Warrant Exercise Notice being delivered in connection with this letter have not been registered under the Securities Act and, unless so registered, may not be sold, offered or transferred, directly or indirectly, except as permitted in accordance with paragraph 4 below.
4. We agree on our own behalf and on behalf of any investor account for which we are purchasing Shares to offer, sell or otherwise transfer such Shares prior to the date that is one year after the later of the date of original issue and the last date on which either the Company or any affiliate of the Company was the owner of such Shares (or any predecessor thereto) (the "Resale Restriction Termination Date") only (a) in the United States to a person that is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3), (7) or (8) under the Securities Act in a transaction exempt from registration under the Securities Act, (b) outside the United States in an "offshore transaction" in accordance with Rule 904 of Regulation S under the Securities Act, (c) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if applicable) or (d) pursuant to an effective registration statement under the Securities Act, in each of cases (a) through (d) in accordance with any applicable securities laws of any state of the United States.
5. If at any time an offer, sale, or transfer of Shares is made other than in the ordinary course on ASX where the seller has no reason to know the sale has been prearranged with a person in the United States or a U.S. Person, we will, and each subsequent holder is required to, notify any purchaser of the Shares evidenced hereby of the resale restrictions set forth above. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If any resale or other transfer of the Shares is proposed to be made to an institutional "accredited investor" prior to the Resale Restriction Termination Date, the transferor shall deliver a letter from the transferee substantially in the form of this

letter to the Company, which shall provide, among other things, that the transferee is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3), (7) or (8) under the Securities Act and that it is acquiring such Shares for investment purposes and not for distribution in violation of the Securities Act. Each purchaser acknowledges that the Company reserves the right prior to the offer, sale or other transfer prior to the Resale Restriction Termination Date of the Shares pursuant to Section 4 above to require the delivery of an opinion of counsel, certifications or other information satisfactory to the Company.

6. We acknowledge that you, the Company and others will rely upon our acknowledgments, representations and agreements set forth herein, and we agree to notify you promptly in writing if any of our acknowledgements, representations and agreements herein cease to be accurate and complete.

Terms not defined herein are defined in the New Warrant Deed Poll dated \_\_\_\_\_ 2021.

Dated: [●]

[Insert name of Purchaser]

By: \_\_\_\_\_  
Name:  
Title:

[Insert name of Purchaser]

By: \_\_\_\_\_  
Name:  
Title:

**Attachment 3**

**New Warrant Certificate**

**Boart Longyear Limited ACN 123 052 728 (the Company)**

**New Warrant Certificate**

Certificate No.: [\*insert number]

Date of issue: [\*insert date]

Name and address of New Warrant Holder: [\*insert name and address]

Number of New Warrants: [\*insert number]

THIS IS TO CERTIFY THAT [\*insert name] of [\*insert address] is/are the registered holder(s) of the above number of New Warrants, which New Warrants are issued pursuant to the New Warrant Deed Poll dated \_\_\_\_\_ 2021 executed by the Company (**Deed Poll**). Terms defined in the Deed Poll have the same meaning when used in this New Warrant Certificate.

Dated: [\*insert date]

**EXECUTED by Boart Longyear Limited:**

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

## EXHIBIT A

For the purpose of this Exhibit A:

**"Acquiror"** means (A) the Third Party that has entered into definitive document for a Change of Control transaction, or (B) the offeror in the event of a tender or exchange offer in connection with a Change of Control transaction.

**"Reference Date"** means the date of consummation of a Change of Control.

**"Preliminary Change of Control Event"** means with respect to the Company, the first public announcement that describes the economic terms of a transaction that is intended to result in a Change of Control.

The Warrant Value of the New Warrants shall be determined using the Black-Scholes Model as applied to third party options (i.e., options issued by a third party that is not affiliated with the issuer of the underlying stock). For purposes of the Black-Scholes Model, the following terms shall have the respective meanings set forth below:

**Underlying Share Price:**

- In the event of a merger or other acquisition,
  - (A) that is an "all cash" deal, the cash per Share to be paid to the Shareholders in the transaction;
  - (B) that is an "all Public Stock" deal,
    - (1) that is a "fixed exchange ratio" transaction, a "fixed value" transaction where as a result of a cap, floor, collar or similar mechanism the number of Acquiror's shares to be paid per Share to the Shareholders in the transaction is greater or less than it would otherwise have been or a transaction that is not otherwise described in this clause (B)(1) or clause (B)(2) below, the product of (i) the Fair Market Value of the Acquiror's shares on the day preceding the date of the Preliminary Change of Control Event and (ii) the number of Acquiror's shares per Share to be paid to the Shareholders in the Change of Control transaction (provided that the Independent Expert shall make appropriate adjustments to the Fair Value of the Acquiror's shares referred to above as may be necessary or appropriate to effectuate the intent of this Exhibit A and to avoid unjust or inequitable results as determined in its reasonable good faith judgment, in each case to account for any event impacting the Acquiror's shares that is analogous to any of the events described in clause 6 of this Deed Poll if the record date, ex date or effective date of that event occurs during or after the 10 Trading Day period over which such Fair Value is measured); and
    - (2) that is a "fixed value" transaction not covered by clause (B)(1) above, the value per Share to be paid to the Shareholders in the transaction;
  - (C) that is a transaction contemplating various forms of consideration for each Share,
    - (1) the cash portion, if any, shall be valued as described in clause (A) above,
    - (2) the Public Stock portion shall be valued as described in clause (B) above and

(3) any other forms of consideration shall be valued by the Independent Expert valuing the New Warrants, using one or more valuation methods that the Independent Expert in its best professional judgment determines to be most appropriate, assuming such consideration (if securities) is fully distributed and is to be sold in an arm's-length transaction and there was no compulsion on the part of any party to such sale to buy or sell and taking into account all relevant factors and without applying any discounts to such consideration.

- In the event of all other Change of Control events, the Fair Value per Share on the last trading day preceding the date of the Change of Control.

<b>Exercise Price:</b>	The Exercise Price as adjusted and then in effect for the New Warrant.
<b>Dividend Rate:</b>	0
<b>Interest Rate:</b>	The annual yield as of the Reference Date (expressed on a semi-annual basis in the manner in which U.S. treasury notes are ordinarily quoted) of the 7-year U.S. treasury note, or if no such note is on issue, the 10-year U.S. treasury note.
<b>Put or Call:</b>	Call
<b>Time to Expiration</b>	The number of days from end date of the Exercise Period to the Reference Date divided by 365.
<b>Settlement Date:</b>	The scheduled date of payment of the Warrant Value.
<b>Volatility:</b>	For calculation of Warrant Value in connection with a Change of Control with respect to the New Warrants, 40%; provided, however, that if the New Warrants are adjusted as a result of a Change of Control, volatility for purposes of calculating Warrant Value in connection with succeeding Change of Control events with respect to such New Warrants (or their successors) shall be as determined by an Independent Expert engaged to make the calculation, who shall be instructed to assume for purposes of the calculation that such succeeding Change of Control had not occurred.

Such valuation of the New Warrant shall not be discounted in any way.

For illustrative purposes only, an example Black-Scholes model calculation with respect to a hypothetical Warrant appears on the following page.

### Illustrative Example

Inputs:

S = Underlying Share Price

X = Exercise Price

PV(X) = Present value of the Exercise Price, discounted at a rate of R =  $X * (e^{-(R * T)})$

V = Volatility

R = continuously compounded risk free rate =  $2 * [ \ln (1 + \text{Interest Rate} / 2) ]$

T = Time to Expiration

W = Warrant value per underlying Share

Z = number of Shares underlying New Warrants

Value = total Warrant value

Formulaic inputs:

$$D1 = [ \ln [ S / X ] + (R + (V^2 / 2)) * T ] \div (V * \sqrt{T})$$

$$D2 = [ \ln [ S / X ] + (R - (V^2 / 2)) * T ] \div (V * \sqrt{T})$$

Black-Scholes Formula

$$W = [N(D1) * S] - [N(D2) * PV(X)]$$

Where "N" is the cumulative normal probability function

$$\text{Value} = W * Z$$

Example of a Hypothetical Warrant (assuming V = 25%):<sup>2</sup>

Inputs:

Interest Rate = 4.00%

S = \$50.00

X = \$60.00

PV(X) = \$55.43

---

<sup>1</sup> Consider amending hypothetical to reflect V=40.

<sup>2</sup> Note: Amounts calculated herein may not foot due to rounding error. For precise calculations, decimal points should not be rounded.



$$V = 25\%$$

$$R = 3.96\%$$

$$T = 2$$

$$Z = 100$$

Formulaic inputs:

$$\begin{aligned} D1 &= [ \ln [ S / X ] + (R + (V^2 / 2)) * T ] \div (V * \sqrt{T}) \\ &= (-0.1149) \end{aligned}$$

$$\begin{aligned} D2 &= [ \ln [ S / X ] + (R - (V^2 / 2)) * T ] \div (V * \sqrt{T}) \\ &= (-0.4684) \end{aligned}$$

Black-Scholes Formula

$$\begin{aligned} W &= [N(D1) * S] - [N(D2) * PV(X)] \\ &= \$4.99 \end{aligned}$$

Total Warrant Value

$$\begin{aligned} \text{Value} &= W * Z \\ &= \$499 \end{aligned}$$

## **ANNEXURE C**

### **FTI Consulting Report**

**Confidential and Privileged**

27 July 2021

James Marshall  
Partner  
Ashurst Australia  
Level 11, 5 Martin Place  
SYDNEY NSW 2000

Dear James

**Re: Engagement for Dividend and Solvency Analysis in relation to the Creditors' Schemes of Arrangement of Boart Longyear Limited ('the Schemes')**

I refer to your letter of instruction dated 27 July 2021, in which you requested I prepare an Independent Expert Report addressing financial matters relating to the proposed application of orders under section 411 of the *Corporations Act 2001 (Cth)* in relation to the Schemes.

This report addresses the matters that are contained in the letter of instruction.

My comments and findings assume that the factual information provided by the Group that I have relied upon in my report is materially accurate. I note that a copy of the report was provided to you and subsequently provided to the Group by you for the purposes of confirming factual accuracy.

The Group has provided me a representation letter confirming that to the best of its knowledge, the factual information in the report does not contain any omissions or errors, and the report accurately sets out the recent financial results, future prospects and the proposed restructuring of the Group.

I expressly advise that the Board of Directors of the Group have requested that I limit the disclosure of certain commercially sensitive and confidential information primarily related to financial forecasts. As a result of this request, I have not disclosed certain information but have clearly flagged where this information has been withheld, and have provided comments on the key underlying assumptions, trends and outputs that are of direct relevance to the scope of this report.

This report has been prepared and may be relied upon solely for the purposes and recipients contemplated in the letter of instruction and should not be used for any other purpose.

Thank you for your instructions on this matter.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'CHill'.

Chris Hill  
Senior Managing Director

**FTI Consulting (Australia) Pty Limited**

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27 July 2021



# Boart Longyear Limited

Independent Expert Report in relation to the proposed Schemes  
of Arrangement

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# 1. Introduction

## 1.1 Expert

I, Christopher Clarke Hill, am responsible for the opinions in this Independent Expert Report (“IER” or “Report”) dated 27 July 2021 (“Report Date”). I am a Senior Managing Director in the Corporate Finance & Restructuring division of FTI Consulting (Australia) Pty Ltd (“FTI Consulting”) and specialise in corporate insolvency and restructuring.

In this role I have undertaken engagements involving Independent Business Reviews, informal advisory mandates and formal insolvency roles acting as Voluntary Administrator and Receiver and Manager, as well as expert witness roles opining on issues associated with solvency and antecedent transactions.

In these engagements I regularly conduct:

- Independent, critical reviews of forecasts, including underlying assumptions, for the purpose of assessing reasonableness and conducting sensitivity analysis; and
- Campaigns for the sale of businesses as going concerns and assets on a piecemeal basis, including assessing the value of either businesses and/or assets for sale.

Other relevant information to the provision of this Report is the following:

- I am a Chartered Accountant with a Bachelor of Commerce from The University of Adelaide majoring in Accounting;
- I am a Registered Liquidator having first been registered as a liquidator in 2006;
- I have over 25 years of experience working in the restructuring and advisory sector;
- I am a member of the Institute of Chartered Accountants Australia & New Zealand; and
- I am a member of the Australian Restructuring Insolvency and Turnaround Association.

My curriculum vitae is attached as Appendix A.

The opinions in my Report are based wholly or substantially on specialised knowledge from my training, study, or experience.

I have made all the inquiries which I believe are desirable and appropriate and no matters of significance that I regard as relevant have, to my knowledge, been withheld from the Court.

## 1.2 Purpose of Report

On 13 May 2021, Boart Longyear Limited and Boart Longyear Management Pty Ltd (amongst others) entered into a Restructuring Support Agreement (“RSA”) in relation to a proposed restructure of financing facilities provided to Boart Longyear Limited and certain subsidiaries. It is proposed that the following companies (collectively the “Scheme Companies”) enter into two interdependent Creditors’ Schemes of Arrangement (collectively the “Schemes”), plus other associated documents, in order to implement the proposed restructure:

- Boart Longyear Limited ACN 123 052 728 (“BLY”);
- Boart Longyear Management Pty Limited ACN 123 283 545 (“BLY Issuer”);
- Boart Longyear Australia Pty Ltd ACN 000 401 025 (“BLA”);
- Boart Longyear Investments Pty Limited ACN 124 070 373 (“BLI”);
- Votrant No. 1609 Pty Limited ACN 119 244 272 (“Votrant”);
- BL Capital Management LLC ARBN 649 445 321 (“BCM”); and
- BLY US Holdings Inc. ARBN 649 445 394 (“BLY US”).

The two interdependent Creditors’ Schemes of Arrangement include:

- **The Secured Creditors Scheme:** For the holders of certain secured amounts owing under Term Loan A, Term Loan B, and the SSNs (the “Secured Scheme Creditors”); and
- **The Unsecured Creditors Scheme:** For the holders of certain unsecured amounts owing under Term Loan A, Term Loan B, the SSNs, and the SUNs (the “Unsecured Scheme Creditors”).

I have been asked to prepare an IER on behalf of the Scheme Companies addressing financial matters relating to the proposal by the Scheme Companies to apply for orders under section 411 of the *Corporations Act 2001 (Cth)* (“the Act”) in relation to the Schemes.

This Report has been prepared and may be relied upon solely for the purposes contemplated in my letter of engagement at Appendix B and should not be used for any other purpose.

### 1.3 Scope of work

As per my letter of engagement dated 27 July 2021 attached at Appendix B, I have been instructed by Ashurst Australia on behalf of Boart Longyear Limited and its subsidiaries (“the Group”) to prepare this Report that addresses the following matters:

1. The solvency of the Group following the implementation of the proposed Schemes:
  - a) solvency is to be determined following completion of the Schemes; and
  - b) I am to determine ‘solvency’ with reference to section 95A of the Act.
2. The expected dividend that would be respectively available to the:
  - a) Secured Scheme Creditors; and
  - b) Unsecured Scheme Creditors;

if the Scheme Companies were to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act. For the avoidance of doubt, I have conducted this analysis on the basis that the Schemes have not been implemented in this scenario.

3. The expected dividend that would be respectively paid to the:
  - a) Secured Scheme Creditors; and
  - b) Unsecured Scheme Creditors; and

if the Schemes were put into effect as proposed.

The requirement to calculate the expected dividend that would be paid to the Secured Scheme Creditors and Unsecured Scheme Creditors if the Schemes were to be put into effect is drawn from s 8201(b) in Part 2 of Schedule 8 of the *Corporations Regulations 2001 (Cth)* (“Regulations”).

I am instructed that if, in response to Scope Item 1 above, I conclude that the Scheme Companies will be solvent following the implementation of the Schemes, the Scheme Companies would not be wound up following the implementation of the Schemes and based on the terms of the Schemes, despite the calculation required by the Regulations, no dividend would actually be paid to the Secured Scheme Creditors and Unsecured Scheme Creditors in a liquidation.

In these circumstances, I am instructed that Scope Item 3 above still requires that I calculate the dividend that would be paid to Secured Scheme Creditors and Unsecured Scheme Creditors if the Schemes were implemented. In essence, I have been asked to estimate the interest the Secured Scheme Creditors and the Unsecured Scheme Creditors will have in the Scheme Companies immediately following implementation of the Schemes.

I am instructed that if I conclude in response to Scope Item 1 above that the Scheme Companies would be solvent following the implementation of the Schemes, in order to reduce the risk that a reader of my Report might be confused by the use of the term ‘expected dividend’ in circumstances where the Scheme Companies are not being wound up, I am instructed that where I am addressing the calculation described in Scope Item 3 above in my Report I refer to the ‘implied value’ to the Secured Scheme Creditors and the Unsecured Scheme Creditors (“Implied Value”) instead of ‘expected dividend’.

4. The likely outcome for the Group (including the Scheme Companies) should the Schemes not be implemented having regard to the Group's (including the Scheme Companies') existing financial position and projections.

## 1.4 Limitations and restrictions

There are no specific limitations and restrictions within the scope of work I have been instructed to perform. However, in preparation of this Report I note the following:

- I have been provided with information from the Group as detailed in Appendix F and footnotes to this Report, and obtained additional information from public sources. Where I have been provided with financial information, I have not had access to all underlying data supporting that information. I have relied upon the accuracy and completeness of information provided to me by the Group and its advisors;
- Neither FTI Consulting nor I warrant the accuracy of the information supplied to us and we are not responsible in any way whatsoever to any person in respect of errors in this Report arising from incorrect information supplied to us;
- The statements and opinions given in this Report are wholly based on my own specialised knowledge, given in good faith and in the belief that such statements are not false or misleading. Except where otherwise stated, I reserve the right to alter any conclusions reached on the basis of any changed or additional information which may be provided to me between the date of this Report and the date of the meetings called pursuant to section 411(1) of the Act. I have no responsibility to update this Report for events or circumstances occurring after the date of this Report, apart from any subsequent arrangement;
- I note that my statements and opinions are based on assumptions detailed throughout the Report, along with the rationale for these assumptions. Unless otherwise noted, I have not been instructed to make these specific assumptions. In considering the outcomes to the beneficiaries of the Schemes, I have relied on forecast financial statements and other relevant information provided by the Group;
- The forecast information and the assumptions upon which the forecasts are based are solely the responsibility of the Group and, insofar as the assumptions relate to the future or may be affected by unforeseen events, I can express no opinion on how closely the forecasts will correspond to actual results;
- While I have reviewed the high-level assumptions underlying the forecast information, I do not express an audit opinion or any other form of assurance on these forecasts or assumptions and my comments are based on my evaluation; and
- I have complied with the requirements of APES 215 'Forensic Accounting Services' ("APES 215") and APES 225 'Valuation Services' ("APES 225"), and the professional code of practice of CPA Australia and Chartered Accountants Australia and New Zealand. The valuation included in this Report is a Limited Scope Valuation Engagement for the purposes of complying with APES 225. The reasons for the limitations are set out in Section 1.9.

## 1.5 Pre-existing relationships

I have read the Australian Securities and Investments Commission's ("ASIC") Regulatory Guide ("RG") 112 'Independence of Experts' ("RG 112") and am of the opinion that there is no:

- Actual, or perceived, conflict of interest;
- Actual, or perceived, threat to independence; or
- Other reason for which the engagement could not be accepted.

In accordance with RG 112.23, and RG 112.28 to RG 112.36, the below provides a summary of the prior engagements FTI Consulting has undertaken during the period between 2016 and the Report Date for the Group and its legal advisors.

### February 2020

- FTI Consulting's Corporate Finance & Restructuring division in the USA was engaged by the Group to undertake a working capital optimisation engagement.

- This was a non-bankruptcy operational restructuring piece of work and the job matter was closed on 10 October 2020 which precedes the date on which I was contacted by Ashurst Australia to undertake the production of this Report.

## May 2017

- FTI Consulting's Corporate Finance & Restructuring division in Australia was engaged to chair the scheme meetings related to the 2017 schemes of arrangements.

## November 2016

- FTI Consulting's Corporate Finance & Restructuring and Forensic & Litigation Consulting divisions in the USA and Australia were engaged by the Group as financial advisors. The role incorporated the consideration of Chapter 11 and Chapter 15 protection in the USA, and voluntary administration planning in Australia. Members of the FTI Consulting Strategic Communications division in Australia provided communications support.
- The Group did not enter in Chapter 11 as a result of pursuing the 2017 schemes of arrangement and the engagement was finalised on 2 January 2018.

In my opinion, I do not consider that the engagements detailed above impact on my independence on the basis that:

- These engagements occurred prior to my engagement as independent expert; and
- These engagements were managed and led by different FTI Consulting staff. No FTI Consulting staff members who have had prior dealings with the Group have assisted me in the preparation of this Report.

## Ashurst Australia

FTI Consulting undertakes work from time to time on behalf of Ashurst Australia. In my opinion, this relationship does not result in a conflict of interest or duty. I have not identified any issue in relation to this relationship that would give rise to a conflict in undertaking the completion of this engagement.

## Proposed Appointment as Scheme Administrators of the Schemes

If the Schemes are agreed to by both the Secured Scheme Creditors and the Unsecured Scheme Creditors, and approved by the Court, Christopher Hill and David Peter McGrath of FTI Consulting have agreed to act as both Secured Scheme Administrators and Unsecured Scheme Administrators.

## 1.6 Sources of information

I have relied on the sources of information listed in Appendix F.

Unless otherwise specified in the Report, I have carried out my financial analysis based on the actual financial performance and position at 30 April 2021, as this was the latest information available to me.

Where particular documents have been used by me in support of my opinions and calculations, I have referred to these in the Report.

The Board of Directors of the Group have requested that I limit the disclosure of certain commercially sensitive and confidential information, such as the Group's Three-Year Forecast Model (2021 to 2023) – Transaction Completed ("Long Term Forecast"). As a result, I have not disclosed the details of the financial forecasts in the Long Term Forecast but have noted the key assumptions and trends that are relevant to the scope of my Report including both the solvency of the Group as well as the Implied Value and expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors.

In preparing my Report, I have not conducted an audit of the information or documents provided to me. In reaching my opinions and conclusions, I have assumed that the information and documents provided to me are accurate, complete, and reliable unless otherwise stated.

Neither FTI Consulting nor I warrant the accuracy of the information supplied to me and I am not responsible in any way whatsoever to any person in respect of errors in this Report arising from incorrect information supplied to me.

## 1.7 Reliance on this Report

This Report has been solely prepared, and may be relied on, solely for the purposes contemplated in the letter of engagement included at Appendix B.

## 1.8 Assistance by colleagues

In order to arrive at my opinion, I have selected the following colleagues to assist me:

- John-Henry Eversgerd (Senior Managing Director – Valuations);
- Fiona Hansen (Senior Managing Director – Valuations);
- Matthew O’Keefe (Managing Director – Corporate Finance & Restructuring);
- Michael Kanan (Senior Director – Valuations); and
- Henry Lister (Senior Consultant – Corporate Finance & Restructuring).

My colleagues carried out the work that I decided they should perform. I have reviewed their work and the original documents to the extent I considered necessary to form my opinion. The opinions expressed in this Report are mine.

## 1.9 Use of experts

Due to time and travel constraints, and the geographical spread of the assets of the Group (across North America; Latin America; Australasia and South East Asia; and, Europe, the Middle East, and Africa), a third-party independent valuation of the Group’s inventories and property, plant, and equipment (“PP&E”) was deemed impractical. As a result, I have been unable to engage a third-party independent valuer to conduct a valuation of the Group’s inventories and PP&E.

In my calculation of the expected dividend to the Unsecured Scheme Creditors and the Secured Scheme Creditors, I have considered two scenarios under which the Scheme Companies are to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act. These scenarios, detailed further in Section 8, consider:

- A controlled wind down of the Scheme Companies (excluding BLA), the sale of the shareholdings of the Scheme Companies in their respective subsidiaries, and a sale of the assets and business of BLA; and
- An uncontrolled wind down of the Scheme Companies and other entities within the Group, under a piecemeal, entity-by-entity and asset-by-asset realisation of assets approach.

The first scenario does not require a valuation of the assets of the Group, as it is based on a going concern valuation of the business. It is only in the second scenario that an independent valuer would have provided input to my analysis. As I have not been able to commission a third-party independent valuation of the Group’s inventories and PP&E, for reasons detailed above, the valuation conclusion in this Report is a Limited Scope Valuation Engagement for the purposes of complying with APES 225. The definition of a Limited Scope Valuation Engagement is provided at Section 5.2.

As a result, in this latter scenario, I have generally adopted the net book value (“NBV”) of the Group’s assets and liabilities as at 30 April 2021 (subject to various adjustments as detailed in Appendix M), with the exception of the Group’s patents and trademarks, where I adopted values sourced from an independent third-party valuation conducted in February 2021.

## 1.10 Statement regarding expert witness code

I have read, understood, and complied with the Expert Witness Code of Conduct from the *Uniform Civil Procedure Rules 2005 (NSW)*.

As an expert witness, I have complied with my general duties to Court which include:

- I have a paramount duty to the Court which overrides any duty to any party to the proceedings including my clients;
- I have an overriding duty to assist the Court on matters relevant to my area of expertise in an objective and unbiased manner;
- I have a duty not to be an advocate to any party to the proceedings including my clients; and
- I have a duty to make it clear to the Court when a particular question or issue falls outside my area of expertise.



## 2. Summary of conclusions

With reference to my letter of engagement dated 27 July 2021, I provide a summary of my conclusions for each scope item with reference to the appropriate section in this Report.

**Table 1: Summary of conclusions**

Scope item	Section	Opinion																																
1. The solvency of the Group following the implementation of the proposed Schemes	4	In my opinion, and for the reasons detailed in Section 4, the Group will be solvent following the implementation of the proposed Schemes.																																
2. The expected dividend that would be respectively available to the Secured and Unsecured Scheme Creditors if the Scheme Companies were to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act	8	<p>In a Controlled Insolvency Scenario, as defined in Section 8.3, and with regard to the related assumptions and calculations, I have calculated the expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors as being per Table 2 below.</p> <p><b>Table 2: Controlled Insolvency Scenario expected dividend summary</b></p> <table><tr><th></th><th></th><th></th><th>Return</th></tr><tr><th>\$ million</th><th>Debt</th><th>Return</th><th>(c / \$)</th></tr><tr><td>Secured Scheme Creditors</td><td>492.2</td><td>145.9</td><td>29.6</td></tr><tr><td>Unsecured Scheme Creditors</td><td>301.7</td><td>-</td><td>-</td></tr></table> <p>Source: the Group, FTI Consulting analysis</p> <p>In an Uncontrolled Insolvency Scenario, as defined in Section 8.5, and with regard to the related assumptions and calculations, I have calculated the expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors as being per Table 3 below.</p> <p><b>Table 3: Uncontrolled Insolvency Scenario expected dividend summary</b></p> <table><tr><th></th><th></th><th></th><th>Return</th></tr><tr><th>\$ million</th><th>Debt</th><th>Return</th><th>(c / \$)</th></tr><tr><td>Secured Scheme Creditors</td><td>492.2</td><td>60.3</td><td>12.3</td></tr><tr><td>Unsecured Scheme Creditors</td><td>301.7</td><td>0.7</td><td>0.2</td></tr></table> <p>Source: the Group, FTI Consulting analysis</p>				Return	\$ million	Debt	Return	(c / \$)	Secured Scheme Creditors	492.2	145.9	29.6	Unsecured Scheme Creditors	301.7	-	-				Return	\$ million	Debt	Return	(c / \$)	Secured Scheme Creditors	492.2	60.3	12.3	Unsecured Scheme Creditors	301.7	0.7	0.2
			Return																															
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Unsecured Scheme Creditors	301.7	0.7	0.2																															

Scope item	Section	Opinion																
3. The Implied Value to the Secured and Unsecured Scheme Creditors if the Schemes were put into effect as proposed	7	<p>As a result of my analysis, as detailed in Section 7.2, I have calculated the Implied Value respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors, if the Schemes were effectuated as proposed, as being per Table 4.</p> <p><b>Table 4: Schemes effectuated Implied Value summary</b></p> <table><tr><th></th><th></th><th></th><th>Return</th></tr><tr><th>\$ million</th><th>Debt</th><th>Return</th><th>(c / \$)</th></tr><tr><td>Secured Scheme Creditors</td><td>493.6</td><td>214.6</td><td>43.5</td></tr><tr><td>Unsecured Scheme Creditors</td><td>302.5</td><td>31.9</td><td>10.5</td></tr></table> <p><i>Source: the Group, FTI Consulting analysis</i></p>				Return	\$ million	Debt	Return	(c / \$)	Secured Scheme Creditors	493.6	214.6	43.5	Unsecured Scheme Creditors	302.5	31.9	10.5
			Return															
\$ million	Debt	Return	(c / \$)															
Secured Scheme Creditors	493.6	214.6	43.5															
Unsecured Scheme Creditors	302.5	31.9	10.5															
4. The likely outcome for the Group (including the Scheme Companies) should the Schemes not be implemented having regard to the Group's (including the Scheme Companies) existing financial position and projections	9	<p>In my opinion, and for the reasons detailed in Section 9, if the proposed restructure is not implemented, and no alternate restructuring plan was reasonably certain of being advanced, the Group would likely be unable to pay its debts as and when they fall due. In this circumstance the directors of the Scheme Companies would likely immediately seek to appoint voluntary administrators (or other applicable insolvency appointment) to the Scheme Companies and other entities within the Group.</p>																

*Source: FTI Consulting analysis*

### 3. Proposed restructure of the Group

#### 3.1 The Group

The Group is headquartered in Salt Lake City, Utah, USA with the ultimate parent company, BLY, being an Australian company listed on the Australian Securities Exchange (“ASX”).

The Group operates two global businesses, Products and Drilling Services:

- The Products segment (“Products”) manufactures drill rigs and drill rig components for sale to third parties and its own Drilling Services segment; and
- The Drilling Services segment (“Drilling Services”) provides aboveground and underground drilling services predominately to mining and resource companies in key markets across: North America; Latin America (“LAM”); Australasia and South East Asia (“Asia Pacific”); and, Europe, the Middle East, and Africa (“EMEA”).

The Group’s customers are predominately large mining houses and drilling services companies. The Drilling Services segment primarily services the mineral sector, and has a fleet biased towards exploration rather than extraction. The Group has minimal exposure to the oil and gas sectors.

The Group reports its financial statements in US dollars and has a financial year-end of 31 December.

#### 3.2 Debt structure as at 30 April 2021

The Group’s debt capital structure as at 30 April 2021 can be summarised as follows:

- Secured Revolving Credit and Security Agreement dated 23 July 2017 provided to BLY Issuer, as amended and restated from time to time (“PNC ABL”);
- Secured Term Loan Securities Agreement dated 23 July 2017 provided to BLY Issuer, as amended and restated from time to time (“Backstop ABL”);
- Term Loan A Securities Agreement dated 31 December 2018 issued by BCM, as amended and restated from time to time (“TLA”);
- Term Loan B Securities Agreement dated 31 December 2018 issued by BCM, as amended and restated from time to time (“TLB”);
- 12.0%/10.0% Senior Secured PIK Toggle Notes due 31 December 2022 issued by BLY Issuer, as amended and restated from time to time (“SSNs”); and
- 1.50% Subordinated PIK Notes due 31 December 2022 issued by BLY Issuer, as amended and restated from time to time (“SUNs”).

The SSNs can be further divided between the holders of the SSNs that consented to the June 2020 amendments (referred to as SSNs), and the non-consenting holders (referred to as “stub SSNs”).

As at 30 April 2021, the Group had total finance debt of \$897.7 million including accrued Payment-in-Kind (“PIK”), accrued interest, and applicable premium (collectively the “Finance Facilities”), pursuant to the following facilities:

**Table 5: Summary of amounts outstanding under the Group's Finance Facilities as at 30 April 2021**

\$ million	Maturity	Borrower / Issuer	Limit	Principal	PIK / Acc. Interest	Premium	Total
PNC ABL	Jul-22	BLY Issuer	75.0	43.5	0.0	n/a	43.5
Backstop ABL	Oct-22	BLY Issuer	45.0	45.0	15.3	n/a	60.3
TLA	Dec-22	BLM	85.0	85.0	74.9	n/a	159.9
TLB	Dec-22	BLM	105.0	105.0	87.8	n/a	192.8
SSNs	Dec-22	BLY Issuer	217.0	216.4	85.1	44.6	346.1
SSNs (stub)	Dec-22	BLY Issuer	As above	0.6	0.0	0.1	0.7
SUNs	Dec-22	BLY Issuer	94.0	88.9	5.4	n/a	94.2
<b>Total</b>			<b>621.0</b>	<b>584.4</b>	<b>268.5</b>	<b>44.7</b>	<b>897.7</b>

Source: the Group, FTI Consulting analysis

I have based the amounts owing under the Finance Facilities on the Group's relevant book values as at 30 April 2021, subject to the following adjustments:

- Removing balances related to deferred borrowing costs, a contra liability account used for accounting purposes to amortise borrowing costs over the life of the facilities;
- Excluding \$3.3 million related to an accounting adjustment recorded by the Group for accelerated interest under the SSNs;
- Illustratively adjusting the PIK/accrued interest for the SSNs to reflect the PIKing of the June 2021 interest at 14.5% for the period to 30 April 2021, rather than a cash interest at 10.0% recorded on the 30 April 2021 balance sheet;
- Illustratively adjusting the applicable premium for the SSNs to reflect the higher accrued interest (as a result of PIKing the June 2021 cash interest payment) and higher applicable premium percentage as at 30 April 2021, noting that the balance sheet still applied the rate as at December 2020; and
- Illustratively adjusting the applicable premium for the stub SSNs to reflect the higher applicable premium percentage as at 30 April 2021, noting that the balance sheet still applied the lower rate as at December 2020.

The limit of the PNC ABL is \$75.0 million, of which \$10.0 million is subject to an availability block, as the Group is not currently meeting the required criteria to enable full utilisation. The drawn balance at 30 April 2021 was \$43.5 million which excludes \$6.0 million of outstanding letters of credit.

On 14 May 2021, the Group received a commitment for a new money raising in the form of a senior secured delayed draw term loan with a full commitment amount of \$50.0 million ("Incremental Financing"). The purpose of the Incremental Financing is to provide additional working capital to the Group until the recapitalisation has been completed. The initial drawdown of \$30.0 million occurred on 1 June 2021, with the Group able to draw down up to two additional drawdowns subject to a minimum of \$10.0 million per draw. The maturity of this facility is 31 December 2021 with interest rates of 11.0% per annum PIK or 10.0% if paid in cash, and 1.5% on the undrawn amount. Additionally, the Group has secured a further \$15.0 million of accessible liquidity and a four-year extension of the PNC ABL facility, subject to certain conditions being satisfied.

Whilst I have conducted the majority of my analysis based on the Group's financial position as at 30 April 2021, given the impact of the Incremental Financing on the Group's security interest priorities and general indebtedness, I have reflected changes related to the initial drawdown on the Incremental Financing (including on the Group's security interest priorities) in my analysis.

BLY Issuer and BLM are the Group's sole borrowers under the Finance Facilities. Several companies in the Group have provided guarantees and security to support the Finance Facilities, namely:

- Boart Longyear Australia Pty Limited;
- Boart Longyear Limited;
- Boart Longyear Investments Pty Limited;

- Votraint No. 1609 Pty Limited;
- Boart Longyear Canada;
- Boart Longyear Manufacturing Canada Ltd.;
- Longyear Canada, ULC;
- Boart Longyear Chile Limitada;
- Boart Longyear S.A.C.;
- Boart Longyear Suisse Sarl;
- Boart Longyear Company;
- Boart Longyear Manufacturing and Distribution Inc.;
- BLY IP Inc. ("BLY IP");
- BL Capital Management LLC;
- BLY US Holdings Inc.; and
- Longyear TM, Inc..

These entities, along with BLY Issuer and BLM, are collectively referred to as the Obligor Group throughout this Report.

Additionally, a deed of cross guarantee has been entered into by the following entities that provides that each company guarantees the debts of the others:

- Boart Longyear Limited;
- Votraint No. 1609 Pty Ltd;
- Boart Longyear Investments Pty Ltd; and
- Boart Longyear Management Pty Limited.

As each of these entities are Scheme Companies, are all entities within the Obligor Group (i.e. each of these entities already cross guarantee the secured debt of the Group), and there is no expected dividend available to unsecured creditors in any of these entities (see Section 8.4.3 and Section 8.6.6), I note this deed of cross guarantee is not relevant for my analysis in this Report.

A summary of the Group's organisational structure as at 31 December 2020 is set out at Appendix N.

The Group's intercompany loans as well as its intercompany receivables and payables are subordinated to the Finance Facilities (including amounts outstanding under both secured and unsecured claims), such that repayments of these intercompany positions can only be made after all of the obligations under the Finance Facilities have been paid in full.

### 3.3 Proposed restructure

On 13 May 2021, BLY and BLY Issuer signed an RSA with the majority of their lenders. The primary objective of the restructuring is to materially reduce the Group's indebtedness in order to deleverage the balance sheet and improve liquidity to support operations and future growth. The RSA contemplates that approximately \$795.0 million of debt is to be released, in consideration for which the lenders will receive 98.5% of the New Common Equity in BLY (subject to further dilution for the Share Purchase Plan, the Creditor Share Purchase Option, any management incentive plan, existing warrants and options, and the New Warrants).

The restructuring will be effectuated via the following separate but interdependent Schemes:

- Secured Creditors Scheme: for the Secured Scheme Creditors, being the holders of secured TLA claims, TLB claims, and SSN claims (in each case not to exceed applicable caps on the secured portion of each of these claims); and

- Unsecured Creditors Scheme: for the Unsecured Scheme Creditors, being the holders of unsecured TLA claims, TLB claims, SSN claims and SUN claims.

Each Creditors' Scheme will require approval from at least 75.0% in value and at least 50.0% majority in number of the creditors attending and voting at each of the scheme meetings and approval by The Supreme Court of New South Wales.

The restructuring also contemplates a redomiciliation scheme of arrangement to change the Group's corporate and tax domicile to Canada to better align with the location of the majority of the Group's management and employees. This is to be completed via a Members' Scheme of Arrangement ("Members' Scheme of Arrangement").

The details of the Schemes and the implementation steps are set out in the Schemes of Arrangements and the Explanatory Statement (together, the "Scheme Documents"). This Report should be read in conjunction with the Scheme Documents.

If implemented, the restructuring will alter the current capital structure through:

- Converting outstanding debt under TLA, TLB, SSNs and SUNs of approximately \$795.0 million to new equity;
- The issuance of new warrants to holders of the SUNs (the "New Warrants"); and
- The availability of a share purchase plan to non-associated shareholders (the "Share Purchase Plan"), a potential share buyback (subject to approval of the Members' Scheme of Arrangement being proposed concurrently to the Schemes) and a creditor share purchase option placement (the "Creditor Share Purchase Option").

As a result of the issues of new shares, and subject to further dilution for the Share Purchase Plan, the Creditor Share Purchase Option, any management incentive plan, existing warrants and options, and the New Warrants, existing equity holders will be diluted to 1.5% before the option to participate in the Share Purchase Plan for up to \$2.5 million.

### 3.4 Proposed changes to capital structure

The specific changes to the capital structure required to implement the restructuring are detailed below:

**Table 6: Proposed changes via the restructure**

Facility	Proposed change
TLA and TLB	<p>The amounts owing under TLA and TLB of approximately \$353.5 million (in aggregate) will be converted in full to equity in exchange for:</p> <ul style="list-style-type: none"> <li>■ Pro rata share of the BLY shares to be issued by BLY under the Schemes ("New Common Equity"), calculated based upon 100% of the face value of the secured portion of the relevant TLA and TLB claim (as applicable);</li> <li>■ Pro rata share of the New Common Equity, calculated based upon 25% of the face value of the unsecured portion of the relevant TLA and TLB claim; and</li> <li>■ Allocation, if any, of new common shares available under the Creditor Share Purchase Option.</li> </ul>

Facility	Outcomes
<b>SSNs</b>	<p>The amount owing under the SSNs of approximately \$348.4 million will be converted in full to equity in exchange for the SSN holders receiving:</p> <ul style="list-style-type: none"> <li>■ Pro rata share of the New Common Equity, calculated on 100% of the face value of the secured portion of the relevant SSN claim;</li> <li>■ Pro rata share of the New Common Equity, based on 25% of the face value of the unsecured portion of the relevant SSN claim; and</li> <li>■ Allocation if any, of new common shares available under the Creditor Share Purchase Option.</li> </ul>
<b>SUNs</b>	<p>The amount owing under the SUNs of approximately \$93.9 million will be converted in full to equity in exchange for the SUN holders receiving:</p> <ul style="list-style-type: none"> <li>■ Pro rata share of the New Common Equity, calculated on 22.5% of the face value of the relevant SUN claim;</li> <li>■ Pro rata share of the New Warrants, distributed solely to SUN holders and calculated on 100% of the face amount of the relevant SUN claim; and</li> <li>■ An allocation if any, of new common shares available under the Creditor Share Purchase Option.</li> </ul>
<b>Non-Associated Shareholders, Share Purchase Plan, and existing warrants and options</b>	<p>Existing shareholders will maintain their shares, which will be diluted to 1.5% of the Group's ordinary equity post-restructure (subject to dilution for the Share Purchase Plan, the Creditor Share Purchase Option, any management incentive plan, existing warrants and options, and the New Warrants).</p> <p>All shareholders other than those who also hold any position in the TLA, TLB, SSN and SUNs ("Non-Associated Shareholders") will be entitled to participate in the Share Purchase Plan which will allow Non-Associated Shareholders, subject to the allocation principles under the plan, to purchase new common equity, subject to an aggregate maximum cap of \$2.5 million.</p> <p>If the Share Purchase Plan is oversubscribed by Non-Associated Shareholders, participating Non-Associated Shareholders shall be scaled back such that they will only be entitled to participate in accordance with the allocation principles determined under the plan to a total of \$2.5 million.</p> <p>If the Share Purchase Plan is undersubscribed, the remaining shares will be offered (at the same price) under, and in accordance with, the terms of the Creditor Share Purchase Option.</p> <p>If the Members' Scheme of Arrangement is approved by the members of BLY and the Court, the new BLY parent company will enter into an assumption deed poll in favour of the holders of the existing warrants and options, the participants in the long term incentive plan, and the holders of management incentive plan units, to assume the obligations of BLY in respect of these arrangements.</p>

Facility	Outcomes
<b>Creditor Share Purchase Option</b>	<p>Under the Creditors Share Purchase Option made available to creditors under the Schemes, and subject to an aggregate maximum cap of \$2.5 million, plus any undersubscription of the Share Purchase Plan:</p> <ul style="list-style-type: none"> <li>■ Each SUN holder will be offered the right to purchase its pro rata share of new equity in BLY post-restructure, calculated upon 100% of the face amount of the SUN claims held by SUN holders that elect to take up the private placement.</li> </ul> <p>If the Creditors Share Purchase Option is undersubscribed, the remaining shares shall be offered, at the same price, to participating holders of the TLA claims, TLB claims or the SSN claims receiving the New Common Equity in the same allocations as such holders will receive under the Schemes.</p>
<b>New Warrants</b>	<p>SUN holders will receive New Warrants which confer the right to purchase up to 10% of 100% of the issued equity both following the implementation of the Schemes and assuming that all of the New Warrants are exercised (subject to dilution from management incentive plans, existing warrants and options, and any shares to be issued under the Share Purchase Plan and the Creditor Share Purchase Option), with a strike price per share of A\$2.79.</p>
<b>Share buyback</b>	<p>Subject to shareholder approval of the Members' Scheme of Arrangement, including approving the proposed redomiciliation, small shareholders will have the opportunity, under certain conditions, to sell back their parcels of BLY shares should they choose not to retain their holdings moving forward. The Group proposes to spend up to \$0.5 million, to offer to purchase small parcels of existing common shares worth less than A\$3,000 from Non-Associated Shareholders on terms and pricing to be determined by BLY.</p>
<b>Exit Financing</b>	<p>The Group intends to enter into a new money loan to fully refinance the Backstop ABL and the Incremental Financing ("Exit Financing").</p>
<b>PNC ABL</b>	<p>The PNC ABL remains in place, subject to maturity extension and any other modifications with lenders to give effect to the restructuring.</p>
<b>Backstop ABL</b>	<p>Unless refinanced in full by any Exit Financing, the Backstop ABL remains in place, subject to maturity extension and any other modifications with lenders to give effect to the restructuring.</p>
<b>General unsecured creditors</b>	<p>The rights and claims of general unsecured creditors will remain unimpaired and not be impacted by the restructuring.</p>



Facility	Outcomes
<b>Governance</b>	<p>Subsequent to the restructuring, the board of directors of BLY shall comprise of nine directors and at least two Australian resident directors and include:</p> <ul style="list-style-type: none"> <li>■ The Chief Executive Officer (“CEO”);</li> <li>■ Five directors nominated by Centerbridge Partners L.P. (“Centerbridge”); and</li> <li>■ Three directors nominated by the lenders affiliated with Ares Management LLC (“Ares”), Ascribe II Investments LLC (“Ascribe”), Corre Partners Management LLC (“Corre”), First Pacific Advisers LP (“FPA”), and Nut Tree Capital Management (“Nut Tree”), and their permitted assigns or transferees (collectively the “Ad-hoc Group” or “AHG”).</li> </ul>
<b>Redomiciliation</b>	<p>BLY is to take all steps necessary to redomicile its corporate and tax domicile to Canada. The redomiciliation will be implemented through the Members’ Scheme of Arrangement which is subject to court and shareholder approval.</p> <p>If the redomiciliation does go ahead, the Company will remain listed on the ASX through its new Canadian holding entity and also expects that entity will pursue a dual listing of its shares in North America at a later date.</p>

Source: RSA

## 4. Solvency of the Group following the Schemes

I have been asked to determine the solvency of the Group following the implementation of the proposed Schemes. I have assessed the potential future solvency of the Group using the approaches outlined below.

### 4.1 Opinion

**In my opinion, and for the reasons detailed below, the Group will be solvent following the implementation of the proposed Schemes.**

### 4.2 Qualification of opinion

#### 4.2.1 Exit Financing

As detailed in Section 3.2, the Incremental Financing matures on 31 December 2021. The RSA contemplates that the Incremental Financing along with the Backstop ABL is to be fully refinanced via the Exit Financing. I have been advised by the Group's advisors (Rothschild & Co) that securing the Exit Financing is to be a condition precedent of the Schemes.

I have also been advised that a process to secure the Exit Financing is being coordinated by the Group and its advisors. My enquiries indicate this process is well advanced. This process began in April 2021 where the Group's advisors initially sought an interim and/or exit financing solution to provide the Group with additional working capital to fund and emerge from the proposed restructure. Following the execution of the Incremental Financing, this process was amended to focus solely on securing a solution to the Exit Financing.

I have made enquiries of the status of the Exit Financing as at the Report Date and summarise my understanding of the current status as follows:

- A significant number of flexible and bona fide capital providers were contacted inviting them to participate in a competitive process;
- Expressions of interest were received by multiple parties with a shortlist of three parties selected by the Group and Rothschild & Co;
- Following further discussions between the Group, Rothschild & Co and the shortlisted parties, terms were agreed between BLY and the proposed exit financiers on or around 16 July 2021. The terms of this agreement are incorporated in a commitment letter (including a term sheet) for the Exit Financing ("Commitment Letter"). I have been advised the Commitment Letter is to be executed by each of the parties on or around 19 July 2021.
- To evidence the agreement between the parties, I have been provided with an unexecuted copy of the Commitment Letter. I make no comment on the commercial terms of the agreement but note that while there are a number of conditions precedent, it appears to appropriately provide for the Exit Financing.
- The Commitment Letter provides that execution of the Exit Financing facility agreement and delivery of the majority of conditions precedent to funding will take place prior to the Second Court hearing for the Schemes, with only a limited number of condition precedent to be satisfied after that time.

Given the above, my enquires indicate this process is appropriate and advanced with reasonable prospects of success. As a consequence, I consider the assumption that the Exit Financing will occur (and hence the Incremental Financing and Backstop ABL will not become due and payable on 31 December 2021) to be reasonable.

I note the successful completion of this refinance, or securing an alternative solution such as a maturity extension, is a critical component of the Group maintaining solvency after the implementation of the Schemes. As the Incremental Financing matures on 31 December 2021, and is expected to be drawn to \$50.0 million, in circumstances where the Exit Financing is not completed, or a suitable alternative is not secured, my opinion on the solvency of the Group is withdrawn as the Group will not be in a position to meet this payment along with other debts falling due on or around this date.

This being said, on the basis of the current status of the Exit Financing and the fact that securing the Exit Financing is to be a condition precedent to the Schemes being effectuated, I confirm my opinion that if the Schemes are effectuated (thereby confirming that the Exit Financing has been secured), the Group will be solvent after implementation of the Schemes.

#### 4.2.2 Canadian tax dispute

The Canada Revenue Agency ("CRA") reassessed tax assessments for the tax years associated with FY07 through to FY17. The Group has resolved the FY07 to FY09 assessments, resulting in a final assessment of additional tax, penalties, and interest of CAD7.4 million, all of which was settled at the end of FY20.

The tax years of FY10 through to FY17 remain in various stages of audit or appeal with the CRA, or are proceeding under the mutual agreement procedure, which is a negotiation between Canada and Switzerland on the allocation of taxable profits between the countries. Based on the CRA's assessment, the remaining unsettled tax, penalties and interest for the tax years of FY10 to FY14, if settled unfavourably, could result in a maximum remaining assessment of CAD46.0 million. After the application of tax credits and payments, the maximum future cash outlay could be approximately CAD35.0 million for this period. In the event this becomes payable, there are reasonable grounds to anticipate the assessment would become immediately due and payable requiring immediate cash settlement. The tax years of FY15 to FY17 remain under examination by the CRA and have not yet been assessed.

The Group plans to vigorously dispute these reassessments and are generally confident of securing a negotiated outcome. Due to the uncertainty surrounding these audits, the Group has provisioned for the estimated outcome as a non-current provision.

My discussions with the Group indicate that the outcome and timing of a resolution is unknown but is likely to extend beyond the 12 months following the proposed implementation of the Schemes.

If the Group is required to cash settle a material assessment (i.e. not a nominal amount, and also noting that interest will accrue on all disputed and unpaid amounts until they are paid or otherwise settled) within the forecast period covered by the 2021 Group Budget Forecast Model (RF1) ("FY21 RF1 Budget") and the Long Term Forecast, being from 1 April 2021 to 31 December 2023 (the "Forecast Period"), in isolation and assuming the other outputs of the cash flow forecast are met, the liquidity of the Group will be impacted (including the likely drop below the minimum liquidity threshold discussed below), but will not necessarily cause an immediate threat to solvency. However, if the Group underperforms against the Group's budgets and a material adverse assessment is provided, solvency may be threatened.

### 4.3 Approach to solvency

#### 4.3.1 Definition of solvency

The definition of solvency is set out in section 95A(1) of the Act. Section 95A(1) of the Act provides that:

"A person is solvent if, and only if, the person is able to pay all the person's debts as and when they become due and payable".

The definition of insolvency is set out in section 95A(2) of the Act. Section 95A(2) provides that:

"A person who is not solvent is insolvent".

It is generally accepted that there are two tests of insolvency, being the 'cash flow test' or the 'balance sheet test'. The cash flow test goes to whether a company has sufficient resources available to it to pay all liabilities as they become due and payable. The balance sheet test is based on whether a company's total assets exceed its total liabilities at a point in time.

Given the statutory definition as outlined above, the cash flow test is generally viewed as the appropriate basis for assessing the solvency of a company or group, while the balance sheet test (essentially whether assets exceed

liabilities) enables an understanding of the overall financial position of the company at a point in time, which is to be considered in conjunction with the cash flow test.

An assessment of solvency needs to:

- Determine whether a company's financial position can be characterised as more than a mere "temporary lack of liquidity" but rather "an endemic shortage of working capital whereby liquidity can only be restored by a successful outcome of business ventures in which the existing working capital has been deployed", in which case the company is insolvent (*Hymix Concrete v Garrity* (1977) 13 ALR 321 at 328);
- Include a consideration of the capacity to pay known contingent and prospective debts (*New Cap Reinsurance Company Limited (In Liq) v Grant* 2008);
- Address not only the available cash to the company from day to day operations but also assets and other resources and opportunities (including the ability to raise debt and equity) that could be converted into cash in time to meet the liabilities; and
- Consider the prevailing circumstances and business practices of the company, as each will be unique.

Critically, based on the statutory definition and relevant case law, an assessment of solvency requires a 'look forward' test, usually of a period around at least 90 days, as opposed to a static assessment undertaken at a particular point in time, and importantly, can also take into account resources that may not be apparent by sole reference to a company's balance sheet.

For the purposes of my analysis, I have assumed that the Schemes are implemented on 31 August 2021 (the "RSA Date"), as was assumed by Management in the FY21 RF1 Budget. Additionally, I have incorporated a review that exceeds 12 months following the restructure.

While the Group consists of more than 100 separate legal entities, and solvency is theoretically assessed on an entity by entity basis, the solvency of the Scheme Companies is inextricably linked to that of the Group. I have therefore assessed the solvency of the Group, and therefore the solvency of the Scheme Companies, on a consolidated basis, based on the commercial reality of how the Group operates day to day, with external debt financing arranged through Group Special Purpose Vehicles ("SPVs") and the assets of the Group effectively pooled to deal with the liabilities of the Group as required.

In reality, the Scheme Companies (with the exception of BLA) are:

- Holding companies or financing companies with no ability to generate their own cashflows from day to day operations;
- Are part of the Obligor Group, making them jointly and severally liable for any amounts outstanding under the Group's Finance Facilities; and
- Are wholly reliant on the cashflows of the operating companies within the Group to service and repay those debts.

Consequently, it is necessary to review solvency on a Group consolidated basis.

#### 4.3.2 Cash flow test

The cash flow test is considered to be the primary test of solvency as it more closely aligns to the requirements of section 95A of the Act as compared to the balance sheet test.

I have reviewed the Group's forecast cash flows to determine whether the above definition of solvency is met. In line with case law, I have analysed the financial position of the Group in the twelve months following the implementation of the Schemes. This involves the review of a company's cash flows to determine if the company is able to pay its debts as and when they fall due.

### 4.3.3 Balance sheet test

The balance sheet test of solvency provides that a company will be insolvent if the liabilities of the company would not be met if all of its assets were liquidated and used to meet those liabilities.

This involves a review of a company's balance sheet to determine whether the company's assets exceed its liabilities and, if so, by how much. It also highlights the nature of the company's assets and liabilities.

I note that a simple mathematical analysis of a company's balance sheet may not provide a definitive determination of whether the company would be able to meet its debts. This is because many of the assets held by a company may be illiquid in nature and not readily realisable to meeting payment obligations. In addition, and as outlined above, regard must also be had to all the resources available to the company, some of which may not be apparent from a review of the balance sheet. Examples of these include the ability to raise additional equity or debt or even amend the terms of the debt such that it is no longer due and payable in the short to medium term.

While the balance sheet test is not considered to be the primary test of solvency, it is useful in providing context for the proper application of the cash flow test.

### 4.3.4 Profitability test

This involves reviewing the historic and forecast statement of comprehensive income to determine the Group's profitability. Positive Earnings Before Interest, Tax, Depreciation and Amortisation ("EBITDA") generated by a company provides an indication of an ability to meet day to day operating expenses from trading and an ability to meet other debts as and when they fall due, particularly with regard to interest payable on its debt facilities and other non-trading cash expenses, such as capital expenditure.

### 4.3.5 Other considerations

Case law indicates that the Courts adopt a commercial approach with respect to the question of solvency, not simply basing their view on the theoretical approaches noted above.

The case of *ASIC v Plymin* (2003), provides a non-exhaustive list of insolvency indicators, including:

- Continuing losses;
- Liquidity ratio below 1.0 times;
- Poor relationship with lenders;
- No access to alternative finance;
- Inability to raise further equity capital;
- Suppliers placing a company on cash on delivery or special payment plans; and
- Special arrangements with selected creditors.

In reviewing solvency, it is important to note these factors are non-exhaustive and the solvency of a group or company should be considered within its own commercial context. In this regard, in determining solvency of the Group, I have also considered the following additional matters:

- The effects of proposed debt restructuring to be implemented as part of the Schemes;
- The Group's ability to access additional debt facilities and other liquidity support; and
- The adequacy of the books and records of the Group.

## 4.4 Information relied upon

The cash flow, balance sheet and profitability analyses have been based on the following documents provided by the Group:

- The FY21 RF1 Budget, which, amongst other items:
  - Provides a monthly forecast of cash flow, profit and loss, and balance sheet for the period 1 January 2021 to 31 December 2021;
  - Incorporates actual results for the months of January to March 2021;
  - Assumes that the Schemes are put into effect as proposed; and
  - Incorporates a reforecast, adopted by the Board of Directors of BLY in May 2021, of the Group's original 2021 budget ("FY21 Group Budget").
- The Long Term Forecast, which, amongst other items:
  - Adopts the outputs of the FY21 RF1 Budget for FY21 and extends the forecast on a monthly basis over FY22 and FY23; and
  - Is predicated on a number of growth, capital structure, and capital expenditure ("CAPEX") assumptions to extend the FY21 RF1 Budget; and
- Historical financial statements and management accounts, including but not limited to, the Group's pro-forma balance sheet as at 30 April 2021.

I note the Group typically reforecasts its annual budget on a quarterly basis. The FY21 RF1 Budget is the latest forecast that was approved by the Group's Board in May 2021 and supersedes the FY21 Group Budget. Given the reforecast, I have not reviewed the FY21 Group Budget in a material level of detail other than to compare the actual results of January to March 2021 against the FY21 Group Budget in order to provide context for assessing the reasonableness of the FY21 RF1 Budget and Long Term Forecast.

I have relied on the actual results for FY20 as well as the actual results for the months of January, February and March 2021 and the following outputs from the FY21 RF1 Budget and the Long Term Forecast for my forecast analysis:

- Forecast profit and loss results for FY21, FY22 and FY23; and
- Forecast indirect cash flow statement for FY21, FY22 and FY23.

I note the Group's forecast models do not incorporate sensitivities or scenario analysis beyond the baseline forecast. As a result, I have adopted the sole base case for my analysis.

## 4.5 Review of forecasts

To assist my assessment on the reasonableness of the Group's forecast, I have undertaken a review of the Group's historical financial results and to the extent possible, assessed the quality and accuracy of the Group's forecasting ability by comparing the Group's forecasts prepared by Management with actual results.

### 4.5.1 Historical review

As detailed in Section 6.3, the Group has reported significant movements (both positive and negative) in year on year financial results between FY11 and FY20, due to ongoing financial and operational challenges including volatility in commodity markets and the end of the global mining boom.

Between FY11 and FY16, revenue declined by an annualised rate of 20.5% from \$2.0 billion to \$642.5 million (a 68.2% absolute reduction), while Adjusted EBITDA reduced from \$356.3 million to \$32.0 million. This decline is largely related to volatility in commodity markets, and the end of the global mining boom which resulted in a reduction in demand for the Group's products and services as customers reduced exploration programs and associated capital expenditure.

During the period FY16 to FY20, the Group has focused on revenue initiatives, cost reduction programs and balance sheet restructuring (including the 2017 schemes of arrangement) to enhance financial performance and sustainability. This has resulted in the financial performance of the Group improving, generally, year on year.

However, in FY20 the Group reported a reduction in revenue and earnings as compared to FY17 through FY19. Much of the decline in performance is a result of the impacts of the COVID-19 pandemic, some of which have continued into FY21, impacting the Group, its customers, and its supply chain.

The consistent fluctuations in historical financial performance (highlighted by the impacts of COVID-19 in FY20) has made forecasting the financial performance and position of the Group challenging.

I have reviewed the Group's prior forecasts against the results reported in monthly management accounts. I have also reviewed the Group's budgeting process which I consider to be appropriate. Noting the challenging and fluctuating environment the Group operates in, I consider the Group's forecasting to be of reasonable quality. I note, however, that the Group has tended to understate the impact of the trajectory of the market. In other words, in a declining market the Group tends to understate the decline, and in an improving market the Group tends to understate the improvement. The latter example is demonstrated by the forecast improvements between the FY21 Group Budget and the FY21 RF1 Budget.

#### 4.5.2 Overview of forecasts

While the Group reported a decline in underlying financial performance in FY20, the Group has forecast a material improvement in the financial performance over FY21 to FY23 as compared to FY19 and FY20. This forecast improvement is a reflection of the underperformance of the Group in FY20, driven largely by the COVID-19 pandemic, but also the significant improvement in financial performance in the first quarter of FY21, which has resulted in a material increase in the recent FY21 RF1 Budget reforecast.

**Table 7: Consolidated profit and loss statement – FY19 to FY23**

\$ million	FY19A	FY20A	FY21F	FY22F	FY23F
Revenue	745.0	657.3	852.8		
Gross profit	141.3	98.0	169.3		
Gross margin (%)	19.0%	14.9%	19.8%		
SG&A	(94.1)	(81.4)	(94.4)	Commercially Sensitive	
Other operating expenses	(20.1)	(17.3)	(47.2)		
EBIT	27.1	(0.7)	27.7		
<b>EBITDA</b>	<b>66.5</b>	<b>40.3</b>	<b>72.2</b>		
Add back:					
Restructuring costs	11.8	6.0	43.7	Commercially Sensitive	
Other adjustments	9.0	13.8	(0.0)		
<b>Adjusted EBITDA</b>	<b>87.3</b>	<b>60.1</b>	<b>115.9</b>		

Source: FY21 RF1 Budget, Long Term Forecast. Note: Figures are as reported

As discussed in Section 1.6, I have refrained from including information relating to FY22 and FY23 from Table 7 above as it is commercially sensitive and confidential in nature.

Given this forecast improvement and to provide context to the Group's forecasts, I have undertaken a review of the historical performance of the Group as well as reviewing the forecast methodology of the FY21 RF1 Budget and Long Term Forecast.

#### 4.5.3 FY21 RF1 Budget

The table below details the actual results (recurring) of the Group over FY19 and FY20 as well as the FY21 Group Budget and the FY21 RFI Budget, which provides an updated view on the financial forecast of the Group through to 31 December 2021 including actuals for Q1FY21.

**Table 8: Consolidated profit and loss comparison (recurring)**

\$ million	FY19A	Recurring			Variance – FY21F v.s. recurring		
		FY20A	FY21B	FY21F	FY19A	FY20A	FY21B
Revenue	740.4	654.7	789.9	852.8	15.2%	30.3%	8.0%
Gross profit	134.3	102.2	144.8	169.3	26.1%	65.7%	16.9%
Gross margin (%)	18.1%	15.6%	18.3%	19.9%	n/a	n/a	n/a
SG&A	(95.6)	(80.4)	(96.4)	(94.4)	(1.3%)	17.4%	(2.1%)
Other	(4.6)	(0.7)	(2.2)	(3.3)	(28.3%)	371.4%	52.8%
EBIT	34.1	21.1	46.2	71.6	110.0%	239.3%	54.8%
Adjusted EBITDA	73.5	62.0	94.6	116.1	58.0%	87.3%	22.7%

Source: FY21 Group Budget, FY21 RF1 Budget

As shown above, FY20 was severely impacted by COVID-19 and saw revenue decline from \$740.4 million to \$654.7 million, an \$85.7 million reduction against FY19. Positively, the Group appears to have been able to partially mitigate this revenue led decline by holding gross margin relatively consistent (FY20:15.6% v.s. FY19: 18.1%), and reducing selling, general and administrative expenses (“SG&A”) by \$15.2 million. This indicates the Group has the ability to respond to adverse changes in performance.

While performance declined in FY20, the FY21 Group Budget provided a material improvement in the Group’s forecast revenue and earnings compared to FY19 and FY20, with revenue increasing by 30.3% to \$789.9 million. This improvement was predominantly based on revenue uplift with margins remaining consistent, SG&A returning to FY19 levels, and an acute focus on cost control.

Despite the 30.3% forecast increase in recurring revenues, the actual results for January to March 2021 exceeded the FY21 Group Budget with revenue for the quarter being \$21.3 million above forecast, and EBITDA for the quarter being \$8.7 million above forecast. This improvement was again led by overall sector improvement and a reduction in the impact of COVID-19 on the day to day operations. The table below summarises these results and provides the variances to the Group FY21 Budget:

**Table 9: Summary profit and loss – actuals for January to March 2021 and variance to FY21 Group Budget**

\$ million	Actual				Variance			
	Jan-21	Feb-21	Mar-21	Q1FY21	Jan-21	Feb-21	Mar-21	Q1FY21
Revenue	62.4	67.8	78.8	209.0	9.2	3.3	8.8	21.3
Gross margin	9.9	12.3	18.1	40.3	3.8	1.0	3.9	8.7
Gross margin %	15.9%	18.1%	23.0%	19.3%	n/a	n/a	n/a	n/a
SG&A	(7.0)	(6.7)	(7.5)	(21.2)	0.9	1.4	0.6	2.9
EBIT	3.2	5.3	9.1	17.6	4.7	1.7	3.2	9.6
Adjusted EBITDA	6.9	9.0	12.7	28.6	4.4	1.5	2.8	8.7

Source: FY21 Group Budget, Management accounts

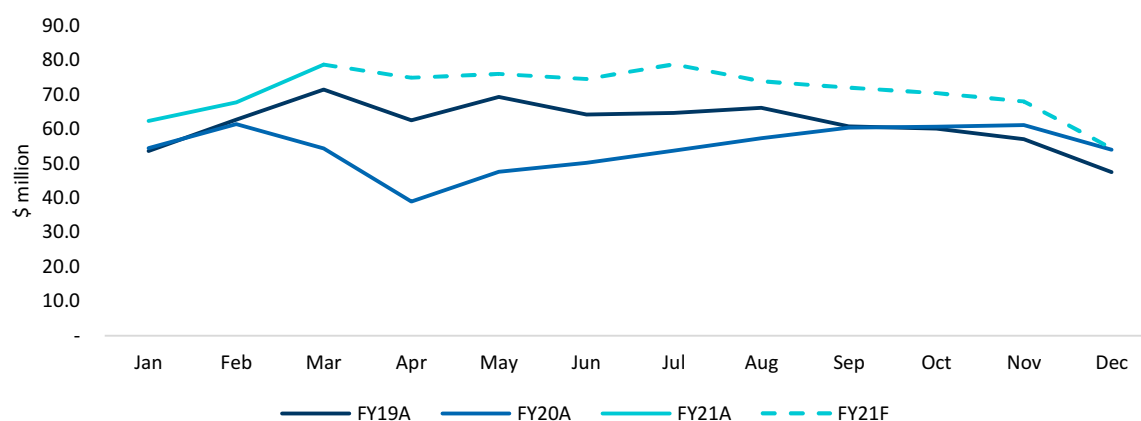
Given the above, the reforecast FY21 RF1 Budget provides the following forecast improvements over the FY21 Group Budget for FY21:

- Revenue is forecast to increase by \$62.9 million (an 8.0% increase);
- Gross margin remains steady at approximately 20%;
- SG&A expenses have reduced by \$2.0 million on account of open positions, and lower travel expenses and professional fees; and
- Recurring EBITDA is forecast to improve by \$21.5 million to \$116.1 million.

The figures below provide a graphical representation of the forecast monthly revenue, gross margin and EBITDA of FY21 RF1 Budget (including actuals for Q1FY21) against actual results for FY19 and FY20. As shown, the FY21 RF1 Budget has a strong correlation to the FY19 trend, but benefits from the strong actual performance in Q1FY21.

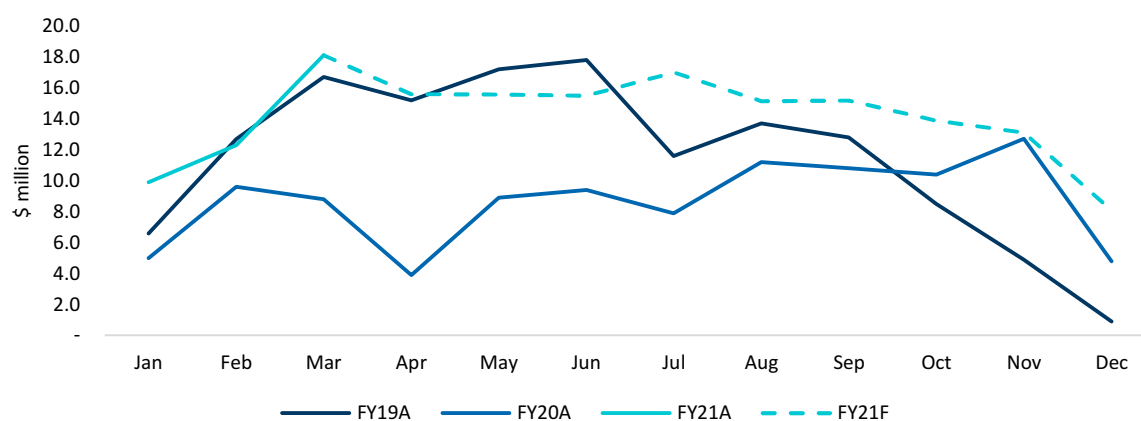


**Figure 1: Revenue – FY19A v.s. FY20A v.s. FY21A v.s. FY21F**



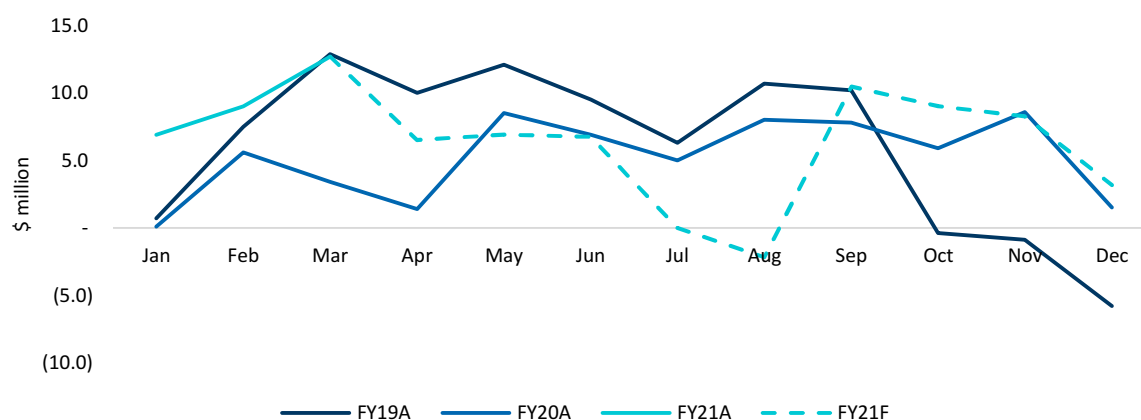
Source: FY21 RF1 Budget, management accounts

**Figure 2: Gross margin – FY19A v.s. FY20A v.s. FY21A v.s. FY21F**



Source: FY21 RF1 Budget, management accounts

**Figure 3: Adjusted EBITDA – FY19A v.s. FY20A v.s. FY21A v.s. FY21F**



Source: FY21 RF1 Budget, management accounts

While the forecast improvements in the FY21 RF1 Budget are material, I note that forecast revenue in the initial FY21 Group Budget was only 6.6% higher than FY19 actuals, an appropriate increase in an improving market. Additionally,

the further improvements in the FY21 RF1 Budget reflect the stronger than anticipated results of January 2021 to March 2021. On this basis I consider that the FY21 RF1 Budget appears reasonable and achievable and is a reasonable basis upon which to conduct a solvency analysis.

#### 4.5.4 Long Term Forecast – FY21 to FY23

The Board of Directors of the Group have requested that I limit the disclosure of the Long Term Forecast, including some of key underlying assumptions, as it is commercially sensitive and confidential in nature.

There are a number of key assumptions that underpin the Long Term Forecast:

- Operational assumptions are based on the FY21 RF1 Budget;
- Revenue growth assumptions in FY22 and FY23 are below or broadly in line with the average forecast revenue growth for my identified comparable listed companies (excluding outliers) (see Section 6.4.1);
- Gross margin assumptions remain steady with FY21 at 20.0% across FY22 and FY23;
- Growth assumptions for direct and indirect SG&A are based on recent inflation rates with some minor additional real growth;
- The Schemes are completed on the RSA Date;
- TLA (\$162.0 million), TLB (\$195.3 million), SSNs (\$345.0 million) and SUNs (\$94.1 million) are effectively converted to equity and interest ceases to accrue on these facilities from the RSA Date;
- The Exit Financing of \$115.0 million is completed with 11.0% interest paid quarterly, original issue discount of 3.0% and no principal amortisation over the forecast period;
- Assumes a further \$5.0 million capital raise and \$0.5 million share repurchase as outlined in the RSA;
- Assumes no incremental tax liabilities related to Cancellation of Debt Income ("CODI"); and
- CAPEX of \$50.0 million in FY21, \$60.0 million in FY22 and \$95.3 million in FY23.

The Schemes are anticipated to provide material benefits to the Group's trading position, in the form of:

- Lower debt servicing costs;
- An improved credit rating, which should flow through to improved terms from suppliers and enhanced ability to win long term contracts;
- Improved liquidity, creating more opportunities to invest in projects and capital expenditure; and
- Materially lower restructuring costs, which have been a cash burden on the Group over recent years.

All of the above assumptions are reflected, either directly or indirectly, in the Long Term Forecast.

Based on my review of the forecasts and the underlying assumptions, I consider them to be a reasonable basis upon which to conduct a solvency analysis.

#### 4.6 Cash flow test

I have considered the ability of the Group to meet its commitments as they fall due by analysing the consolidated cash flow forecast included in the Long Term Forecast which incorporates the FY21 RF1 Budget.

The Long Term Forecast cash flow is set out below for the period 1 January 2021 to 31 December 2023, noting it includes actual results for January 2021 to March 2021, while Figure 4 details the forecast closing cash and liquidity available to the Group.

As discussed in Section 1.6, I have removed certain information relating to FY22 and FY23 from Table 10 below as it is commercially sensitive and confidential in nature.

**Table 10: Forecast cash flow FY21 to FY23**

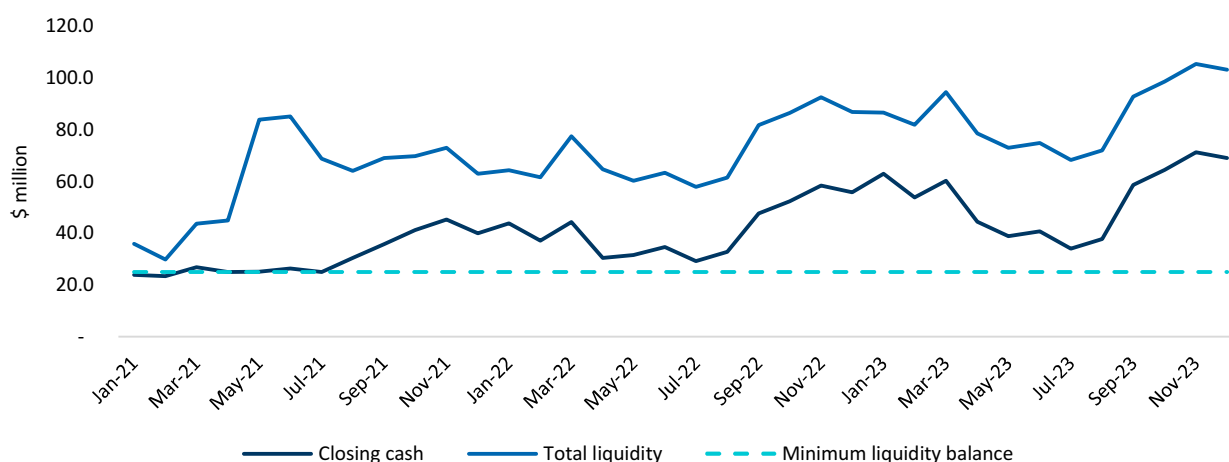
\$ million	Note	H1FY21	H2FY21	H1FY22	H2FY22	H1FY23	H2FY23	FY21F	FY22F	FY23F
Adjusted EBITDA (P&L)		60.4	55.6					115.9		
EBITDA adjustment	1	(1.4)	(1.8)					(3.2)		
<b>Adjusted EBITDA (Cash Flow)</b>		<b>58.9</b>	<b>53.8</b>					<b>112.7</b>		
Change in working capital	2	(35.5)	7.4					(28.1)		
Other		4.7	(1.6)					3.1		
Restructuring costs	3	(16.9)	(26.8)		Commercially Sensitive			(43.7)	Commercially Sensitive	
Cash interest	4	(3.0)	(6.9)					(9.9)		
Cash taxes	5	(6.3)	(11.8)					(18.1)		
<b>Operating cash flow</b>		<b>2.0</b>	<b>14.1</b>					<b>16.1</b>		
CAPEX	6	(26.7)	(23.3)					(50.0)		
Proceeds from asset sales	1	1.3	1.8					3.1		
<b>Investing cash flows</b>		<b>(25.5)</b>	<b>(21.5)</b>					<b>(46.9)</b>		
Proceeds from debt issuance	7	-	111.6					111.6		
Share issuance / repurchase	7	-	4.5		Commercially Sensitive			4.5	Commercially Sensitive	
Borrowings / (repayment)	7	26.7	(95.0)					(68.3)		
<b>Financing cash flow</b>		<b>26.7</b>	<b>21.0</b>					<b>47.8</b>		
FX		(0.4)	-					(0.4)		
<b>Net cash in / (out)</b>		<b>2.9</b>	<b>13.6</b>					<b>16.5</b>		
Opening cash		23.5	26.4					23.5		
<b>Closing cash</b>		<b>26.4</b>	<b>40.0</b>	<b>34.6</b>	<b>55.8</b>	<b>40.7</b>	<b>69.0</b>	<b>40.0</b>	<b>55.8</b>	<b>69.0</b>

Source: Long Term Forecast

## Notes

- EBITDA adjustment/proceeds from asset sales:** Reflects a re-allocation of proceeds due to different treatment of proceeds from the sale of minor fixed assets. The Group has taken steps to sell excess assets including properties, fleet and rigs over recent years. These realisations have consisted of mostly aged fleet with very small (or nil) net book value resulting in the proceeds being allocated to the profit and loss statement ("P&L") under P&L sale of fixed assets. This exercise has now been exhausted, with the management of BLY ("Management") assuming a \$3.0 million annual collection of proceeds from assets tied to ongoing fleet management programs. The EBITDA adjustment occurs as the Group allocate these funds to Investing Cash Flows (Net Capital Investment) and not to EBITDA/Operating Cash Flows.
- Change in working capital:** Consolidated view on movements across trade receivables, trade payables and inventories. The Long Term Forecast shows a significant increase in the Group's working capital over the course of the Forecast Period, primarily due to trade receivables increasing materially over the first half of each financial year and then partially unwinding over the second half of each financial year, in line with the usual working capital cycle over a 12 month period. Inventories are forecast to remain relatively consistent while trade payables fluctuate month to month. The working capital cycle is applied consistently through the Forecast Period.
- Restructuring costs:** Forecast costs relating to the Schemes and associated restructuring.
- Cash interest:** Incorporates cash settlement of interest associated with the Exit Financing (assumptions based on anticipated terms given ongoing negotiations), PNC ABL, and lease arrangements.
- Cash taxes:** Includes income tax payable.
- CAPEX:** Assumes CAPEX of \$50.0 million in FY21, \$60.0 million in FY22 and \$95.3 million in FY23. The increase seeks to address what Management has flagged as an underinvestment in prior years. The scope and timing of the proposed CAPEX plan has been aligned to meet the forecast ability of the Group to self-fund CAPEX through operating cash flows. Management advise that the material increase in forecast FY23 CAPEX will help to improve performance in years beyond the forecast.
- Proceeds from debt issuance / share issuance / borrowings:** Refer to Table 12 for further details.

**Figure 4: Long Term Forecast monthly cash and liquidity (1 January 2021 to 31 December 2023)**



Source: Long Term Forecast

#### 4.6.1 Key findings

The cash flow forecast contained in the Long Term Forecast anticipates that the Group will generate positive net cash over the Forecast Period and that month end cash will generally remain in line with, or above, the internal minimum balance requirement of \$25.0 million. The minimum liquidity balance requirement is used by the Group to ensure sufficient liquidity is maintained to meet any critical payments across the approximately 20 countries the Group operates in, and to avoid reliance on the timing of customer receipts to meet critical payments. In effect, the maintenance of the liquidity buffer reinforces the position of solvency as it creates a position whereby the Group should be able to meet debts as and when they fall due, even if there are unexpected events across the business.

While there is always a level of uncertainty in relation to the outlook for the mining sector given the cyclical nature and requirement for ongoing access to relatively scarce skilled human capital, the Long Term Forecast appears reasonable, taking into consideration my comments in Section 4.5.3 and Section 4.5.4.

In my opinion, while the FY21 RF1 Budget and the Long Term Forecast provided by the Group anticipates a material improvement in financial performance, the FY21 RF1 Budget and the Long Term Forecast have been prepared on a reasonable basis, having regard to historical trends in the business as well as the recent improvement in financial performance.

Additionally, Management are of the view that, following the implementation of the proposed Schemes, the Group is also anticipated to be in a better position to manage its working capital including obtaining more favourable trade terms from its suppliers. This potential benefit has not been factored into the Long Term Forecast.

On this basis, the Group is forecast to be solvent during the period FY21 to FY23 including the 12-month period immediately following the implementation of the Schemes.

The scope of my engagement has not incorporated a detailed review and interrogation of all the individual assumptions underpinning the Group's forecast models including the cash flow output of the Long Term Forecast, nor have the forecast models been independently audited. Accordingly, while the Group's Long Term Forecast indicates it to have month end liquidity of not less than \$29.9 million over the course of FY21 to FY23, I note the ability of the Group to meet its debts as and when they fall due, and remain solvent, is very much tied to its ability to:

- Achieve the EBITDA forecast assumed in the FY21 RF1 Budget and Long Term Forecast;
- Continue to realise \$3.0 million of surplus assets each year;
- Manage the collection of its debts across the global operational and not suffer any material deterioration in customer terms;

- Manage the payment of its trade suppliers month to month to match its liquidity position;
- Fund the capital expenditure required to sustain the existing drilling fleet in line with the FY21 RF1 Budget and Long Term Forecast; and
- Manage unexpected material interruptions to its business owing to weather, adverse movements in underlying commodity prices or other unforeseen events, over and above those that are able to be managed within its minimum liquidity balance.

Further, any material adverse outcome in relation to the Canadian tax dispute detailed in Section 4.2.2 that would require payment to be made prior to 31 August 2022 or shortly thereafter, or any material adverse issues arising in relation to potential tax risks disclosed in the explanatory statement, would impact upon the Group's solvency.

## 4.7 Balance sheet test

The 'balance sheet test' considers the net asset or liability position of an entity (or group of entities). This test is only to be viewed as being indicative of solvency as it represents the position of a company at a point in time, and does not take into account the future profitability or cash flows available to service debt obligations nor any ability to raise further equity or amend existing debt terms.

I set out below the Group's forecast consolidated balance sheets from the Long Term Forecast at the described dates including the RSA Date. The balance sheets assessed were prepared by Management as part of the Long Term Forecast model and include the anticipated adjustments to reflect the outcome of the Schemes. Certain information pertaining to FY22 and FY23 has been removed from Table 11 as it is commercially sensitive and confidential in nature.

The balance sheet represents a consolidation of the assets and liabilities of the Group.

**Table 11: Consolidated forecast balance sheet**

\$ million	Jun-21	Aug-21	Dec-21	Jun-22	Dec-22	Jun-23	Dec-23
Cash	26.4	30.4	40.0				
Trade and other receivables	145.7	145.3	124.9		Commercially Sensitive		
Inventories	167.8	168.0	169.7				
Other current assets	12.2	15.6	15.4				
<b>Total current assets</b>	<b>352.1</b>	<b>359.3</b>	<b>350.0</b>				
PP&E	158.4	160.5	159.5				
Goodwill	105.4	105.4	105.4		Commercially Sensitive		
Other non-current assets	61.1	61.1	61.1				
<b>Total non-current assets</b>	<b>324.9</b>	<b>327.0</b>	<b>325.9</b>				
<b>Total assets</b>	<b>677.0</b>	<b>686.3</b>	<b>676.0</b>				
Trade and other payables	(74.4)	(80.5)	(58.8)				
Provisions	(87.5)	(87.5)	(87.5)		Commercially Sensitive		
Current borrowings	(10.7)	(10.7)	(10.7)				
Other current liabilities	(41.8)	(41.2)	(33.2)				
<b>Total current liabilities</b>	<b>(214.4)</b>	<b>(219.9)</b>	<b>(190.2)</b>				
Non-current borrowings	(938.4)	(168.5)	(161.9)		Commercially Sensitive		
Other non-current liabilities	(18.6)	(18.6)	(18.6)				
<b>Total non-current liabilities</b>	<b>(957.1)</b>	<b>(187.2)</b>	<b>(180.6)</b>				
<b>Total liabilities</b>	<b>(1,171.5)</b>	<b>(407.0)</b>	<b>(370.8)</b>				
<b>Net assets / (liabilities)</b>	<b>(494.5)</b>	<b>279.2</b>	<b>305.2</b>	<b>333.0</b>	<b>351.7</b>	<b>384.2</b>	<b>408.2</b>
<b>KPIs</b>							
Current ratio (times)	1.6x	1.6x	1.8x	2.0x	2.0x	2.1x	2.2x
Debt/Forecast Adjusted EBITDA (times)	8.2x	1.5x	1.5x	1.3x	1.3x	1.0x	0.9x
Debt/Forecast EBITDA (times)	13.1x	2.5x	2.4x	1.3x	1.3x	1.0x	0.9x

Source: Long Term Forecast

The table below summarises the restructured balance sheet at RSA Date:

**Table 12: Forecast consolidated balance sheet at 31 August 2021 - Prior to and post restructure**

\$ million	Pre-restructure	Exit Financing	Debt reduction	Debt cancellation	Share Purchase Plan	Post-restructure
Cash	26.7	111.6	(112.4)	-	4.5	30.4
Accounts receivable	135.0	-	-	-	-	135.0
Other receivables	10.3	-	-	-	-	10.3
Inventories	168.0	-	-	-	-	168.0
Other financial assets	-	-	-	-	-	-
Current tax receivable	0.1	-	-	-	-	0.1
Assets held for sale	0.3	-	-	-	-	0.3
Prepaid & other current assets	11.8	3.5 <sup>1</sup>	-	-	-	15.3
<b>Total current assets</b>	<b>352.2</b>	<b>115.0</b>	<b>(112.4)</b>	<b>-</b>	<b>4.5</b>	<b>359.3</b>
PP&E	160.5	-	-	-	-	160.5
Goodwill	105.4	-	-	-	-	105.4
Other intangibles	32.6	-	-	-	-	32.6
Deferred tax assets	12.8	-	-	-	-	12.8
Non-current tax receivable	1.6	-	-	-	-	1.6
Other financial assets	14.1	-	-	-	-	14.1
<b>Total non-current assets</b>	<b>327.0</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>327.0</b>
<b>Total assets</b>	<b>679.1</b>	<b>115.0</b>	<b>(112.4)</b>	<b>-</b>	<b>4.5</b>	<b>686.3</b>
Trade payables	(64.5)	-	-	-	-	(64.5)
Other payables	0.0	-	-	-	-	0.0
Interest payable	(14.3)	-	-	-	-	(14.3)
Provisions	(14.3)	-	-	-	-	(14.3)
Current income tax payable	(1.6)	-	-	-	-	(1.6)
Loans & borrowings (current)	(10.7)	-	-	-	-	(10.7)
Other current liabilities	(41.2)	-	-	-	-	(41.2)
<b>Total Current Liabilities</b>	<b>(146.7)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(146.7)</b>
Loans & borrowings (non-current)	(962.3)	(115.0)	112.4	796.5	-	(168.5)
Other financial liabilities	-	-	-	-	-	-
Deferred tax liabilities	(18.6)	-	-	-	-	(18.6)
Provisions	(73.2)	-	-	-	-	(73.2)
Other non-current liabilities	-	-	-	-	-	-
<b>Total non-current liabilities</b>	<b>(1,054.2)</b>	<b>(115.0)</b>	<b>112.4</b>	<b>796.5</b>	<b>-</b>	<b>(260.4)</b>
<b>Total liabilities</b>	<b>(1,200.9)</b>	<b>(115.0)</b>	<b>112.4</b>	<b>796.5</b>	<b>-</b>	<b>(407.0)</b>
Equity	521.7	-	-	(796.5)	(4.5)	(279.2)
<b>Total liabilities &amp; equity</b>	<b>(679.1)</b>	<b>(115.0)</b>	<b>112.4</b>	<b>-</b>	<b>(4.5)</b>	<b>(686.3)</b>

Source: Long Term Forecast. Note: Figures are presented on a net basis

<sup>1</sup> Original issue discount expected to be paid as part of the terms and conditions of the Exit Financing

The table below summarises the restructured debt balances at RSA Date:

**Table 13: Forecast debt balances at 31 August 2021 - Prior to and post restructure**

\$ million	Pre-restructure	Exit Financing	Debt reduction	Debt cancellation	Post-restructure
PNC ABL	29.7	-	-	-	29.7
Incremental Financing	50.0	-	(50.0)	-	-
Back stop ABL	62.4	-	(62.4)	-	-
TLA	162.0	-	-	(162.0)	-
TLB	195.3	-	-	(195.3)	-
Capital Leases	37.6	-	-	-	37.6
SSNs	345.0	-	-	(345.0)	-
SUNs	94.1	-	-	(94.1)	-
Exit Financing	-	115.0	-	-	115.0
Other	(3.1)	-	-	-	(3.1)
<b>Total Finance Facilities</b>	<b>973.0</b>	<b>115.0</b>	<b>(112.4)</b>	<b>(796.5)</b>	<b>179.2</b>

Source: Long Term Forecast

#### 4.7.1 Net asset / (liability) position

As at 30 June 2021, the Group is forecast to have a net liability position of \$494.5 million, which reflects the current over-leveraged position of the Group, and a current ratio of 1.6 times.

Upon completion of the Schemes at 31 August 2021, the Group is forecast to be in a net asset position of \$279.2 million reflecting the release of \$795.0 million in debt from the balance. While the current ratio is forecast to improve in 2HFY21 and beyond, the current ratio at RSA Date remains at 1.6 times, which indicates the Group has sufficient liquid or current assets to meet its short term liabilities – essentially that it can meet its liabilities from day to day trading.

#### 4.7.2 Key findings

Prior to the Schemes being implemented, the Group forecasts a significant debt burden with a debt to EBITDA ratio of 13.1 times at 30 June 2021 (debt to Adjusted EBITDA ratio of 8.2 times). At the RSA Date, this ratio reduces to 2.5 times. Therefore, while the current ratio remains steady and greater than one post effectuation of the Schemes, the reduction in the debt to EBITDA ratio indicates the current level of financial distress experienced by the Group is as a result of the level of external financing debt it is currently carrying (and the associated ongoing maturities), as opposed to an endemic shortage of working capital caused from day to day trading. Effectuation of the Schemes will alleviate this debt burden and any associated liquidity issues caused by the payment of interest on these material balances and the ongoing maturity profile.

As outlined in Section 4.6.1, I am of the opinion that the Group will be solvent immediately after the Schemes are implemented due to the forecast liquidity position detailed in Section 4.6. My opinion is supported by the balance sheet assessment that sees the Group transition from a net liability position of \$494.5 million at 30 June 2021 to a net asset position of no less than \$279.2 million over the Forecast Period.

### 4.8 Profitability test

#### 4.8.1 Profitability overview

To further understand the profitability of the Group, I have summarised the Group's forecast NPAT between FY21 and FY23 below. As discussed in Section 1.6, I have removed certain information relating to FY22 and FY23 from Table 14 below as it is commercially sensitive and confidential in nature, however, I have still provided a high-level description of the Group's profitability in both of these periods.



**Table 14: Forecast NPAT FY21 to FY23**

\$ million	FY21F	FY22F	FY23F
<b>EBIT</b>	<b>27.7</b>		
Interest	(70.8)		
Tax	(11.8)		
CODI	796.5		
<b>NPAT</b>	<b>741.5</b>	<b>Commercially Sensitive</b>	
Adjustments to arrive at normalised NPAT			
Less:			
CODI	(796.5)		
Add back:			
Restructuring costs	43.7		
Adjustment for interest expense reduction	52.8		
<b>Normalised NPAT</b>	<b>41.5</b>	<b>Commercially Sensitive</b>	

Source: Long Term Forecast. Note: Figures are as reported

With regard to the underlying forecast profitability of the Group, I note the following:

- FY21 incorporates the P&L benefit associated with the Cancellation of Debt Income. Absent this benefit, the Group is forecast to incur a net loss after tax of \$54.9 million.
- FY21 includes a material interest cost associated with the pre-restructure debt position, the vast majority of which will be extinguished as a consequence of the effectuation of the Schemes. The benefit associated with the debt restructure is evident by the reduction in interest expense from \$70.8 million in FY21 to the materially lower levels forecast in FY22 and FY23.
- Based on the Long Term Model, the Group is forecast to generate positive after tax profits in both FY22 and FY23, improving year on year on the after tax profit of \$41.5 million forecast for FY21.

The underlying and improving profitability of the Group indicates an ability for the Group to meet its ongoing liabilities from day to day operations, with surpluses available to boost retained earnings and be available for reinvestment into the business to assist it achieving its growth plans.

#### 4.8.2 Key findings

I am of the opinion that the Group will be solvent immediately after the Schemes are implemented due to the forecast liquidity position detailed in Section 4.6, supported by the balance sheet assessment outlined in Section 4.7. This opinion is further supported by the forecast profitable trading over the forecast period.

### 4.9 Other considerations

I have also considered the non-exhaustive list of insolvency indicators outlined in ASIC v Plymin (2003) referred to in Section 4.3.5.

A number of these factors (i.e. continuing losses and liquidity ratios less than 1.0 times) have been addressed in Sections 4.5 to 4.8. Of the other relevant factors, I provide commentary below:

**Table 15: Insolvency indicators**

Factor	FTI Consulting comment	Present post effectuation
Poor relationship with lenders	The Group has signed an RSA with the majority of lenders thereby confirming support for the Schemes.	No
No access to alternative finance	The Group is well advanced to secure the Exit Financing that is to be a condition precedent to the Schemes.	No
Inability to raise further funding	The Schemes effectively recapitalise the Group, while the Exit Financing is well advanced.	No
Cash on delivery	I have sighted no evidence of suppliers demanding cash on delivery.	No
Special arrangements	Outside of the RSA, there is no evidence of special arrangements with creditors.	No

Source: the Group, RSA, FTI Consulting analysis

## 4.10 Adequacy of books and records

Section 286(1) of the Act requires a company to keep books and records that:

- Correctly record and explain its transactions and financial position and performance; and
- Would enable true and fair financial statements to be prepared and audited.

Section 588E(4)A of the Act states that in the event of recovery proceedings, a failure by the company to comply with Section 286(1) carries a presumption that the company was insolvent for the relevant period.

I note this Report was prepared from the books and records made available by the Group. The Group was audited by Deloitte for FY20 and the audit report does not identify any deficiency in the Group's books and records. I do not consider there are grounds for a presumption of insolvency pursuant to section 588E(4)A of the Act.

## 4.11 Conclusion on solvency

**In my opinion, the Group will be solvent after the implementation of the Schemes subject to the qualifications in Section 4.2.**

## 5. Valuation method and approach

### 5.1 Introduction

I am required to assess the value of the assets of the Group relative to the debts owing so as to support the calculation of the Implied Value and the expected dividend to the Secured Scheme Creditors and the Unsecured Scheme Creditors, in the differing scenarios set out in Section 7 and Section 8.

In this section I set out:

- My compliance with APES 225 Valuation Services;
- The Valuation Date;
- The premises of value applied;
- The definitions (or standards) of value applied;
- The methods and approaches I view to be most appropriate for my valuations;
- My reasoning for selecting the methods and approaches applied; and
- Limitations to my analysis.

There is no guidance for preparing independent expert's reports in the context of Creditors' Schemes of Arrangement. I note that ASIC has published guidance by way of regulatory guides for, amongst other things, transactions and schemes of arrangements involving members and the preparation of independent expert's reports for transactions involving members of companies. In the absence of any guidance for the preparation of independent expert's reports for creditors' schemes of arrangement, I have had reference to some of ASIC's RGs, where I consider appropriate. Some of the RGs that I have referred to are:

- RG 60 'Schemes of Arrangement' ("RG 60");
- RG 111 'Content of Expert's Reports' ("RG 111"); and
- RG 112 'Independence of Experts'.

There is also no guidance on preparing valuations in the context of independent expert's reports. I have regard to RG 111 and RG 112 in preparing my valuation. Additionally, I have prepared my valuation having regard to the framework, requirements, and principles in the International Valuation Standards (published on 31 July 2019, with an effective date of 31 January 2020).

### 5.2 Compliance with APES 225

I have prepared this Report in accordance with the guidelines set out in APES 225 'Valuation Services'.

For reasons outlined in Section 1.9, this Report constitutes a Limited Scope Valuation Engagement under APES 225, which is defined as<sup>2</sup>:

"... an Engagement or Assignment to perform a Valuation and provide a Valuation Report where the scope of work is limited or restricted. The scope of work is limited or restricted where the Member is not free, as the Member would be but for the limitation or restriction, to employ the Valuation Approaches, Valuation Methods and Valuation Procedures that a reasonable and informed third party would perform taking into consideration all the specific facts and circumstances of the Engagement or Assignment available to the Member at that time, and it is reasonable to expect that the effect of the limitation or restriction on the estimate of value is material. A limitation or restriction may be imposed by the Client or Employer or it may arise from other sources or circumstances. A limitation or restriction may be present and known at the outset

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<sup>2</sup> APES 225 'Valuation Services' Revised July 2019, page 4

of the Engagement or Assignment or may arise or become known during the course of a Valuation Engagement.”

### 5.3 Valuation date

The valuation has been undertaken as at 25 May 2021 (“Valuation Date”).

While I have adopted market-based data, I have also assessed whether changes in market data between the Valuation Date and the Report Date would have had an impact on my conclusions. Based on my assessment, I am of the opinion that the changes in market-based data would not have a material impact on my conclusions.

### 5.4 Premise of value

I have selected the following premises of value:

- Going concern assuming that the Schemes are approved. According to the Australian Accounting Standards Board (“AASB”), going concern means an entity is continuing in operation for the foreseeable future. Under this scenario, it is assumed that the entity has neither the intention nor the necessity of liquidation or of curtailing materially the scale of its operations.
- Going concern assuming the Schemes are not approved. Under this scenario, I assume an orderly liquidation under a controlled insolvency where a liquidator is assumed to sell the business as a whole within a reasonable amount of time<sup>3</sup>.
- Forced sale under an uncontrolled insolvency assuming a piecemeal, entity-by-entity realisation of assets, where a proper marketing period is not practical<sup>4</sup>.

### 5.5 Standard of value

For the purposes of my going concern valuations, I have used ‘fair value’ defined as:

“the price that would be negotiated in an open and unrestricted market between a knowledgeable, willing, but not anxious purchaser, and a knowledgeable, willing, but not anxious [Vendor], acting at arm’s length”.

RG 111.15 advises that fair value should be calculated on the basis of a “knowledgeable and willing, but not anxious, seller”.

ASIC suggests that the expert valuer should not consider any ‘special value’ that might accrue to the acquirer. Therefore, I have not considered special value in forming my opinion.

Special value is the amount that a potential acquirer may be prepared to pay for an asset in excess of the fair value. This premium represents the value to the potential acquirer of various factors that may include potential economies of scale, reduction in competition, other synergies and cost savings arising from the acquisition under consideration not available to likely purchasers generally.

### 5.6 Valuation methods

Below are the commonly used valuation methods that a valuer considers when valuing assets or securities:

- The discounted cash flow method;
- The capitalisation of earnings method, capitalising a level of earnings or cash flows, using an appropriate earnings/capitalisation multiple;

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<sup>3</sup> International Valuation Standards 104 ‘Bases of Value’ (2019), paragraph 160

<sup>4</sup> Ibid, paragraph 170

- The net assets method, being the amount available for distribution to security holders on an orderly realisation of assets;
- Any recent genuine offers received by the target for any business units or assets as a basis for the valuation of those business units or assets. This method is typically used as a cross-check to any of the above methods; and
- The quoted market price method for the listed securities when there is a liquid and active market. This method is typically used as a cross-check to any of the above methods.

Each of the above methods may be appropriate in certain circumstances. The decision as to which method to apply generally depends on the nature of the business being valued, the availability of appropriate information, and the method most commonly adopted in valuing such a business. Further details on these methods are set out in Appendix G of this Report.

A valuer is not prescribed the method(s) they should use. The decision as to which method to use lies with the expert based on the expert's skill and judgement and after considering the unique circumstances of the entity or asset being valued. In general, an expert would have regard to valuation theory, the accepted and most common market practice in valuing the entity or asset in question, and the availability of relevant information.

Different methods are appropriate for valuing particular companies, based on the individual circumstances of that company and available information.

## 5.7 Valuation methods

In the selection of the appropriate valuation method to apply, I have considered the following:

- The methods set out above at Section 5.6;
- The premise of value of the Group. That is, whether the Group is assumed to continue as a going concern or not in each of my valuation scenarios;
- The historical financial results of the Group, the Group's strategy and financial projections, and other tax and legal documentation provided by Management;
- Discussions held with Management and their advisors in order to understand the business, as well as its historical and projected financial performance;
- The financial projections prepared by Management (i.e. the Long Term Forecast);
- A review of publicly available valuation benchmarks, comparable listed company information, and comparable company transactions; and
- A review of, and analysis on, industry and economic papers regarding historical and anticipated performance of the industry (refer to Appendix J).

### 5.7.1 Going concern scenarios

I have adopted the capitalisation of earnings method as the primary method to estimate the Enterprise Value ("EV") of the Group. I have selected this method because the Group:

- Is relatively mature;
- Has a track record of positive EBITDA over the last 10 years;
- Is forecast to be profitable in FY21 to FY23; and
- Has sufficiently comparable listed companies in the market from which to derive benchmark multiples.

As a cross-check, I have applied the discounted cash flow method using the financial projections provided by Management.

I have selected the discounted cash flow as a cross check because:

- Management has prepared cash flow projections for FY21 to FY23 (i.e. the Long Term Forecast). It is preferable to use a longer forecast period of five to 10 years. I understand that longer term projections are not available;
- The Long Term Forecast includes a change in the growth profile of the Group, with rapid revenue growth in FY21 of 29.7%, followed by lower (but still material) further revenue growth in FY22 and FY23 respectively; and
- The Long Term Forecast includes material capital expenditure in FY21 to FY23, required to achieve the performance improvements, adding additional uncertainty.

In my calculation of the expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors if the Scheme Companies were to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act, I have considered two scenarios. The first scenario applies an 'Orderly Liquidation' premise of value, which is defined under International Valuation Standards ("IVS") 104 'Bases of Value' ("IVS 104") paragraph 170.1 as:

"An orderly liquidation describes the value of a group of assets that could be realised in a liquidation sale, given a reasonable period of time to find a purchaser (or purchasers), with the seller being compelled to sell on an as-is, where-is basis."

### 5.7.2 Uncontrolled Insolvency Scenario

In the second of my two scenarios, in which the Scheme Companies are wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act, I have applied a 'Forced Sale' premise of value, which is characterised in IVS 104 paragraph 170.1 as being "often used in circumstances where a seller is under compulsion to sell and that, as consequence, a proper marketing period is not possible".

In this scenario, I have drawn upon my experience in undertaking formal external administration engagements, specifically, voluntary administrations and receiverships, when reviewing the projections of the expected realisable values (as opposed to stated book values) to the classes of the Group's assets.

## 5.8 Limitations

By its very nature, the formulation of a valuation assessment necessarily contains significant uncertainties, and the conclusions arrived at in many cases will be subjective and dependent on the exercise of professional judgment. Therefore, there is no indisputable value and I normally express my valuation opinion as falling within a likely range.

## 6. Valuation assuming Schemes approved

### 6.1 Overview and findings

In this section of the Report, I summarise my valuation research, assumptions, and calculations in applying the capitalisation of earnings method as my primary method and discounted cash flow method as my cross-check.

The table below summarises my estimate of EV under the capitalisation of earnings method assuming the Schemes are put into effect as proposed:

**Table 16: Valuation using the capitalisation of earnings method (Schemes are approved)**

\$ million	Low	High	Middle
Future maintainable earnings (EBITDA)	115.9	115.9	115.9
EBITDA multiple (no control) (times)	3.4x	3.6x	3.5x
<b>EV</b>	<b>394.2</b>	<b>417.4</b>	<b>405.8</b>

Source: S&P CapitalIQ, FTI Consulting analysis

**Based on my analysis (detailed further below), it is my opinion that the fair value of the EV of the Group is between \$394.2 million and \$417.4 million.**

For the purposes of calculating the Implied Value or expected dividend to the Secured Scheme Creditors and Unsecured Scheme Creditors in Section 7.2 and Section 8.4, I have used the mid-point of this range, being an EV of \$405.8 million.

Based on my analysis (detailed further below), under the discounted cash flow method, which I have used as a cross-check to the capitalisation of earnings method detailed above, I have estimated the fair value of the EV of the Group as being between \$376.5 million and \$444.9 million. This supports my valuation under the capitalisation of earnings method.

### 6.2 Capitalisation of earnings method

The capitalisation of earnings method estimates the value of a business by multiplying an estimate of expected earnings by a pricing multiple. The multiple should reflect the business' outlook including future growth prospects, risks, the industry's outlook, investor required returns and expectations, and other factors.

The capitalisation of earnings method requires assessments of:

- Expected earnings; and
- A capitalisation multiple, which may be derived by reference to earnings multiples implied by the share prices of selected comparable listed companies, or by reference to prices paid for comparable companies in merger and acquisition transactions.

The capitalisation of earnings method often considered a surrogate for the discounted cash flow method, where growth and risk assumptions explicitly reflected in the discounted cash flow are instead implicitly captured in a single earnings multiplier.

The capitalisation of earnings method results in estimates of the debt-free, cash-free value of the Group's business, also referred to as its EV.

### 6.3 Expected earnings

#### 6.3.1 Overview

My capitalisation of earnings valuation analysis is based on a capitalisation of expected EBITDA.

I have selected EBITDA in preference to EBIT because EBIT is affected by depreciation and amortisation policies, which may be different between the Group and the selected comparable listed companies used to derive capitalisation multiples.

In order to analyse the underlying financial performance of the Group's business and to estimate a measure of maintainable earnings for the application of a capitalisation multiple, EBITDA should be adjusted in order to:

- Exclude the impact of nonoperating items, i.e. income or expenditure that does not relate to the normal operations of the business, which may be, for example:
  - Discretionary in nature; or
  - Related to surplus assets or liabilities; and
- Exclude the impact of non-recurring items, i.e. income or expenditure of a once-off or abnormal nature.

### 6.3.2 Historical EBITDA

As set out in Section 4.5, the Group reports Adjusted EBITDA ("Adjusted EBITDA") for FY17 to FY20 that excludes significant items such as:

- Recapitalisation/restructuring costs (including employee and related costs);
- Impairments;
- Legal provisions; and
- Once-off onerous expenses.

Based on my review of these items, as disclosed in the annual financial statements, and from my discussions with Management, I consider that adjustments to exclude these items are appropriate because they are not expected to occur after the Schemes are approved.

The Group commenced reporting under AASB 16 'Leases' ("AASB 16") in FY19. AASB 16 came into effect on 1 January 2019. I have adjusted EBITDA for FY11 to FY18 to reflect AASB 16 for comparability to FY19 and FY20 earnings reported by the Group. The impact of AASB 16 is to increase reported EBITDA because lease expenses are instead recorded as depreciation and finance charges.

I have also made two further adjustments to the Adjusted EBITDA reported by Management ("FTI Adjusted EBITDA"):

- **Gain on sale of assets:** Management have advised they expect gain on sale of assets to be approximately \$3.0 million on average going forward. I have adjusted historical gain on sales of assets to be \$3.0 million in each period; and
- **Value-added tax ("VAT") write-off:** There was an adjustment for VAT write-offs in FY13 to FY18 of approximately \$4.0 million included in Adjusted EBITDA. Management has indicated they do not expect the VAT write-off to occur in future years. I have therefore excluded these amounts in historical periods.

### 6.3.3 Analysis of FTI Consulting Adjusted EBITDA

Below is a summary of FTI Consulting Adjusted EBITDA and the resulting implied EBITDA margins:



**Table 17: Analysis of FTI Adjusted EBITDA**

	[A]	[B]	[C]	[D]	[E]	[F]	[G] = [C+D-E+F]	[H]=[G/A]
Period	Revenue (\$'m)	Revenue growth (%)	Adjusted EBITDA (\$'m)	AASB 16 Adj. (\$'m)	Adj. for gain on sale (\$'m)	VAT write-off (\$'m)	FTI Adj. EBITDA (\$'m)	FTI Adj. EBITDA margin (%)
FY11A	2,020.3	n/a	356.3	37.7	0.2	-	393.8	19.5%
FY12A	2,010.0	(0.5%)	321.9	32.3	0.1	-	354.1	17.6%
FY13A	1,222.9	(39.2%)	107.2	35.8	15.2	1.4	129.3	10.6%
FY14A	866.6	(29.1%)	31.4	24.7	4.6	4.5	56.0	6.5%
FY15A	735.2	(15.2%)	(0.1)	21.8	(0.9)	4.8	27.4	3.7%
FY16A	642.4	(12.6%)	32.0	18.2	5.9	2.9	47.1	7.3%
FY17A	739.1	15.0%	43.1	15.8	3.6	3.3	58.5	7.9%
FY18A	770.2	4.2%	80.7	25.7	4.9	2.9	104.4	13.6%
FY19A	745.0	(3.3%)	87.3	-	3.8	-	83.5	11.2%
FY20A	657.3	(11.8%)	60.1	-	2.8	-	57.3	8.7%
FY21F	852.8	29.7%	115.9	-	n/a	-	115.9	13.6%
FY22F				Commercially Sensitive				
FY23F				Commercially Sensitive				

Source: the Group's annual reports, FTI Consulting analysis

As in previous sections of this Report, I have removed information relating to FY22 and FY23 from Table 17 above as it is commercially sensitive and confidential in nature.

I make the following comments in relation to the table above.

### 6.3.4 Revenue

Prior to FY14, the Group generated over \$1.2 billion in revenue, with revenue decreasing to \$657.3 million by FY20.

In mid-FY12, at the end of the global mining boom caused by the industrialisation and urbanisation of the Chinese economy<sup>5</sup>, mining companies reduced exploration programs and capital expenditure budgets, which reduced the revenue generated by the Group. The contraction of the mining industry continued throughout FY13 and the first half of FY14, with volatility in the commodities markets also affecting the Group's financial performance. These lower levels of mineral exploration, development and production continued through to the end of FY14, though the rate of reduction slowed during the second half of FY14, stabilising at lower levels<sup>6</sup>.

Whilst revenue increased in FY17 and FY18, it decreased slightly in FY19 and FY20.

Revenue increased in FY17 and FY18 due to strengthening sentiment in the mining industry, resulting in improved spending on exploration and development:

- In FY17, Drilling Services revenue increased by 11.8% due to improvements in volume (surface coring and reverse circulation/rotary in the USA, and increases in existing customers' programs in LAM and EMEA) and foreign exchange rates<sup>7</sup>; and
- In FY18, Drilling Services revenue increased by 6.6%, primarily driven by volume (driven by surface coring and underground coring work in the Australia, EMEA, and LAM)<sup>8</sup>.

<sup>5</sup> RBA Speech 'After the Boom', 13 September 2016

<sup>6</sup> The Group's annual reports

<sup>7</sup> BLY FY17 Annual Report

<sup>8</sup> BLY FY18 Annual Report

Revenue decreased in FY19 due to significant mergers and acquisitions within the mining industry which resulted in delayed mineral exploration projects and reduced overall market activity<sup>9</sup>:

- Drilling Services revenue decreased by 3.2% because of lower volume, primarily due to existing customers cancelling or significantly reducing their programs; and
- Products revenue decreased by 3.3% due to lower revenues generated from coring tooling and production tooling relative to the prior period.

Revenue decreased by 11.8%, or \$87.7 million in FY20, primarily due to the impacts of COVID-19 which immediately caused revenues and earnings to materially decrease. The initial impacts of COVID-19 in March 2020 and April 2020 were in the forms of project cancellations, deferrals, and stoppages<sup>10</sup>:

- Drilling Services revenue decreased by 11.6% in FY20, driven by the COVID-19 pause through the second and third quarters of FY20 as governments and customers restricted activities while developing safe work practices to protect employees from the transmission of COVID-19. Canada, Australia, Asia, and Africa recovered more quickly from COVID-19 restrictions than the United States, Chile, and Argentina.
- Products revenue decreased by 12.1% in FY20. Revenues generated from capital equipment, spares, and production tooling were the main drivers contributing to weaker revenue in FY20 relative to the previous financial year. The decrease in revenues across these product lines were primarily a result of decreased demand in the second and third quarters of FY20 due to COVID-19, which drove governments and customers to delay project activity while they implemented safe work practices to reduce the transmission of COVID-19.

At Section 4.5.3 of this Report I set out the Company's year-to-date ("YTD") March 2021 financial performance. According to Management, the Group has experienced the strongest start to a year since FY14, with revenue increases of approximately 22% as compared to the same period in FY20.

### 6.3.5 Margins

The Group's historical margins have fluctuated and generally decreased over the period from FY11 to FY17 (in line with the decrease in revenue). According to Management, the decrease in margins was due to<sup>11</sup>:

- Increased competition, particularly for Drilling Services. In order to remain competitive, the Group reduced prices without a corresponding decrease in expenses, which put pressure on margins. This was exacerbated by periods of low utilisation rates; and
- Decreasing volumes, resulting in lower revenue. The Group was unable to reduce costs in line with reduced demand.

Margins improved in FY18 and FY19 due to cost savings from key improvement initiatives as well as improved margins on fixed costs. Margins increased in FY18 primarily driven by disciplined cost controls (both in variable and fixed SG&A)<sup>12</sup>:

- In Drilling Services, Management focused on improving meters per shift, non-billable hours and revenue per shift while reducing variable and fixed costs to maintain a flat cost structure from a percentage of revenue perspective; and
- In Products, Management operated manufacturing facilities at lean levels, only producing what was required to meet market demand.

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<sup>9</sup> BLY FY19 Annual Report

<sup>10</sup> BLY FY20 Annual Report

<sup>11</sup> BLY annual reports

<sup>12</sup> Ibid

Margins in FY19 were lower than FY18. According to Management, this was mainly attributable to revenues decreasing for Drilling Services (from \$533.6 million in FY18 to \$516.3 million in FY19)<sup>13</sup>.

Margins decreased in FY20 due to the drop in activity levels resulting from the emergence of COVID-19<sup>14</sup>. The Group implemented a number of measures to reduce the impact of the lower activity levels, however, it was not able to mitigate the full impact of COVID-19 across regions<sup>15</sup>:

- The profit margin of Drilling Services in FY20 was significantly lower than prior years. According to the Group, the decrease in margins was primarily attributable to COVID-19 impacts and an inability to reduce costs commensurately, as governments and customers delayed projects to develop plans to support safe work practices and protect employees and communities from the transmission of COVID-19; and
- The margin in FY20 for Products increased from 6.4% in FY19 to 8.1% in FY20. Product volume decreases were offset by benefits achieved from cost control in both variable and fixed SG&A, including COVID-19 related payroll reductions implemented through the first half of 2020, and material cost improvements. The Group also continued to operate manufacturing facilities at lean levels, only producing what was required to meet market demand.

EBITDA margins are projected by the Group to improve in FY21 to FY23. At Section 4.5.3 of this Report I discuss YTD March 2021 performance. Management has advised:

- Q1 2021 Adjusted EBITDA was \$17 million higher year-over-year (\$26 million Q1FY21 v.s. \$9 million Q1FY20) and \$6 million higher than the FY21 Group Budget; and
- April results were in line with the first quarter outperformance.

### 6.3.6 Forecast revenue and FTI Adjusted EBITDA

Table 18 below summarises the projected revenue and FTI Adjusted EBITDA assuming that the Scheme is approved (with a comparison to FY19 and FY20). As discussed in Section 1.6, I have removed certain information relating to FY22 and FY23 as it is commercially sensitive and confidential in nature, however, I have still provided a high-level description of the Group's forecasts in both of these periods.

**Table 18: Forecast revenue and FTI Adjusted EBITDA**

Item	FY19A	FY20A	FY21F	FY22F	FY23F
Revenue (\$'m)	745.0	657.3	852.8		
Revenue growth (%)	n/a	(11.8%)	29.7%		
Revenue growth FY19A to FY21F (%)	n/a	n/a	14.5%	Commercially Sensitive	
FTI Adjusted EBITDA (\$'m) <sup>16</sup>	83.5	57.3	115.9		
FTI Adj. EBITDA Margin (%)	11.2%	8.7%	13.6%		

Source: Long Term Forecast, the Group's annual reports, FTI Consulting analysis

I make the following comments in relation to the table above:

- Management are forecasting an increase in revenue from FY20 to FY21 of approximately 30%. According to Management, growth will be underpinned by expected growth in demand for commodities, with:
  - Continuing trends towards green energy production and consumption, driving demand for key commodities such as copper;
  - Increased traction in electrification of the world's vehicle fleets;

<sup>13</sup> BLY FY19 Annual Report

<sup>14</sup> BLY FY20 Annual Report

<sup>15</sup> Ibid

<sup>16</sup> Adjusted EBITDA is generated from the Adjusted EBITDA reported by Management with additional adjustments for gain on sale of fixed assets and VAT write-off (where applicable)

- Continued industrialisation and urbanisation of developing economies, which are expected to support structural increases in demand for minerals and metals broadly in line with global gross domestic product (“GDP”);
- Improving cash and balance sheet strength of key customers;
- Reduced reserve to production ratios at many gold mines, and diminishing opportunities for major producers to replace reserves through acquisition, that will underpin growth in exploration drilling services; and
- Growing attractiveness of the commodities/mining sector as an investment asset class.

I provide more analysis of the growth in the drilling services industry in Appendix J of this Report.

- FY20 revenue was impacted by COVID-19. The FY21 forecast revenue of \$852.8 million is 14.5% higher than FY19 revenue;
- Management are forecasting further revenue growth in both FY22 and FY23, albeit at a lower level than what has been forecast for FY21. This revenue growth is above levels recorded during FY18 (noting the Group recorded a reduction in revenue in both FY19 and FY20), but is broadly in line with the average forecast revenue growth for my identified comparable listed companies (excluding outliers) (see Section 6.4.1);
- Management are forecasting gross margins of approximately 20%, which is similar to the gross profit margins in FY19 of 18.6% (see Appendix K);
- SG&A is projected to increase in FY22 and FY23 by a growth rate slightly above recent inflation; and
- This translates into further improvements in FTI Adjusted EBITDA margins in both FY22 and FY23, driven by significantly higher volumes, cost savings from key improvement initiatives, and cost controls (both in variable and fixed SG&A).

### 6.3.7 Normalised level of earnings based on historical financial performance

The table below summarises revenue and FTI Adjusted EBITDA for FY17 to FY20:

**Table 19: Normalised level of earnings based on historical financial performance**

Item	FY17A	FY18A	FY19A	FY20A
Revenue (\$'m)	739.1	770.2	745.0	657.3
Revenue growth (%)	n/a	4.2%	(3.3%)	(11.8%)
Avg. revenue for FY18A and FY19A (\$'m)	n/a	n/a	757.6	n/a
FTI Adjusted EBITDA (\$'m)	58.5	104.4	83.5	57.3
Avg. FTI Adj. EBITDA FY18A and FY19A (\$'m)	n/a	n/a	94.0	n/a
Growth in FTI Adj. EBITDA (%)	n/a	78.5%	(20.0%)	(31.4%)
FTI Adj. EBITDA Margin (%)	7.9%	13.6%	11.2%	8.7%
Avg. FTI Adj. EBITDA Margin FY18A and FY19A (%)	n/a	n/a	12.4%	n/a

Source: the Group's annual reports, FTI Consulting analysis

FTI Adjusted EBITDA in FY20 of \$57.3 million was 31.4% lower than FY19 FTI Adjusted EBITDA of \$83.5 million.

In assessing historical normalised EBITDA, I have placed less emphasis on:

- FY17 because it included the impacts of a significant restructure; and
- FY20 because revenue and EBITDA were significantly impacted by COVID-19.

I consider FY18 and FY19 to be instructive for my assessment of a normalised level of historical EBITDA for the Group. I have regard to the historical financial performance over a two-year period rather than a single year because the Group's financial performance fluctuates with the cyclical movement in commodity prices and mining industry in general.

As set out at Section 6.3.3:

- The average revenue in FY18 and FY19 was \$757.6 million;
- The average FTI Adjusted EBITDA for FY18 and FY19 was \$94.0 million;
- The average FTI Adjusted EBITDA margin for FY18 and FY19 was 12.4%; and
- The FTI Adjusted EBITDA and FTI Adjusted EBITDA margin decreased in FY19, due to lower Drilling Services revenue.

I have selected the FY21 forecast FTI Adjusted EBITDA as my estimated maintainable earnings for my valuation of the business. I consider the FY21 forecast FTI Adjusted EBITDA to be reasonable because:

- From first principles, the value of an asset or business is a result of the future cash flows it can generate;
- FY20 FTI Adjusted EBITDA was impacted by COVID-19 and therefore is not a reliable indicator of future EBITDA;
- FY18 and FY19 FTI Adjusted EBITDA are somewhat dated. Additionally, the comparable listed companies did not adopt AASB 16 (or alternative applicable international standards, e.g. IFRS 16) in FY18 and some companies only adopted AASB 16 in FY20; and
- The strong actual year to date performance of the Group in Q1FY21 supports the forecast improvement in both revenue and EBITDA.

While I believe FY21 FTI Adjusted EBITDA to be the best indicator of maintainable earnings, I have also cross-checked my valuation by reference to the implied multiples using historical EBITDAs.

## 6.4 Capitalisation multiple

### 6.4.1 Overview

Capitalisation multiples can be applied to either estimates of future earnings or historical earnings, adjusted for any abnormal or non-recurring items.

The appropriate capitalisation multiple to be applied to earnings is usually derived from:

- The stock market trading in shares of comparable listed companies; or
- Transactions involving the acquisition of comparable companies.

I have reviewed the share market evidence of selected comparable listed companies from my research. I have not been able to identify sufficiently comparable transactions in the last three years.

I selected listed companies that are primarily involved in drilling services in the mineral resources industry. In selecting a subset from these potentially comparable listed companies, I have focused on companies which have comparable operational characteristics to the Group.

I extracted share price data, EVs, historical and projected revenue, earnings and consensus broker projections (if available) at the Valuation Date of the comparable listed companies from S&P CapitalIQ (a commonly used share market data subscription service) to calculate the figures.

I have calculated historical and forecast EBITDA multiples as at the Valuation Date for my identified comparable listed companies as follows:

- EV, being the market capitalisation plus net debt; divided by
- EBITDA. For my analysis, I have relied on forecast FY21 FTI Adjusted EBITDA as my primary valuation. I have cross-checked the result by reference to the implied historical multiples.

The table below summarises my analysis of my calculated implied multiples of the comparable listed companies.

**Table 20: Summary of comparable listed company multiples**

Company	Ticker	Financial year end	Rep. CCY	\$ million		EBITDA Multiple (IFRS 16)						
				FY20 Revenue	Market value of equity	EV	FY19A	FY20A	LTM	FY21F	FY22F	FY23F
Orbit Garant Drilling Inc.	TSX:OGD	30-Jun-20	CAD	101.3	48.9	81.7	n/c	9.1x	5.7x	4.9x	4.6x	n/a
Foraco International SA	TSX:FAR	31-Dec-20	USD	207.1	110.2	261.4	8.9x	7.7x	7.6x	n/a	n/a	n/a
Geodrill Limited	TSX:GEO	31-Dec-20	USD	82.4	98.4	97.0	4.9x	5.1x	3.7x	3.4x	3.4x	n/a
Swick Mining Services Ltd.	ASX:SWK	30-Jun-20	AUD	103.3	47.8	66.7	n/c	3.7x	3.7x	n/a	n/a	n/a
Perenti Global Limited	ASX:PRN	30-Jun-20	AUD	1,412.6	471.9	1,018.4	n/c	2.5x	2.8x	2.6x	2.5x	2.3x
Capital Limited	LSE:CAPD	31-Dec-20	USD	135.0	214.8	184.7	6.6x	5.2x	5.2x	3.6x	2.8x	2.9x
AJ Lucas Group Limited	ASX:AJL	30-Jun-20	AUD	101.3	33.5	128.1	n/c	5.4x	4.5x	n/a	n/a	n/a
Mitchell Services Limited	ASX:MSV	30-Jun-20	AUD	121.2	76.7	104.1	n/c	3.3x	3.6x	3.3x	2.6x	2.6x
Major Drilling Group Int. Inc.	TSX:MDI	30-Apr-20	CAD	294.6	857.2	847.0	n/c	16.7x	16.8x	14.3x	9.5x	7.1x
<b>Memo</b>												
Mean							6.8x	6.5x	6.0x	5.3x	4.2x	3.7x
Median							6.6x	5.2x	4.5x	3.5x	3.1x	2.8x
Median (excl. outliers)							6.6x	5.2x	4.1x	3.4x	2.8x	2.6x

Source: S&P CapitalIQ, FTI Consulting analysis. Note: n/c – not calculated because not reported under IFRS 16, n/a – not available

In selecting the EBITDA multiple ranges for my valuation, I have considered:

- That the Group is considerably larger in terms of revenue than most of the comparable listed companies. Larger companies tend to command higher multiples;
- Whilst the Group generates a significant portion of its income in North America, it is more diversified than most of the comparable listed companies who generate income in fewer geographies, e.g. only in Australia;
- The Group also generates approximately 25% of revenue in the Asia Pacific region;

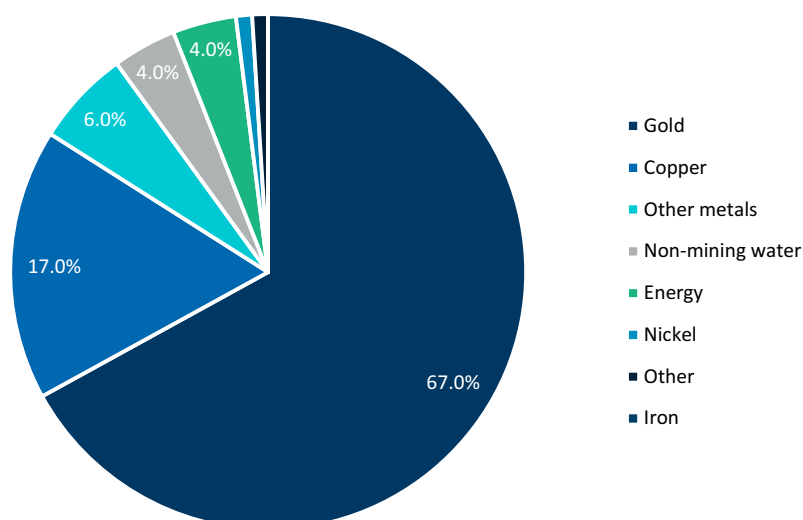
**Table 21: Group revenue by region**

%	FY17A	FY18A	FY19A	FY20A
North America	45.8%	45.9%	45.8%	44.3%
Asia Pacific	21.2%	21.9%	23.1%	25.9%
Latin America	14.7%	14.3%	13.1%	10.2%
EMEA	18.3%	17.9%	18.0%	19.5%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Source: the Group's annual reports

- The Group generates approximately 84% of its revenue from drilling services provided to the gold and copper drilling industry. Whilst I have identified companies that drill for coal, I have placed less reliance on these companies and have relied more heavily on companies who drill for gold and copper;

Figure 5: FY20A revenue by commodity



Source: the Group's annual reports

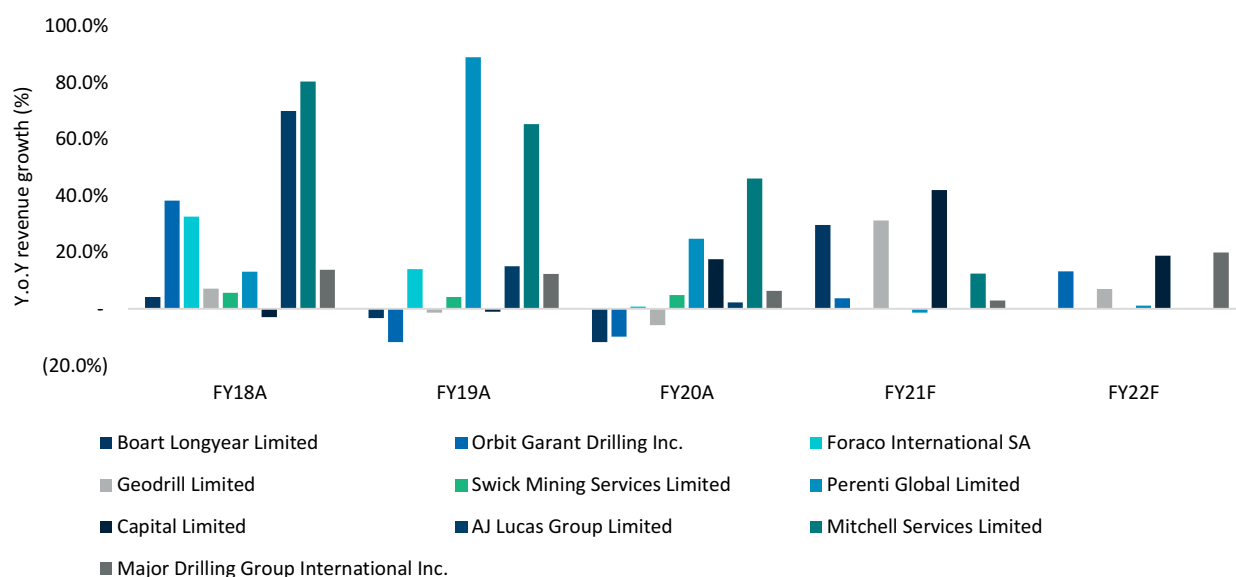
- The Group has a financial year end date of 31 December. Therefore, its year on year revenue is not comparable to companies with 30 June or 30 April financial year end dates, in particular in FY20 which was impacted by COVID-19;
- The Group's growth in revenue and EBITDA, in particular the significant decrease in FY20 and projected increase in FY21. I have compared the historical and forecast revenue and EBITDA growth of the comparable listed companies, and the Group; and

Table 22: Comparable listed company growth in revenue and EBITDA

Company	Y.o.Y revenue growth (%)					Y.o.Y EBITDA growth (%)			
	FY18A	FY19A	FY20A	FY21F	FY22F	FY20A	FY21F	FY22F	FY23F
Boart Longyear Limited	4.2%	(3.3%)	(11.8%)	29.7%	CS	(40.8%)	102.4%	CS	CS
Orbit Garant Drilling Inc. ("Orbit")	38.3%	(11.7%)	(9.8%)	3.8%	13.3%	(14.0%)	87.8%	5.4%	n/a
Foraco International SA ("Foraco")	32.6%	14.1%	0.8%	n/a	n/a	15.8%	n/a	n/a	n/a
Geodrill Limited ("Geodrill")	7.2%	(1.3%)	(5.7%)	31.2%	7.0%	(3.9%)	49.4%	1.0%	n/a
Swick Mining Services Limited ("Swick")	5.7%	4.3%	4.9%	n/a	n/a	(19.8%)	n/a	n/a	n/a
Perenti Global Limited ("Perenti")	13.2%	89.0%	24.8%	(1.4%)	1.1%	59.6%	(3.8%)	2.8%	9.1%
Capital Limited ("Capital")	(2.9%)	(1.0%)	17.5%	42.1%	18.8%	26.7%	46.8%	25.0%	(0.4%)
AJ Lucas Group Limited ("AJ Lucas")	70.0%	15.0%	2.3%	n/a	n/a	49.4%	n/a	n/a	n/a
Mitchell Services Limited ("Mitchell Services")	80.4%	65.3%	46.0%	12.5%	0.2%	27.3%	2.9%	26.6%	(2.7%)
Major Drilling Group International Inc. ("Major")	13.9%	12.4%	6.3%	2.9%	20.0%	23.4%	17.3%	50.0%	33.0%

Source: S&P CapitalIQ, FTI Consulting analysis. Note: CS refers to information removed due to being commercially sensitive and confidential in nature

**Figure 6: Comparable listed company growth in revenue**



Source: S&P CapitalIQ, FTI Consulting analysis. Note: FY22 revenue growth for Boart Longyear Limited has been removed due to being commercially sensitive and confidential in nature

- All comparable listed companies and the Group have adopted AASB 16 (or international equivalents) since FY19.

In Appendix I, I provide comments on the specific comparable listed companies selected.

## 6.4.2 Enterprise value

I have capitalised the FY21 FTI Adjusted EBITDA by an EBITDA multiple in the range of 3.4 times and 3.6 times (on a minority interest basis).

In selecting this multiple range, I have considered my analysis summarised above, and in particular:

- The growth outlook for the Group compared to the growth outlook for the selected comparable listed companies;
- The average forecast FY21 EBITDA multiple for Orbit, Geodrill, Perenti, Capital and Mitchell Services of approximately 3.5 times. I have not included Major because I consider it to be an outlier. Additionally, I have not included the other comparable listed companies because there are no consensus forecasts available;
- The average forecast FY21 EBITDA multiple for Orbit, Geodrill, Perenti and Capital of approximately 3.6 times. I have calculated an average excluding Mitchell Services because it operates in the coal industry, which is not comparable to the Group; and
- The forecast FY21 EBITDA multiple for Geodrill of 3.4 times. Geodrill has a particularly similar growth forecast in revenue to the Group and has a 31 December financial year end.

The table below summarises my estimate of EV assuming the Scheme is approved:

**Table 16: Valuation using the capitalisation of earnings method (Scheme is approved)**

\$ million	Low	High	Middle
Future maintainable earnings (FTI Adjusted EBITDA)	115.9	115.9	115.9
EBITDA multiple (no control) (times)	3.4x	3.6x	3.5x
<b>EV</b>	<b>394.2</b>	<b>417.4</b>	<b>405.8</b>

Source: S&P CapitalIQ, FTI Consulting analysis



**Table 23: Cross-check to implied historical multiples**

\$ million	Low	High	Middle
Normalised historical EBITDA <sup>17</sup>	94.0	94.0	94.0
Implied EBITDA multiple (times)	4.2x	4.4x	4.3x
FTI Adjusted FY20 EBITDA	57.3	57.3	57.3
Implied EBITDA multiple (times)	6.9x	7.3x	7.1x
FTI Adjusted FY19 EBITDA	83.5	83.5	83.5
Implied EBITDA multiple (times)	4.7x	5.0x	4.9x

Source: S&P CapitalIQ, FTI Consulting analysis

The implied EBITDA multiples above are on a minority interest basis.

The lower FY20 FTI Adjusted EBITDA, due to the impact of COVID-19, results in a higher capitalisation multiple range.

I consider the implied EBITDA multiples of historical normalised EBITDA to be reasonable because the FY19 EBITDA multiple for Geodrill is 4.9 times. I have referred to Geodrill's FY19 multiple because it has a similar growth profile to the Group. I have not relied on implied multiples using FY18 information because the Group and the comparable listed companies did not adopt AASB 16 (or international equivalents). Additionally, the implied FY18 multiples are dated.

I considered the reasonableness of the implied FY20 EBITDA multiple by reference to the EBITDA multiples of comparable listed companies that experienced a similar impact in FY20 due to COVID-19. In my view, the implied multiples are reasonable by reference to:

- Orbit's FY20 (30 June) multiple of 9.1 times and last-twelve-months ("LTM") multiple of 5.7 times (average of 7.4 times);
- Foraco's FY20 EBITDA multiple of 7.7 times; and
- Geodrill's FY20 EBITDA multiple of 5.1 times.

I have not included Swick and Perenti in my analysis because they reported as at 30 June 2020 and had positive growth in FY20, whereas the Group had a 11.8% decrease in revenue. I have not included Capital because its revenue grew in FY20, whereas the Group had a 11.8% decrease.

### 6.4.3 Other assumptions

Under this valuation I have not included:

- **A control premium:** A control premium is an amount that a buyer is willing to pay in excess of the fair value of shares in order to gain a controlling ownership interest. A buyer who pays a control premium gains access to the firm's cash flows, day-to-day operations, and control of the firm's strategy. I have not included a control premium in this scenario because the value of the business will be distributed amongst holders, none of whom have a controlling interest.
- **Historical tax losses carried forward:** Tax losses carried forward from prior years can be used to offset future profits, and therefore, lower future income taxes. This has the effect of increasing the value of a business. I have not included tax losses carried forward because I understand that Management may elect to utilise historical tax losses to offset any potential cancellation of debt income.

<sup>17</sup> Refer to the Avg. FTI Adj. EBITDA FY18A and FY19A in Table 19 for my calculation of an appropriate normalised level of historical EBITDA for the Group

## 6.5 Discounted cash flow cross-check

### 6.5.1 Overview

I have cross-checked the range of EVs resulting from my primary valuation approach, the capitalisation of earnings method, to that derived using a discounted cash flow method.

The discounted cash flow method assesses the value of a business by projecting its future cash flows and then discounting them to their present value at the valuation date by applying an appropriate discount rate. The discount rate applied is generally based on the opportunity cost of capital to the investor, reflecting the return that an investor expects to obtain from investments with equivalent risks. The discount rate reflects the time value of money and the risk profile of the cash flow stream being valued.

**Based on my analysis (detailed further below), under the discounted cash flow method, which I have used as a cross-check to the capitalisation of earnings method detailed above, I have estimated the fair value of the EV of the Group as being between \$376.5 million and \$444.9 million. This supports my valuation under the capitalisation of earnings method.**

### 6.5.2 Cash flows

Management has prepared a three-year forecast for FY21 to FY23 (i.e. the Long Term Forecast). The table below summarises the forecast revenue, earnings, capital expenditure and change in working capital. As in previous sections, I have removed information pertaining to FY22 and FY23 from Table 24 below as it is commercially sensitive and confidential in nature.

**Table 24: Summary of Long Term Forecast**

\$ million	FY20A	FY21F	FY22F	FY23F
Revenue	657.3	852.8		
Revenue growth (%)	n/a	29.7%		
FTI Adjusted EBITDA (excludes restructuring costs) <sup>18</sup>	57.3	115.9	Commercially Sensitive	
FTI Adjusted EBITDA growth (%)	n/a	102.5%		
Capital expenditure	(32.1)	(46.9)		
Capital expenditure % of revenue	(4.9%)	(5.5%)	Commercially Sensitive	
Working capital	209.2	237.2		
Working capital % of revenue	31.8%	27.8%		

Source: Long Term Forecast, FTI Consulting analysis

In performing the discounted cash flow analysis, I have:

- Relied on the Long Term Forecast prepared by Management;
- Excluded the period from January 2021 to April 2021 because these months are before the Valuation Date;
- Adopted mid-point discounting, that is, cash flows are assumed to be received in the middle of each cash flow period (i.e. 30 June 2022 for the cash flow period from 1 January 2022 to 31 December 2022);
- Discounted ungeared after-tax cash flows using an after-tax weighted average cost of capital ("WACC");
- Assumed a tax rate of 34%, being the global effective tax rate indicated by Management; and

<sup>18</sup> I have excluded restructuring costs forecast to be incurred between May 2021 and December 2021 in my discounted cash flow analysis in order to make this cross-check comparable to my valuation under the capitalisation of earnings method, which excludes these cash outflows

- Assumed the Group is unable to utilise tax losses carried forward because Management has indicated that the Group may elect to utilise historical tax losses to offset any potential cancellation of debt income.

I have calculated a terminal value at the end of FY23, reflecting the future value of the business at the end of the period for which cash flows are projected. The terminal value is estimated using the Gordon Growth Model based on an assumed consistent future growth rate and discount rate. I have made the following assumptions in calculating the terminal value:

- A 2.5% terminal growth rate, being the expected growth rate anticipated by Management after FY23. I consider this long-term growth rate reasonable by reference to the USA long term inflation target of 2.0%<sup>19</sup>, as most of the Group's revenues are derived in the USA;
- Working capital at 28% of revenue, based on historical levels and the Long Term Forecast;
- That depreciation equals capital expenditure in the terminal period; and
- A discount rate range of between 14.6% and 16.7% (refer to Appendix H).

### 6.5.3 Discount rate

The discount rate used to equate the future cash flows to their present value represents an estimate of the risk adjusted rate of return demanded by an investor. A company's weighted average cost of capital, WACC, is the average of forward-looking estimates of its cost of equity and its cost of debt weighted by the assumed levels of equity and debt, respectively, in its capital structure.

In calculating my estimate of an appropriate discount rate, I have considered:

- The uncertainties of the Group achieving the forecast set out in the Long Term Forecast, in particular the growth in FY21; and
- That the discounted cash flow method includes a control premium, whereas the valuations using the capitalisation of earnings method in this Report do not. I discuss this issue further at Appendix H.

I have calculated a WACC range of 14.6% to 16.7%. My calculations are set out at Appendix H.

### 6.5.4 Value under discounted cash flow method

Table 25 below summarises my discounted cash flow calculations, applying the analysis and assumptions summarised above. With the exception of my calculation of net debt-free cash flows for FY22 and FY23 and my calculation of terminal value, I have removed other commercially sensitive and confidential information from these periods as discussed in Section 1.6.

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<sup>19</sup> The Board of Governors of the Federal Reserve System – 'Why does the Federal Reserve aim for inflation of 2 percent over the longer run?' ([https://www.federalreserve.gov/faqs/economy\\_14400.htm](https://www.federalreserve.gov/faqs/economy_14400.htm))

**Table 25: Enterprise Value estimates under discounted cash flow method**

\$ million	May-21 to Dec-21	FY22F	FY23F	Terminal value
Revenue	568.8			
Revenue growth (%)	n/a			
FTI Adjusted EBITDA	78.2			
FTI Adjusted EBITDA margin (%)	13.8%	Commercially Sensitive		
EBIT	48.5			
EBIT margin (%)	8.5%			
Less: Taxes	(16.5)			
<b>Debt-free earnings after tax</b>	<b>32.0</b>			
Less: Capital expenditures	(31.9)			
Less: Change in net working capital	3.6	Commercially Sensitive		
Add: Depreciation and amortisation	29.8			
<b>Net debt-free cash flows</b>	<b>33.4</b>	<b>28.9</b>	<b>22.2</b>	<b>60.7</b>
<b>Terminal value</b>				
Low (WACC 16.7%)	n/a	n/a	n/a	426.2
High (WACC 14.6%)	n/a	n/a	n/a	500.0
<b>Present value</b>				
Low (WACC 16.7%)	31.7	24.1	15.9	304.8
High (WACC 14.6%)	31.9	24.6	16.5	371.9
<b>Enterprise value</b>				
Low (WACC 16.7%)	376.5	n/a	n/a	n/a
High (WACC 14.6%)	444.9	n/a	n/a	n/a

Source: Long Term Forecast, FTI Consulting analysis

Based on the analysis and assumptions summarised above, I have estimated an EV range of approximately \$376.5 million (16.7% WACC) and \$444.9 million (14.6% WACC), with a mid-point of \$410.7 million.

In my view:

- The valuation range of \$376.5 million to \$444.9 million using the discounted cash flow method supports my valuation range of \$394.2 million to \$417.4 million using my primary valuation approach, the capitalisation of earnings method; and
- The high EV of \$444.9 million (at a WACC of 14.6%) is higher than the range calculated using the capitalisation of earnings method, in part because it may include the impact of an implicit control premium that is not included in my primary approach using the capitalisation of earnings method, noting that this is one of the factors I have considered in my selection of an appropriate company specific risk premium in Appendix H.

## 7. Comparison of outcomes if Schemes are effectuated

### 7.1 Overview and findings

I have been instructed to calculate the return that would be respectively available to the:

- Secured Scheme Creditors, and
- Unsecured Scheme Creditors,

if the Schemes were to be put into effect as proposed.

I have calculated the Implied Value based on the latest financial information provided to me by the Group, dated 30 April 2021.

As a result of my analysis, as detailed below, I have calculated the return respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors, if the Schemes were effectuated as proposed, as being per Table 4.

**Table 4: Schemes effectuated Implied Value summary**

<b>\$ million</b>	<b>Debt</b>	<b>Return</b>	<b>Return (c / \$)</b>
Secured Scheme Creditors	493.6	214.6	43.5
Unsecured Scheme Creditors	302.5	31.9	10.5

Source: the Group, FTI Consulting analysis

### 7.2 Calculation of the Implied Value

#### 7.2.1 Calculation of equity value

The value to be realised by the Secured Scheme Creditors and the Unsecured Scheme Creditors if the Schemes were put into effect as proposed consists of the value of their respective equity interests in the post-Schemes Group. Consequently, I have calculated the Implied Value that would be available to the Secured Scheme Creditors and the Unsecured Scheme Creditors as if they realised their respective equity interests in the post-Schemes Group immediately following the effectuation of the Schemes. For the purposes of this calculation, I have based the equity value of the post-Schemes Group on the EV of the Group as a whole following the implementation of the Schemes (as calculated in Section 6.4.2). This EV does not include a control premium as I am calculating an equity value to be distributed amongst holders, none of whom have a controlling interest.

**Table 26: Equity value if the Schemes are effectuated**

<b>Item</b>	<b>\$ million</b>
<b>EV</b>	<b>405.8</b>
Less: Leases	(40.7)
Add: Cash at bank	29.5
Add: Surplus assets	0.3
Less: External debt	(133.8)
Less: Restructuring costs	(10.8)
<b>Total equity value</b>	<b>250.2</b>

Source: Management accounts, Long Term Forecast, FTI Consulting analysis

For the purposes of calculating the equity value of the Group if the Schemes were put into effect as proposed, I have adjusted for the value of the Group's leases as at 30 April 2021. As a result of AASB 16, the costs associated with these leases are no longer included in the EBITDA that forms the basis for my calculation of EV, and consequently it is necessary to adjust the valuation to reflect these incremental operating expenses.

I have also added \$29.5 million of cash at bank and \$0.3 million of assets held for sale (consisting of three drill rigs) as per the 30 April 2021 management accounts. The value of these assets is not included in the EV calculated above.

I have subsequently subtracted the value of the secured debt not being released under the RSA. This includes amounts outstanding under the PNC ABL, Incremental Financing, and Backstop ABL (\$133.8 million in total) as at 30 April 2021. I have not reflected the implementation of the Exit Financing, as contemplated under the RSA and Restructuring Term Sheet, as this analysis of the Implied Value is conducted as at 30 April 2021, and the specific terms of the Exit Financing, including the total facility size, have not yet been finalised.

I have also reflected \$40.8 million of exceptional restructuring fees (i.e. those fees associated with the current scheme process) due to be incurred under the Long Term Forecast in the period to December 2021, net of cash injection from the initial \$30.0 million drawdown on the Incremental Financing (i.e. total adjustment of \$10.8 million). These exceptional fees will be incurred regardless of whether the Schemes are approved, and are not reflected in the EV of the Group following the implementation of the Schemes as it is calculated on a capitalisation multiple of FTI Adjusted EBITDA, which does not include restructuring costs.

On this basis, the equity value of the Group as a whole if the Schemes were put into effect as proposed has been calculated at \$250.2 million.

## 7.2.2 Calculation of the Implied Value

I have attributed the equity value of the Group based on the Restructuring Term Sheet included in the RSA. In doing so, I have used the claim amounts by each creditor based on the amounts included in the Restructuring Term Sheet, i.e. \$493.6 million for the Secured Scheme Creditors and \$302.5 million for the Unsecured Scheme Creditors as detailed in Table 27 below. I note that these amounts differ (immaterially) to the amounts in the 30 April 2021 management accounts (after making necessary adjustments as per Section 3.2).

I have assigned percentages to each of these claim amounts to calculate their pro rata share of the total equity entitlement based on the treatments in the Restructuring Term Sheet. Following the application of these percentages, the total equity entitlement pool was calculated to be \$566.8 million.

The claimants will be entitled to 98.5% of the new common shares in the Group after the effectuation of the Schemes, based on their respective proportion of the total equity entitlement, with existing equity holders entitled to the remaining 1.5% of new common shares in the Group. In my calculation of the Implied Value, I have not considered the following factors:

- Any participation (or lack thereof) in either the Share Purchase Plan or Creditor Share Purchase Option by either the Secured Scheme Creditors or the Unsecured Scheme Creditors and any related dilution;
- Any dilution to the new common shares from the exercising of the Group's existing warrants and options or New Warrants;
- Any changes to the number of new common shares as a result of share buybacks or share consolidations; and
- The impact of the implementation of the Exit Financing, as contemplated under the RSA and Restructuring Term Sheet, on the Implied Value that may be available to specific creditors within either the Secured Scheme Creditors or the Unsecured Scheme Creditors.

As a result, the equity value in the post-Schemes Group has been allocated amongst the Secured Scheme Creditors and the Unsecured Scheme Creditors as per Table 27 below.

**Table 27: Initial equity distribution if Schemes effectuated**

Item	Claim type	Claim (\$'m)	% of face amount	Equity ent. (\$'m)	New equity (%)	Equity value (\$'m)	Return (c / \$)
<b>Secured creditors</b>							
PNC ABL	All	43.5	n/a	n/a	n/a	n/a	n/a
Incremental Financing	All	30.0	n/a	n/a	n/a	n/a	n/a
Backstop ABL	Principal	45.0	n/a	n/a	n/a	n/a	n/a
Backstop ABL	Interest	15.3	n/a	n/a	n/a	n/a	n/a
<b>Total secured creditors</b>		<b>133.8</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>
<b>Secured Scheme Creditors</b>							
TLA	Principal	85.0	100.0%	85.0	14.8%	37.0	43.5
TLB	Principal	105.0	100.0%	105.0	18.2%	45.7	43.5
SSNs	Principal	216.4	100.0%	216.4	37.6%	94.1	43.5
SSNs	Interest	86.5	100.0%	86.5	15.0%	37.6	43.5
SSNs (stub)	Principal	0.6	100.0%	0.6	0.1%	0.3	43.5
SSNs (stub)	Interest	0.0	100.0%	0.0	0.0%	0.0	43.5
<b>Total Secured Scheme Creditors</b>		<b>493.6</b>	<b>100.0%</b>	<b>493.6</b>	<b>85.8%</b>	<b>214.6</b>	<b>43.5</b>
<b>Unsecured Scheme Creditors</b>							
TLA	Interest	75.3	25.0%	18.8	3.3%	8.2	10.9
TLB	Interest	88.3	25.0%	22.1	3.8%	9.6	10.9
SSNs	Premium	44.8	25.0%	11.2	1.9%	4.9	10.9
SSNs (stub)	Premium	0.1	25.0%	0.0	0.0%	0.0	10.9
SUNs	Principal	88.9	22.5%	20.0	3.5%	8.7	9.8
SUNs	Interest	5.1	22.5%	1.1	0.2%	0.5	9.8
<b>Total Unsecured Scheme Creditors</b>		<b>302.5</b>	<b>24.2%</b>	<b>73.3</b>	<b>12.7%</b>	<b>31.9</b>	<b>10.5</b>
Existing equity	n/a	n/a	n/a	n/a	1.5%	3.7	n/a
<b>Total</b>		<b>929.9</b>	<b>n/a</b>	<b>566.8</b>	<b>100.0%</b>	<b>250.2</b>	<b>26.5</b>

Source: RSA, FTI Consulting analysis

I have not assigned any value to the New Warrants to be issued to certain Unsecured Scheme Creditors under the Schemes. I note that this would likely further increase the return to certain specific Unsecured Scheme Creditors.

As a result, the return respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors if the Schemes were effectuated as proposed is as per Table 4 below.

**Table 4: Schemes effectuated Implied Value summary**

\$ million	Debt	Return	Return
			(c / \$)
Secured Scheme Creditors	493.6	214.6	43.5
Unsecured Scheme Creditors	302.5	31.9	10.5

Source: the Group, FTI Consulting analysis

## 8. Comparison of outcomes if Scheme Companies wound up

### 8.1 Overview

I have been instructed to calculate the expected dividend that would be respectively available to the:

- Secured Scheme Creditors; and
- Unsecured Scheme Creditors,

if the Scheme Companies were to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act.

In this situation I have assumed that the Schemes are not implemented. I have calculated the expected dividend based on the latest financial information provided to me by the Group, dated 30 April 2021.

In calculating the expected dividend, I have considered two scenarios, being:

1. Controlled Insolvency Scenario: the business of the Group will be sold as a going concern in its distressed state, noting that the seller would likely be considered to be an 'anxious' seller within the context of the definition of fair value ("Controlled Insolvency Scenario"); and
2. Uncontrolled Insolvency Scenario: the business of the Group will cease, and its assets, located in various entities in a variety of international jurisdictions, will be liquidated to pay outstanding liabilities ("Uncontrolled Insolvency Scenario").

I have applied an 'Orderly Liquidation' premise of value under the Controlled Insolvency Scenario, reflecting the ability to sell the whole of the business of the Group within a reasonable (but relatively short) amount of time. Conversely, under the Uncontrolled Insolvency Scenario I have applied a 'Forced Sale' premise of value, reflecting the piecemeal, entity-by-entity and asset-by-asset realisation of assets approach.

Further detail on the assumptions, methodologies, and calculations underpinning each scenario is provided below.

### 8.2 Findings

The expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors if the Scheme Companies were to be wound up is detailed below.

**Table 28: Summary of expected dividend if Scheme Companies wound up**

\$ million	Controlled Insolvency Scenario			Uncontrolled Insolvency Scenario		
	Debt	Return	Return (c / \$)	Debt	Return	Return (c / \$)
Secured Scheme Creditors	492.2	145.9	29.6	492.2	60.3	12.3
Unsecured Scheme Creditors	301.7	-	-	301.7	0.7	0.2

Source: the Group, FTI Consulting analysis

The expected dividend to the Secured Scheme Creditors is higher under the Controlled Insolvency Scenario as greater value is likely to be extracted from a going concern sale of the business of the Group as a whole, compared to an entity-by-entity liquidation, in particular:

- Certain liabilities (both trading and employee related) would not crystallise in a going concern sale;
- Significant realisation costs would be avoided, particularly given the number and geographic spread of the assets involved; and
- Purchasers will generally attribute more value to assets in situ with pre-existing cash flows attached to them.

The expected dividend to the Unsecured Scheme Creditors is higher under the Uncontrolled Insolvency Scenario, as the realisable value from BLY IP's assets is distributed equally amongst the Secured Scheme Creditors, the Unsecured



Scheme Creditors, and other creditors, as all have an unsecured claim against BLY IP<sup>20</sup>. Conversely, under the Controlled Insolvency Scenario, proceeds from the sale of BLY IP (as a subsidiary of the Group) ultimately flow to BLY US, where the Unsecured Scheme Creditors rank below the secured creditors, and thus no value is realisable for the benefit of the Unsecured Scheme Creditors, as detailed in Section 8.4.3 below.

I consider that the Controlled Insolvency Scenario reflects the ‘best case’ outcome in the event the Scheme Companies are to be wound up, and thus represents the high watermark for a winding up scenario.

## 8.3 Controlled Insolvency Scenario expected dividend methodology

### 8.3.1 Background and general assumptions

In the Controlled Insolvency Scenario, I have assumed that if the Schemes were not implemented, in order for the Scheme Companies to be wound up, a liquidator would be appointed over the Scheme Companies.

Based on the Group’s organisational structure chart as at 31 December 2020 (included at Appendix N), of the Scheme Companies:

- BLY, BLY Issuer, Votaint, and BLI are Australian holding or financing entities;
- BCM and BLY US are both American financing entities; and
- BLA is an Australian operating entity, operating across both the Drilling Services and Products segments.

I note that both BCM and BLY US are both foreign companies. It is my understanding that these companies have been registered with ASIC, as is required under the RSA, which facilitates the appointment of Australian liquidator, as is contemplated under this scenario.

The Scheme Companies, excluding BLA, do not have any realisable assets as at 30 April 2021, with the exception of:

- Cash in the amount of \$0.1 million, and
- Shareholdings in other entities in the Group.

Based on my experience of similar complex insolvency proceedings, where a Controlled Insolvency Scenario is pursued, in order to maximise the return to creditors the liquidators appointed to the Scheme Companies would likely adopt a strategy of realising the assets of these entities via two separate, but concurrent, methodologies:

1. Share Sale Agreements (“SSAs”): the sale of shareholdings in the operating entities held by the Scheme Companies (“the Share Sale Companies”), and
2. Asset Sale Agreement (“ASA”): a sale of the business of BLA (i.e. its assets), given it is an operating entity and subject to its own winding up.

The Controlled Insolvency Scenario assumes that the operating entities within the Group would continue to trade on a solvent basis. As a result of the standstill agreement and injection of funding (both discussed below) prior to the Scheme effectuation (principally through the initial \$30.0 million drawdown on the Incremental Financing), the Group’s forecasts indicate it could continue to trade for the period required to complete a sales process, and thus estimated realisations in this scenario are based on the value of the Group as a going concern.

However, I note that the Controlled Insolvency scenario would only be possible in the event:

- A standstill agreement was entered into with secured creditors, whereby they did not enforce their security across the Obligor Group; and

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<sup>20</sup> I have been instructed that the SSNs agreed to be subordinated to TLA and TLB such that any recovery from BLY IP that flows to the SSNs would be subsequently redistributed to TLA and TLB

- To the extent required (and notwithstanding the forecasts referred to above), funding was made available for operations, for at least the period of time necessary to perform a truncated sales process. It is considered funding may be required due to the potential detrimental impact the winding up could have on trading.

As part of the standstill agreement, I consider that the Secured Scheme Creditors would be required to agree on an apportionment methodology for the ultimate proceeds received from the sale of the shareholdings. This would be necessary as absent such an agreement, the sale of shares would represent the sale of non-working capital assets, and hence the vast majority of recoveries would flow to those Secured Scheme Creditors with priority over this asset class. Clearly this would disadvantage those Secured Scheme Creditors with priority over working capital assets, and hence those creditors would be unlikely to consent to the sale of the shares without receiving some benefit.

In the event that any of the above was not able to be achieved (including agreement of the apportionment of proceeds outlined in the paragraph above), it is very likely that the Group would enter the Uncontrolled Insolvency Scenario, as contemplated further below. In this sense, I consider the Controlled Insolvency Scenario to represent a 'best case' return to creditors in a winding up scenario.

In order to calculate the most conservative (i.e. highest) dividend that could be available to the Secured Scheme Creditors and the Unsecured Scheme Creditors if the Scheme Companies were to be wound up, I have assumed a single purchaser is successful in acquiring the entire Group, via completion of concurrent SSAs and the ASA. It is my opinion that this would likely result in a higher return to creditors, as acquiring and controlling the entirety of the Group as a going concern would be a more attractive proposition to a potential purchaser and the costs in completing the transaction would be significantly less than the alternative.

As a result, the contemplated transactions (being the SSAs and ASA) would complete at approximately the same time, and proceeds could be distributed to the various creditors of the Scheme Companies (after relevant apportionment) concurrently. I have assumed a marketing period of under three months would be required in order to complete both of the contemplated transactions, reflecting the fact that the Scheme Companies and BLA would be in liquidation.

I note that, as detailed in Section 3.2, both the Group's intercompany loans as well as its intercompany receivables and payables are subordinated to the Finance Facilities (including amounts outstanding under both secured and unsecured claims), such that repayments of these intercompany positions can only be made after all of the obligations of the external debt facilities have been paid in full. As the Group's external debt funders are not contemplated to be repaid in full under either the Controlled Insolvency Scenario or Uncontrolled Insolvency Scenario, these intercompany receivables and liabilities have not been taken into account for the purposes of my analysis in this Report.

### 8.3.2 Effecting the SSAs and ASA

BLY, Votaint, and BLI effectively own 100% of the shares in the Share Sale Companies, with the exception of:

- BLA's 0.10% equity interest in Boart Longyear de Mexico S.A. de C.V. and 0.04% equity interest in Patagonia Drill Mining Services S.A., and
- Various equity interests held by external stakeholders in the Share Sale Companies, with examples including a 47.86% interest in Globaltech Corporation Pty Ltd held by its management, and a 26.23% interest in Longyear South Africa (Pty) Limited held by The Longyear BEE Trust.

If the Scheme Companies were to be wound up under a Controlled Insolvency Scenario, I have assumed the following approach would be adopted by a liquidator in order to maximise the return to creditors of these entities:

- A liquidator would seek to implement a standstill agreement with the secured creditors in respect of any of the Obligor Group entities that are not Scheme Companies, including agreement relating to the apportionment of the sale proceeds, such that these entities remain solvent (to the extent possible) and would not be subject to any immediate insolvency proceedings within their respective jurisdictions.

- A liquidator would subsequently market for sale the shareholdings held by the Scheme Companies in the Share Sale Companies as a consolidated enterprise via the SSAs, with the exception of BLA which is dealt with under the separate, but concurrent, ASA (see below).
- Due to BLA being subject to its own winding up, the shares of BLA would not be available for sale, but rather, the assets comprising the business of BLA would be sold under a separate ASA to the same purchaser (i.e. effectively as part of the larger overall transaction) in order to keep the entirety of the business together – this would require the transfer/assignment/novation of critical business assets and contracts to the purchaser. It is noted that, in relation to contracts to be transferred, it is likely that counterparty consent would be required.
- Following completion of the SSAs, the proceeds from the contemplated transactions would flow to the shareholders of the Share Sale Companies, being the Scheme Companies, while the proceeds from the ASA would be retained in BLA (also a Scheme Company).
- The Scheme Companies would then distribute the proceeds to the secured creditors as per the initially agreed upon apportionment methodology. For the purposes of this Report, I have assumed this methodology follows the priorities pursuant to the existing security agreements as set out in Table 32 below.

## 8.4 Controlled Insolvency Scenario calculation of expected dividend

### 8.4.1 Transaction Value (“TV”)

As outlined above, the primary value to be realised by the Scheme Companies, consists of the equity interests in the Share Sale Companies, as well as the business of BLA (via its assets). Consequently, the dividend that would be available to the Secured Scheme Creditors and the Unsecured Scheme Creditors has been based on the EV of the Group as a whole (as calculated in Section 6.4.2), subject to the various adjustments as detailed below.

The EV of the Group as a whole (calculated in Section 6.4.2), was based on the Long Term Forecast, which, amongst other items, assumed that the Schemes were effected as proposed. The Long Term Forecast remains an appropriate basis for the EV of the Group as a whole if the Schemes were not implemented, and the Scheme Companies were wound up, as:

- According to Management:
  - The assumptions related to the day to day operations of the Group will not change as a result of the Schemes not being implemented; and
  - There will not be any material or noticeable disruption to the underlying operations of the Group as a result of the Schemes not being implemented; and
- The impact of the effectuation of the Schemes on the Group’s forecast profit and loss statement in the Long Term Forecast is confined to income and expense items that are not included in my assessment of the Group’s expected earnings under the capitalisation of earnings method.

**Table 29: TV under the Controlled Insolvency Scenario**

Item	\$ million
<b>EV</b>	<b>405.8</b>
Less: Leases	(40.7)
Add: Surplus assets	0.3
Less: ‘Distressed Sale’ discount	(91.3)
Less: ASA friction costs	(2.0)
<b>Total TV</b>	<b>272.0</b>

Source: Management accounts, FTI Consulting analysis

I have adjusted for the value of the Group’s leases as at 30 April 2021. As a result of AASB 16, the costs associated with these leases are no longer included in the EBITDA that forms the basis for my calculation of EV, as a result it is necessary to adjust the valuation to reflect these incremental operating expenses.

The 30 April 2021 Management Accounts contained \$0.3 million of 'Assets Held for Sale', consisting of three drill rigs. The value of these assets is not included in the EV calculated above, as these assets are intended to be disposed of, and any net revenue or costs related to these assets have therefore been excluded from the Group's forecasts.

I have applied a 25% 'Distressed Sale' discount to the Group's going concern EV, after adjusting for leases and surplus assets, as despite the Group continuing to trade on a 'Business as Usual' basis during the period required for the SSAs and ASA to complete, it is necessary to reduce the going concern valuation to reflect the discounted price a purchaser will typically offer in an 'Distressed Sale' scenario. This reflects the following factors:

- That the sale of the Group is occurring whilst entities, including the Group's ultimate parent company BLY, are in liquidation – this is likely to have a detrimental impact on the Group, in the form of cancellation or amendment of contracts due to the insolvency, or possible change of control provisions that may provide leverage to contract counterparties;
- The higher level of risk assumed by a purchaser in a scenario where the sale is undertaken in a compressed time frame, on a 'no representations and warranties' basis (as is typical in sales conducted by insolvency practitioners);
- The complexities related to reorganising the Share Sale Companies and the assets of BLA in a new corporate structure; and
- That, following the completion of the SSAs and ASA, as BLY is in liquidation, the business of the Group will no longer be publicly listed; offset by
- A potential control premium, as I have assumed that a single purchaser is successful in acquiring the entirety of the Group, via completion of concurrent SSAs and the ASA.

It is also necessary to adjust the Group's going concern valuation in order to reflect that the sale of BLA's assets is occurring via an ASA to the same purchaser. In this scenario, the relevant contracts of BLA will have to be novated, with the purchaser taking up the benefits and burdens of these contractual arrangements. I have included a friction costs adjustment of \$2.0 million to reflect:

- The increased risk to achieving the Group's forecasts should some of the contracts be unable to be assigned to the purchaser; and
- Additional costs, including stamp duty payable and professional fees related to the transfer of assets and novation of contracts.

In calculating this amount, I have considered the key contracts of BLA that would have to be transferred, including seven property leases, 11 key customer contracts in Drilling Services with year-to-date revenue of approximately \$31 million, three key customer contracts in Products, and supplier contracts with estimated annualised spend of \$51 million. I also had consideration to the approximately 22% discount to transaction proceeds applied by Bain Capital when comparing SSA and ASA scenarios in the recent voluntary administration of Virgin Australia Holdings<sup>21</sup>.

The SSAs and ASA are both contemplated to be completed on a cash-free, debt-free basis. However, other liabilities within or external to the Share Sale Companies (and already reflected within EV) will be assumed by the purchaser.

On this basis, the Transaction Value (i.e. proceeds from the SSAs and ASA) has been calculated at \$272.0 million.

#### 8.4.2 Allocation of TV

I have adopted the following approach in order to apportion the proceeds between the Scheme Companies and the various asset classes for the purposes of calculating the expected dividend available to the Secured Scheme Creditors and the Unsecured Scheme Creditors.

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<sup>21</sup> Report to Creditors pursuant to section 75-225 of the Insolvency Practice Rules (Corporations) for Virgin Australia Holdings Limited ACN 100 686 226 and subsidiaries (all Administrators Appointed), page 113

The book values included in the Group's 30 April 2021 balance sheet were allocated between BLA, the Scheme Companies (excluding BLA), and the Share Sale Companies, with reference to the individual balance sheets of each entity. I have excluded intercompany balances (for reasons outlined above) and allocated the remaining consolidation adjustments between entities on a line item by line item basis, where possible to the relevant entities, and otherwise based the allocation on each entity's absolute value-weighted share of the Group balance for that line item<sup>22</sup>.

The only assets for which I did not adopt the book value, as per the Group's 30 April 2021 balance sheet, was for patents and trademarks, which had a book value of \$6.1 million net of accumulated amortisation. The Group obtains regular third-party independent valuations of these assets, the latest of which was conducted as at February 2021 and calculated a total estimated fair value of patents at \$44.2 million and trademarks at \$5.5 million. I have adopted these values and then allocated them to those entities on a proportional weighted basis based on the number of patents or trademarks each entity holds. For all other asset classes (including other components of intangibles) I have adopted net book value.

I subsequently allocated assets between working capital assets and non-working capital assets, which was required in order to affect the priorities between the various secured creditors and the existing security arrangements. In assigning the Group's assets and liabilities as being related to either working capital or non-working capital (i.e. everything not classified as working capital), I had regard to two key considerations:

- The definition of working capital assets under the Group's facility documents; and
- The assets and liabilities that a purchaser would view as being related to funding the day-to-day operations of the business of the Group.

As part of this allocation, I have also made certain assumptions regarding a purchaser's valuation of these asset classes as detailed in Appendix L. In some instances, this included separate assumptions for the Share Sale Companies and BLA, generally reflecting the lower value of assets for an entity in liquidation.

In making assumptions regarding a purchaser's allocation of TV (i.e. sale proceeds) in the Share Sale Companies and BLA, I have applied assumptions across the Share Sale Companies regardless of jurisdiction or status. In doing so, I note there will likely be 'overs' and 'unders' and have used my transactional experience in Australia to reflect a blended rate. The Share Sale Companies contain entities that operate in jurisdictions where I do not profess to be an expert in local law, or have experience in conducting sales processes. I have also not considered the impact of tax groups across the Group in the Controlled Insolvency Scenario.

I also allocated certain liabilities assumed by the purchaser for the Share Sale Companies and BLA as deductions against the TV allocated to these various asset classes as detailed in Appendix L.

In the case of BLA, I only have had regard to employee-related liabilities and lease liabilities when making adjustments to the purchase price. An adjustment for employee-related liabilities against working capital assets (i.e. a deduction from the TV attributed to working capital), was necessary to reflect that in the sale of BLA's assets, the employees of BLA would likely be assigned to a new entity owned by the purchaser, who would be assuming any employee-related liabilities. A purchaser will typically adjust for these accrued entitlements, which is more likely to be a deduction from working capital assets, representing the funding of the day-to-day operations of the business (including employees), than non-working capital assets. I note that this adjustment effectively increases the balance of TV allocated to PP&E and Intangibles, which benefits certain Secured Scheme Creditors.

An adjustment for lease liabilities to PP&E and Intangibles (i.e. a deduction from the TV attributed to PP&E and intangibles), was necessary to reflect that in the sale of the business of the Group, the leases (and therefore the associated liability) would be assigned to a new entity owned by the purchaser.

The TV was subsequently allocated between BLA and the Share Sale Companies (collectively) assuming:

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<sup>22</sup> Allocated on an absolute value basis to prevent issues in accounts with significant contra balances

- Assets Held for Sale were ascribed full adjusted value, as under AASB 5, Management must already be committed to a plan to sell the asset, including locating a buyer, and these assets are already measured at the lower of their carrying amount and fair value less costs to sell (i.e. these non-essential assets are already impaired to their 'fair value', and it is reasonable to assume that a purchaser would be able to recover this amount);
- Net working capital (excluding cash) was ascribed full adjusted value;
- To the extent there was remaining TV, it was assumed to represent, on a pro rata basis, the adjusted value of PP&E and intangible assets; and
- To the extent there was any remaining TV, it was assumed to represent consideration for goodwill.

**Table 30: Allocation of TV by asset class**

\$ million	Adj. net book value			TV		
	BLA	SSA Co's	Total	BLA	SSA Co's	Total
Assets held for sale	0.3	-	<b>0.3</b>	0.3	-	<b>0.3</b>
Working capital	35.0	111.4	<b>146.4</b>	35.0	111.4	<b>146.4</b>
PP&E and intangibles	13.7	62.6	<b>76.3</b>	13.7	62.6	<b>76.3</b>
Goodwill	-	105.0	<b>105.0</b>	-	49.1	<b>49.1</b>
<b>Total</b>	<b>49.0</b>	<b>279.0</b>	<b>328.0</b>	<b>49.0</b>	<b>223.0</b>	<b>272.0</b>
<b>Memo – Split by Collateral Type</b>						
Working capital	35.0	111.4	<b>146.4</b>	35.0	111.4	<b>146.4</b>
Non-working capital	14.0	167.6	<b>181.6</b>	14.0	111.7	<b>125.7</b>

Source: Management accounts, FTI Consulting analysis

The \$223.0 million allocated to the Share Sale Companies collectively has been individually allocated between each of the Share Sale Companies and across each asset class within each Share Sale Company (where that entity had a positive adjusted value in each respective asset class), based on each entity's value-weighted share of the balance allocated to the Share Sale Companies collectively.

These balances were subsequently allocated between each of the Scheme Companies, based on each Scheme Company's equity interest in each Share Sale Company (with the equity interest flowing through various levels of subsidiaries where necessary). In doing so, I note:

- The return to BLA from its interests in Boart Longyear de Mexico S.A. de C.V. and Patagonia Drill Mining Services S.A. was negligible, and thus for all intents and purposes, none of the proceeds from the sale of the Share Sale Companies would flow to BLA; and
- The return to the various external equity holders from their respective interests in the Share Sale companies amounted to \$4.3 million, which I have assumed would be unavailable to be realised for the benefit of creditors in the Scheme Companies.

**Table 31: Allocation of TV amongst the Scheme Companies**

\$ million	TV								Total
	BLA	BLY	BLM	Votraint	BLI	BCM	BLY US	External	
<b>TV</b>									
Assets held for sale	0.3	-	-	-	-	-	-	-	<b>0.3</b>
Working capital	35.0	17.1	0.0	41.7	3.7	-	46.7	2.2	<b>146.3</b>
PP&E / intangibles	13.7	10.3	-	14.3	0.1	-	36.7	1.1	<b>76.3</b>
Goodwill	-	-	-	1.0	-	-	47.1	1.0	<b>49.1</b>
<b>Total TV</b>	<b>49.0</b>	<b>27.4</b>	<b>0.0</b>	<b>57.1</b>	<b>3.7</b>	<b>-</b>	<b>130.5</b>	<b>4.3</b>	<b>272.0</b>
Cash swept									<b>27.6</b>
Liquidator fees									
Working capital				<i>Considered on a total basis</i>					<b>(2.6)</b>
Non-working capital									<b>(2.4)</b>
Professional fees									<b>(12.5)</b>
Cash in Scheme Co's	1.7	-	0.1	-	-	-	-	n/a	<b>1.8</b>
<b>Total realisable value</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>279.7</b>
<b>Memo – Split by collateral type</b>									
Working capital	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	<b>158.5</b>
Non-working capital	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	<b>121.2</b>

Source: Management accounts, FTI Consulting analysis

As a result of each Scheme Company's equity interest in the Share Sale Companies, the TV of \$223.0 million allocated to the Share Sale Companies was predominantly allocated to BLY, BLY US, and Votraint. BLA's TV of \$49.0 million is taken directly from Table 30 above.

As the proposed transaction is assumed to be completed on a cash-free, debt-free basis, based on my experience in completing similar transactions, I have assumed that the liquidator of the Scheme Companies would sweep the \$27.6 million of cash in the Share Sale Companies (as at 30 April 2021) prior to completion. For the purposes of assessing the expected dividend to the Secured Scheme Creditors, the specific entity(s) that would receive this cash are irrelevant as all secured creditors are assumed to prove in full across the Scheme Companies in light of the cross collateralisation of security, and given there is no surplus in any of the entities for unsecured creditors, the specific allocation of cash across the entities would not impact the final dividends to secured creditors.

I have not assumed any cash burn during the period required to effectuate the sale of the business of the Group (via the concurrent SSAs and ASA). This assumption is based on the Group's No Restructure Forecast, which indicates that even if the Schemes are not completed as proposed, the Group would remain cash flow positive until December 2021. I note that there are risks not reflected in these forecasts (e.g. deterioration of working capital terms and inability to win new contracts) which may introduce an element of cash burn during the marketing period, however, this would only reduce the expected dividend to secured creditors (including the Secured Scheme Creditors).

Based on my general experience and the complexity of conducting a sale process of a multi-jurisdictional group within a compressed time period, I have assumed that a liquidator appointed to the Scheme Companies would incur \$5.0 million in professional fees and disbursements. I have allocated these fees between working capital and non-working capital based on the relative values attributed to those asset classes across the Scheme Companies. I have also assumed an additional \$5.0 million in other professional fees (e.g. legal advisors, financial advisors, valuation expertise, etc.) would be required during the liquidation in order to complete the SSAs and ASA.

Similar to Section 8.4.1, I have also reflected \$37.5 million of restructuring fees (i.e. those fees associated with the current scheme process) due to be incurred under the Group's No Transaction Forecast in the period to December 2021, net of the cash injection from the initial \$30.0 million drawdown on the Incremental Financing (i.e. total adjustment of \$7.5 million). These exceptional fees (i.e. not included in the EV or TV) will be incurred regardless of



whether the Schemes are approved, and are not reflected in the going concern valuation. This brings the total professional fees to \$12.5 million.

I have not attributed any value related to potential recoveries for voidable transactions in the Scheme Companies as:

- These recoveries are speculative and highly contingent;
- The Group's trade creditors are generally within terms;
- The Group's secured creditors have granted support by amending terms on an ongoing basis; and
- The Board of Directors of the Group have engaged a safe harbour advisor, which likely reduces the prospects of any insolvent trading claims.

As a result, the total realisable value on behalf of the creditors of the Scheme Companies has been calculated at \$279.7 million, split between working capital assets of \$158.5 million and non-working capital assets of \$121.2 million.

#### 8.4.3 Expected Dividend to secured creditors

The secured creditors would prove for the full amount of their claims in each of the Scheme Company liquidations (including BLA). I have based the amount of the claims of the secured creditors on the Group's relevant book values as at 30 April 2021, subject to the following adjustments:

- Removing balances related to deferred borrowing costs, a contra liability account used for accounting purposes to amortise borrowing costs over the life of the facilities;
- Excluding \$3.3 million related to an accounting adjustment recorded by the Group for accelerated interest under the SSNs, which would not be claimable in a Controlled Insolvency Scenario;
- Illustratively adjusting the accrued interest/PIK for the SSNs to reflect the PIKing of the June 2021 interest at 14.5% for the period to 30 April 2021, rather than a cash interest at 10.0% recorded on the 30 April 2021 balance sheet;
- Illustratively adjusting the applicable premium for the SSNs to reflect the higher accrued interest (as a result of PIKing the June 2021 cash interest payment) and higher applicable premium percentage as at 30 April 2021, noting that the balance sheet still applied the lower rate as at December 2020; and
- Illustratively adjusting the applicable premium for the stub SSNs to reflect the higher applicable premium percentage as at 30 April 2021, noting that the balance sheet still applied the lower rate as at December 2020.

I have not assumed any drawdown of the Group's letters of credit in the Controlled Insolvency Scenario.

I have then applied the priorities in accordance with the current security arrangements as set out in Table 32 below (including changes related to entering into the Incremental Financing) in order to determine the return to each of the secured creditors.



**Table 32: Summary of security agreements**

Finance Facilities	Working capital		Non-working capital	
	Obligor Group	BLY IP	Obligor Group	BLY IP
PNC ABL	First Ranking	Unsecured	Fifth Ranking	Unsecured
Backstop ABL	Second Ranking	Unsecured	Fourth Ranking	Unsecured
Incremental Financing	Second Ranking	Unsecured	First Ranking	Unsecured
TLA	Third Ranking	Unsecured	Third Ranking	Unsecured
TLB	Fourth Ranking	Unsecured	Second Ranking	Unsecured
SSNs <sup>23</sup>	Fourth Ranking	Unsecured	Second Ranking	Unsecured
SSNs (stub)	Fourth Ranking	Unsecured	First Ranking	Unsecured
SUNs <sup>24</sup>	Unsecured	N/A	Unsecured	N/A

Source: the Group

Under the Controlled Insolvency Scenario, proceeds from the sale of BLY IP (as a subsidiary of the Group) ultimately flow to BLY US. As the sale of BLY IP is a sale of shares, this is effectively a realisation of non-circulating assets by BLY US, and hence the security priorities of BLY IP have not been applied.

As detailed in Appendix L, I have assumed that the employees of the Group (including BLA) are transferred to the purchaser under the SSAs and ASA, such that any related employee liabilities are also assumed by the purchaser. As such, I have not given any priority to employee creditors from the realisation of circulating assets in BLA as these liabilities would be extinguished as a result of the ASA.

Based on the allocation of the TV to the various Scheme Companies, I have allocated value between the secured creditors per the priorities in Table 32, as detailed in the tables below.

Where a secured creditor was calculated to be paid more than their total claim across both working capital and non-working capital assets (i.e. in relation to the Incremental Financing), I have apportioned the payment of their claims from the pools of working capital and non-working capital realisations based on the proportion of total realisations related to each pool of assets.

**Table 33: Working capital priority waterfall**

\$ million	Claim	TV							Total	Return (c / \$)
		BLA	BLY	BLM	Votaint	BLI	BCM	BLY US		
PNC ABL	43.5	10.1	8.1	0.0	11.5	1.0	-	12.8	43.5	100.0
Incremental Financing	30.0	3.9	3.2	0.0	4.5	0.4	-	5.0	17.0	56.7
Backstop ABL	60.3	14.0	11.3	0.0	15.9	1.4	-	17.8	60.3	100.0
TLA	85.0	8.7	7.0	0.0	9.9	0.9	-	11.1	37.7	44.3
TLB	105.0	-	-	-	-	-	-	-	-	-
SSNs (incl. stub)	302.2	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>626.0</b>	<b>36.8</b>	<b>29.6</b>	<b>0.1</b>	<b>41.7</b>	<b>3.7</b>	<b>-</b>	<b>46.7</b>	<b>158.5</b>	<b>25.3</b>

Source: Management accounts, FTI Consulting analysis

<sup>23</sup> I have been instructed that a subordination agreement has been entered into between TLA, TLB and the SSNs, such that any return to the SSNs from their unsecured claim against BLY IP before the unsecured claims of TLA and TLB are paid out in full, would be remitted to the holds of TLA and TLB

<sup>24</sup> I have been instructed that a subordination agreement has been entered into between the SUNs and TLA, TLB and the SSNs, such that any return to the SUNs before the unsecured claims of TLA, TLB and the SSNs are paid out in full, would be remitted to the holders of TLA, TLB and the SSNs

**Table 34: Non-working capital priority waterfall**

\$ million	Claim	TV							Total	Return (c / \$)
		BLA	BLY	BLM	Votrant	BLI	BCM	BLY US		
Incremental Financing	30.0	1.5	0.9	-	1.6	0.0	-	9.0	13.0	43.3
SSNs (stub)	0.6	0.1	0.0	-	0.1	0.0	-	0.4	0.6	100.0
TLB	105.0	3.2	1.8	-	3.5	0.0	-	19.2	27.8	26.5
SSNs	301.5	9.2	5.2	-	10.1	0.0	-	55.2	79.8	26.5
TLA	85.0	-	-	-	-	-	-	-	-	-
Backstop ABL	60.3	-	-	-	-	-	-	-	-	-
PNC ABL	43.5	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>626.0</b>	<b>14.0</b>	<b>7.9</b>	<b>-</b>	<b>15.4</b>	<b>0.1</b>	<b>-</b>	<b>72.0</b>	<b>121.5</b>	<b>19.4</b>

Source: Management accounts, FTI Consulting analysis

Based on my calculations, as detailed in Table 33 and Table 34 above, there is insufficient funds both individually, and across the Scheme Companies, to repay the secured creditors in full. As such, there are no funds available in any of the Scheme Companies for unsecured creditors, including the Unsecured Scheme Creditors.

As a result, the expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors is as per Table 2 below.

**Table 2: Controlled Insolvency Scenario expected dividend summary**

\$ million	Debt	Return	Return
			(c / \$)
Secured Scheme Creditors <sup>25</sup>	492.2	145.9	29.6
Unsecured Scheme Creditors	301.7	-	-

Source: the Group, FTI Consulting analysis

<sup>25</sup> The expected dividend to the Secured Scheme Creditors in Table 2 excludes the expected dividend in respect of the PNC ABL, Backstop ABL, and Incremental Financing, as the holders of amounts owed under these facilities are not Secured Scheme Creditors as defined in Section 1.2 and the Schemes.

## 8.5 Uncontrolled Insolvency Scenario expected dividend methodology

### 8.5.1 Background and general assumptions

Should it not be possible for business operations to continue, or a standstill agreement is unable to be reached with secured creditors, or adequate funding is not available for ongoing trading of the Group (to the extent required to effect the sale as contemplated under the Controlled Insolvency Scenario), the Group would likely enter an Uncontrolled Insolvency Scenario.

In an Uncontrolled Insolvency Scenario, the following series of events would likely eventuate:

- Secured creditors would take steps to enforce their security across all of the Obligor Group entities.
- This would result in a number of operating entities, across varying international jurisdictions with competing insolvency regimes, becoming subject to separate insolvencies.
- Subject to the funding requirements, each non-obligor entity would become orphaned or subject to an insolvency in its relevant jurisdiction. Effectively, in this 'each entity for itself' situation, the ability to sell groups of assets would depend on individual directors across jurisdictions, and the possibility of a break-up/piecemeal sale would be inherently more likely.
- To the extent there are shared services across the Group, some of the operating entities (either obligor or non-obligor) may be unable to continue to trade, depending upon their ability to pay for and access those shared services, further increasing the likelihood of a cascading liquidation scenario.

Ultimately, an Uncontrolled Insolvency Scenario would involve complex, multi-jurisdictional insolvency appointments across the vast majority, if not all, of the Group's entities. As a result, the Uncontrolled Insolvency Scenario results in a materially lower return to the Secured Scheme Creditors compared to the Controlled Insolvency Scenario, primarily due to:

- The significantly higher fees incurred as a result of an increase in the number of entities placed into liquidation (or other applicable local insolvency regime) across different jurisdictions, the inherent duplication of tasks across entities in separate insolvency processes, and the additional time required to complete sales of individual assets of entities and/or complete winding up processes;
- The increased likelihood of creditor set offs;
- Additional costs of realisation and other expenses incurred in preserving, realising or getting in property of the Group, or in carrying on the Group's business, on an entity by entity basis;
- The crystallisation of additional liabilities (that would be avoided under a controlled process), some of which may have to be paid before the two classes of scheme creditors (e.g. employee entitlements paid from the realisation of circulating assets); and
- Customers withholding payment, decreasing the recoverability of receivables.

I note that the enforceability of the security of the Secured Scheme Creditors in individual, smaller, less-established jurisdictions may also be challenging, which would further reduce the expected dividend.

## 8.6 Uncontrolled Insolvency Scenario calculation of expected dividend

### 8.6.1 Uncontrolled Insolvency Scenario realisation of assets

In calculating the expected dividend to both the Secured Scheme Creditors and the Unsecured Scheme Creditors in an Uncontrolled Insolvency Scenario, I have firstly adopted the Group's 30 April 2021 balance sheet on an entity-by-entity basis. As in the Controlled Insolvency Scenario, I excluded intercompany balances and have allocated the remaining consolidation adjustments between entities on a line item by line item basis, where possible to the relevant entities,

and otherwise based the allocation on each entity's absolute value-weighted share of the Group's balance<sup>26</sup>. I subsequently adjusted these book values on an entity-by-entity basis for the realisable value of assets under a 'Forced Sale' premise of value, as well as the likely provable liability positions of creditors based on my general experience in formal insolvency roles, as detailed in Appendix M.

Table 59 in Appendix M summarises this output by classifying entities as either being in the Obligor Group (excluding BLY IP), BLY IP, or being non-obligor entities, which is necessary for the application of the security interests of the secured creditors. I note that I have also allocated assets between working capital and non-working capital, as is necessary to affect the respective priorities of the different secured creditors.

Based on representations from Management, I understand that recoveries under this scenario, where each entity in the Group is effectively in its own, separate liquidation process, would differ greatly across jurisdictions. Management view the Group's likely recoveries across their various operating jurisdictions as being dependent on which of the below levels each respective entity operates in, each reflecting relative difficulties in extracting value from the Group's assets:

- 1. Level 1:** Australia, Canada, United States, and New Zealand;
- 2. Level 2:** Chile, Europe, and Peru; and
- 3. Level 3:** Other entities (e.g. located in Africa, South-East Asia, etc.).

For this reason, in the Uncontrolled Insolvency Scenario I have applied assumptions to the Group's realisations generally on a sliding scale, depending on whether each entity is in either a Level 1, Level 2, or Level 3 operating jurisdiction as detailed in Appendix M.

After categorising entities on an operating jurisdiction basis, I have applied assumptions on a line-by-line basis. These assumptions reflect my general experience in realising assets of entities in complex group structures. This includes assumptions for entities operating in jurisdictions where I do not profess to be an expert in local insolvency law, or have experience in conducting liquidations (or other applicable processes). In these situations, whilst I have endeavoured to reflect some of the fundamental principles underpinning insolvency processes in other key jurisdictions, I have generally applied assumptions consistent with local insolvency law and liquidation processes in Australia.

As in the Controlled Insolvency Scenario, I adopted the third-party independent valuation of the Group's patents and trademarks as at February 2021, subject to the adjustments detailed in Appendix M.

## 8.6.2 Creditor waterfall

In order to determine stakeholder claims and the amounts that would be paid to the different creditors in each entity in the Group (including both the Secured Scheme Creditors and the Unsecured Scheme Creditors), I have developed a high-level Entity Priority Model ("EPM"). The EPM identifies each entity's distributable value and the rankings and characteristics of each of its claims, assuming that all enforcement occurs concurrently. Recoveries are subsequently allocated to different creditors in each entity, which excludes intercompany positions (as the Group's secured creditors are not paid in full, as detailed in Section 8.6.6), but includes the distribution of any surplus' in specific entities to the equity holders of those entities, such that 100% of the value of the Group is eventually distributed.

I note that the EPM I have used for the purposes of this Report has been generated based on high-level assumptions and the best available information as at the date of the Report. This includes assumptions for entities that operate in jurisdictions where I do not profess to be an expert in local insolvency law, or have experience in conducting liquidations (or other applicable processes).

In the event of any actual liquidation of entities in the Group, an EPM used for the purposes of determining the returns to various claimants (likely via a Court process) would use valuations and appraisals, and calculate recoveries, as at a different point in time to this Report, and would likely reflect more detailed assumptions (including actual claim

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<sup>26</sup> Allocated on an absolute value basis to prevent issues in accounts with significant contra balances

amounts as at the date(s) of appointment). As a result, the actual return to the different classes of creditors in the event of an actual winding up may be materially different.

In addition to the asset realisations detailed in Appendix M, the EPM also considers the recoveries available to creditors as a result of potential surplus available to equity holders from the liquidation of subsidiary entities. Not considering these positions, particularly as the Obligor Group entities only represent approximately 59% of the realisable value of assets in the Group, and conducting the analysis only on a Group level, would likely overstate the return to secured creditors (i.e. it would not reflect the repayment of unsecured creditors in non-obligor entities). Any dividends from the liquidation of subsidiary entities have been allocated to non-working capital as they represent the realisation of non-circulating assets.

### 8.6.3 Key EPM assumptions

Based on my general experience, as well as the complex nature of concurrent appointments of liquidators over the entities of the Group, I have assumed that liquidator and professional fees would total approximately \$38.3 million in the Uncontrolled Insolvency Scenario. This includes fees related to the appointed liquidators, as well as their respective legal and financial advisors, noting that costs of realisation of the Group's assets are dealt with separately (see commentary in Appendix M). This is a significantly higher quantum of fees than that assumed in the Controlled Insolvency Scenario, reflecting an increase in the number of entities placed into liquidation (or other applicable local insolvency regime) across jurisdictions, noting that the Group has 76 entities with value contemplated to be realised under the EPM. Under the Uncontrolled Insolvency Scenario, there would be an inherent duplication of tasks across entities in separate insolvency processes, as well as additional time (and therefore fees) required to complete sales of individual assets of entities and/or complete winding up processes. There would also likely be a sizeable increase in litigation amongst entities in the Group, which would attract additional costs. I have allocated these fees between working capital and non-working capital in each entity based on the realisable value attributed to those asset classes.

In each entity I have assumed that priority creditors (i.e. employee liabilities) would be paid out first (to the extent possible) from realisations of circulating assets, as is consistent with Australian insolvency legislation, and generally consistent with similar approaches under United States and European legislation (noting there are differences across jurisdictions including restrictions on the amounts and types of liabilities claimable). In doing so, I increased the book value of employee liabilities in each relevant entity by 50% to reflect additional employee liabilities that may arise under a liquidation scenario (e.g. redundancy payments). Based on my general experience in formal insolvency roles in Australia, employee liabilities provable in a liquidation can be 3-4 times higher than the recorded book value. To the extent that priority creditors could not be repaid in full from the realisation of circulating assets, these residual claims were treated as unsecured claims in each entity.

In order to calculate the returns to be respectively paid to the Secured Scheme Creditors and the Unsecured Scheme Creditors, I have applied the priorities pursuant to the security agreements as per Table 52 in Section 8.4.3 above.

As discussed in Appendix M, I have made same adjustments to the Group's external debt as per the Controlled Insolvency Scenario in Section 8.4.3, to exclude deferred borrowing costs and an accounting adjustment for accelerated interest, as well as illustratively reflect the PIKing of the June 2021 cash interest on the SSNs. In addition, under the Uncontrolled Insolvency Scenario I have also assumed that the Group's letters of credit issued under the PNC ABL would be drawn, increasing the amount outstanding under the PNC ABL by \$6.0 million.

As detailed in Section 8.3.1, I have not considered any potential repayments of the Group's intercompany loans and/or receivables and payables, due to the subordination of these amounts to the Group's external debt facilities (which are not contemplated to be repaid in full under the Uncontrolled Insolvency Scenario).

Under an Uncontrolled Insolvency Scenario, I have assumed that the liquidators appointed across the Group would disclaim the Group's leased equipment. As a result, unsecured claims would arise in the liquidations of these entities for the outstanding amounts on the leases, net of any recoveries able to be obtained by the lessors, e.g. from re-letting the equipment. I have assumed that these liabilities crystallise at approximately 20% of the outstanding book value

liability of these leases as at 30 April 2021, noting that there will be 'overs' and 'unders' across entities and specific leases.

Given the EPM calculates the returns to creditors on an entity-by-entity basis, I have excluded balances related to corporate income tax payable by various tax groups across the Group. This was necessary as, due to the tax sharing agreements amongst entities in these tax groups, some entities have large receivable balances whereas others have large payables balances. Based on representations from Management, I understand that these plans are generally in a net liability position, however, I have been unable to allocate these amounts to specific entities. It may also be the case that, in the event of a return to unsecured creditors of less than 100c/\$ (including repayments of corporate income tax payables), these amounts may be claimable against other entities in each respective tax group. As such, I have excluded these net liabilities in totality across the Group. I note that including these amounts may further reduce the return to the Group's secured creditors, as it may increase unsecured creditor claims in non-obligor entities, some of which may currently have a surplus for equity holders under the EPM.

I have also reallocated \$27.2 million of contra balances within asset accounts to being unsecured claims in each entity in liquidation. This predominantly includes a \$12.3 million deferred tax liability in Boart Longyear Company (Utah) recorded within the balance of deferred tax assets, and \$12.9 million of contra balances included within non-trade receivables across the Group. Continuing to treat these amounts as assets would understate the potential realisable value of the Group's assets, and conversely understate the potential provable amount of the Group's liabilities.

As in Section 8.4.2, I have not attributed any value related to potential recoveries for voidable transactions in the Scheme Companies as:

- These recoveries are speculative and highly contingent;
- The Group's trade creditors are generally within terms;
- The Group's secured creditors have granted support by amending terms on an ongoing basis; and
- The Board of Directors of the Group have engaged a safe harbour advisor, which likely reduces the prospects of any insolvent trading claims.

As in the Controlled Insolvency Scenario, where a secured creditor was calculated to be paid more than their total claim across both working capital and non-working capital assets (i.e. the Incremental Financing), I have apportioned the payment of their claims from the pools of working capital and non-working capital realisations based on the proportion of total realisations related to each pool of assets.

#### 8.6.4 Pension plans

The Group has four defined benefit pension plans, 12 defined contribution plans, two hybrid pension plans (i.e. both defined benefit and defined contribution plans), and one non-registered supplemental pension plan.

In relation to the defined benefit, hybrid, and supplemental plans, the Group had recorded the following provision balances as at 30 April 2021:

- (\$14.3 million) in Boart Longyear Company;
- (\$0.3 million) in Boart Longyear Manufacturing and Distribution Inc.;
- (\$0.1 million) in Boart Longyear Canada;
- (\$0.1 million) in Boart Longyear Canada Manufacturing;
- (\$5.8 million) in Boart Longyear GmbH & Co. Kg; and
- \$3.3 million in Boart Longyear Limited (Ireland).

The Group had also recorded the following pension plan asset balances as at 30 April 2021:

- \$6.8 million in Boart Longyear Canada; and

■ \$4.4 million in Boart Longyear Manufacturing Canada

I note that the actual surpluses and deficits in relation to each plan may differ from the values recorded in the Group's balance sheet as at 30 April 2021, and require actuarial calculations which have not been performed as at this date.

Whilst the assets contributed by the Group to these plans as well as the future obligations under each of these plans sit external to the Group, the Group records provision amounts in the balance sheet of each respective plan sponsor relating to the difference between the present value of the obligations and the fair value of the plan assets. Similarly, surpluses for plans managed on a going concern basis are recorded in accordance with paragraph 28.22 of FRS 102, based on the Group's assumption that these surpluses will eventually be recoverable following the death of the last member in each plan. If funds with surpluses were to be dissolved or wound up before this date, none of the funds have a surplus on an immediate discontinuance basis. As such I have not included any recoverable value under the Uncontrolled Insolvency Scenario in relation to these surpluses.

With regards to the provision balances related to deficits in some of the Group's plans, based on representations from Management, I understand that these deficits would generally only be recoverable against each plan's sponsor entity. However, I note that there may be an attempt to recover against parent entities if the corporate form of the subsidiary was misused, the subsidiary was undercapitalised, or potentially based on country-specific laws related to corporate veil piercing. In these situations, fund administrators generally have an unsecured claim in the winding up of sponsor entities. I have not considered to what extent these unsecured claims may have a priority (including any statutory or other liens) in the Uncontrolled Insolvency Scenario or any potential claims against parent entities (as detailed above), though I note this would likely only reduce the return to the Secured Scheme Creditors.

### 8.6.5 Waterfall summary

As a result of applying the assumptions detailed above, Table 35 below summarises the various realisations and creditor repayments as calculated in the EPM on an entity-by-entity basis.

**Table 35: Summary of EPM waterfall**

\$ million	Obligor Group	BLY IP	Non-obligors	Total
<b>Working capital</b>				
Asset realisations	143.5	-	70.2	<b>213.7</b>
Liquidator and professional fees	(14.8)	-	(11.9)	<b>(26.7)</b>
Priority creditors	(37.5)	-	(13.1)	<b>(50.5)</b>
<b>Total surplus for secured creditors</b>	<b>91.2</b>	<b>-</b>	<b>45.2</b>	<b>136.5</b>
<b>Secured creditors</b>				
PNC ABL	(49.3)	-	-	<b>(49.3)</b>
Incremental Financing	(21.1)	-	-	<b>(21.1)</b>
Backstop ABL	(20.8)	-	-	<b>(20.8)</b>
TLA	-	-	-	-
TLB	-	-	-	-
SSNs	-	-	-	-
<b>Total surplus for unsecured creditors</b>	<b>0.0</b>	<b>-</b>	<b>45.2</b>	<b>45.2</b>
<b>Non-working capital</b>				
Asset realisations	63.1	3.3	10.1	<b>76.5</b>
Dividends from subsidiaries	12.3	-	8.6	<b>20.9</b>
Liquidator and professional fees	(7.9)	(0.5)	(3.5)	<b>(11.9)</b>
<b>Total surplus for secured creditors</b>	<b>67.6</b>	<b>2.8</b>	<b>15.1</b>	<b>85.5</b>
<b>Secured creditors</b>				
Incremental Financing	(8.8)	-	-	<b>(8.8)</b>
SSNs (stub)	(0.7)	-	-	<b>(0.7)</b>
TLB	(15.0)	-	-	<b>(15.0)</b>
SSNs	(43.1)	-	-	<b>(43.1)</b>
TLA	-	-	-	-
Backstop ABL	-	-	-	-
PNC ABL	-	-	-	-
<b>Total surplus for unsecured creditors</b>	<b>-</b>	<b>2.8</b>	<b>15.1</b>	<b>17.9</b>
<b>Unsecured creditors</b>				
Secured scheme creditors	-	(1.6)	-	<b>(1.6)</b>
Other secured creditors	-	(0.5)	-	<b>(0.5)</b>
Unsecured scheme creditors	-	(0.7)	-	<b>(0.7)</b>
External unsecured creditors	-	(0.0)	(37.4)	<b>(37.4)</b>
Priority creditors	-	-	(1.1)	<b>(1.1)</b>
Intercompany creditors	-	-	-	-
<b>Total surplus for equity holders</b>	<b>-</b>	<b>-</b>	<b>21.9</b>	<b>21.9</b>
External equity holders	-	-	(1.0)	<b>(1.0)</b>
<b>Total surplus for Group entities</b>	<b>-</b>	<b>-</b>	<b>20.9</b>	<b>20.9</b>

Source: the Group, FTI Consulting analysis

In the non-obligor entities, there are total recoveries from working capital assets of \$70.2 million, from which \$11.9 million of the total liquidator and professional fees would be paid. Subsequent to this, across the various entities \$13.1 million of priority creditors could be repaid in full, leaving \$3.3 million residual priority creditors with an unsecured claim against the various non-obligor entities. There are also total recoveries from non-working capital assets of \$10.1 million, from which \$3.5 million of liquidator and professional fees would be paid. Of the \$3.3 million of residual priority creditors, only \$1.1 million was calculated as being repaid in entities with surpluses for unsecured creditors, with a



further \$37.4 million repaid to external third-party unsecured creditors. Following the repayment of these unsecured claims, across the non-obligor entities there was a total surplus of \$21.9 million available to be repaid to equity holders. Of this amount, \$3.9 million was in Longyear South Africa (Pty) Ltd, of which \$1.0 million would be payable to the 26.23% external equity holders, being The Longyear BEE Trust, leaving \$20.9 million for other entities within the Group (split between \$8.6 million amongst other non-obligor entities and \$12.3 million amongst the Obligor Group excluding BLY IP).

In BLY IP, there are total recoveries from non-working capital assets of \$3.3 million, relating to realisations of the intellectual property held by this entity (as detailed in Appendix M). From this, \$0.5 million of liquidator and professional fees would be paid, leaving a total surplus of \$2.8 million available for unsecured creditors. In the winding up of BLY IP, as detailed in Table 32, the Group's secured creditors only have unsecured claims against this entity. As such, the surplus in BLY IP is repaid to the Group's secured creditors (including both the Secured Scheme Creditors and other secured creditors) and BLY IP's third-party unsecured creditors at a rate of 0.3c/\$ leaving no surplus available for BLY US, its parent company.

In the Obligor Group (excluding BLY IP), there are total recoveries from working capital assets of \$143.5 million, from which \$14.8 million of liquidator and professional fees would be paid. Subsequent to this, across the Obligor Group (excluding BLY IP) \$37.5 million of priority creditors could be repaid in full, leaving \$9.8 million residual priority creditors with an unsecured claim against the various entities in the Obligor Group (excluding BLY IP). This total surplus of \$91.2 million is subsequently distributed amongst the secured creditors, applying the priorities for working capital assets pursuant to the security agreements as summarised in Table 32 in Section 8.4.3. There are also total recoveries from non-working capital assets of \$63.1 million, plus a further \$12.3 million in dividends from subsidiaries. From this, I have calculated that \$7.9 million of liquidator and professional fees would be paid prior to the distribution to the secured creditors, applying the respective priorities for non-working capital assets.

I note that the repayments against each facility detailed in the table above should be considered inclusive of the returns to the Secured Scheme Creditors and other secured creditors in BLY IP, i.e. the outstanding claim related to the PNC ABL of \$49.5 million is repaid in full after combining the \$49.3 million repayment from working capital assets in the Obligor Group (excluding BLY IP), as well as \$0.2 million from the total \$0.5 million paid to other secured creditors in BLY IP.

#### 8.6.6 Expected dividend

Based on the allocation of the recoveries to the various creditors as detailed in the EPM waterfall in Table 35 above, I have summarised the expected dividend available to different types of creditors, as detailed in the table below.

**Table 36: Uncontrolled Insolvency Scenario expected dividend to creditors**

\$ million	Claim amount	Obligor Group	Expected dividend		Total	Return (c / \$)
			BLY IP	Non-obligors		
Secured Scheme Creditors <sup>27</sup>	492.2	58.7	1.6	-	60.3	12.3
Other secured creditors	139.8	100.0	0.5	-	100.5	71.9
Unsecured Scheme Creditors	301.7	-	0.7	-	0.7	0.2
Priority creditors	63.5	37.5	-	14.1	51.6	81.2
Other unsecured creditors	213.8	-	0.0	37.4	37.4	17.5
<b>Total</b>	<b>1,210.9</b>	<b>196.2</b>	<b>2.8</b>	<b>51.5</b>	<b>250.5</b>	<b>20.7</b>

Source: Management accounts, FTI Consulting analysis

As a result, the expected dividend respectively available to the Secured Scheme Creditors and the Unsecured Scheme Creditors would be as per Table 3 below.

**Table 3: Uncontrolled Insolvency Scenario expected dividend summary**

\$ million	Debt	Return	Return
			(c / \$)
Secured Scheme Creditors	492.2	60.3	12.3
Unsecured Scheme Creditors	301.7	0.7	0.2

Source: the Group, FTI Consulting analysis

The expected dividend to the Unsecured Scheme Creditors is higher under the Uncontrolled Insolvency Scenario, as the realisable value from BLY IP's assets is distributed equally amongst the Secured Scheme Creditors, the Unsecured Scheme Creditors, and other creditors, as all have an unsecured claim against BLY IP.

<sup>27</sup> The expected dividend to the Secured Scheme Creditors in Table 36 excludes the expected dividend in respect of the PNC ABL, Backstop ABL, and Incremental Financing, as the holders of amounts owed under these facilities are not Secured Scheme Creditors as defined in Section 1.2 and the Schemes. The expected dividend in respect of the amounts owed under these facilities is reflected separately in the return to other secured creditors.

## 9. Outcome for the Group if Schemes are not implemented

### 9.1 Overview and opinion

I have been instructed to assess the likely outcome for the Group (including the Scheme Companies) should the Schemes not be implemented having regard to the Group's (including the Scheme Companies) existing financial position and projections.

My analysis considers:

1. The likely solvency of the Group assuming all current debt obligations remain unchanged or align with the assumptions detailed below; and
2. The longer-term outlook for the business, including its ability to refinance its debts as and when they fall due.

**In my opinion, and for the reasons detailed below, if the proposed restructure is not implemented, and no alternate restructuring plan was reasonably certain of being advanced, the Group would likely be unable to pay its debts as and when they fall due. In this circumstance the directors of the Scheme Companies would likely immediately seek to appoint voluntary administrators (or other applicable insolvency appointment) to the Scheme Companies and other entities within the Group.**

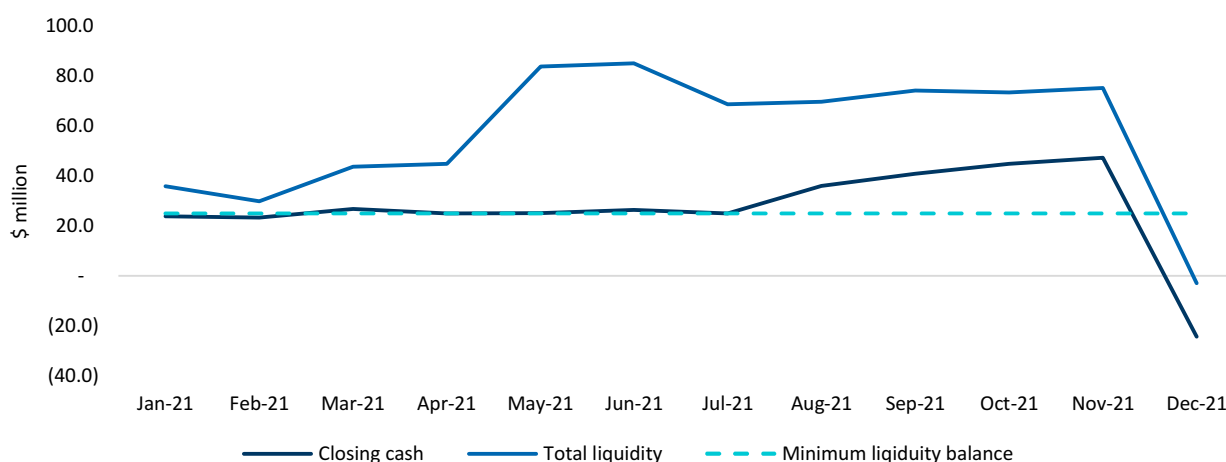
### 9.2 Review of the No Transaction Forecast

I have been provided with a revised forecast based on the FY21 RF1 Budget to 31 December 2021 that details the likely financial outcomes in the event the Schemes are not implemented (the "No Transaction Forecast"). The No Transaction Forecast provides a monthly forecast of the Group's cash flow statement, profit and loss statement, and balance sheet for the period 1 January 2021 to 31 December 2021, and as with the FY21 RF1 Budget, incorporates actual results for the months of January 2021 to March 2021.

The key assumptions underpinning the No Transaction Forecast are:

- Assumptions related to the day to day operations of the Group for FY21 are based on the FY21 RF1 Budget prepared by the Group and approved by the Board of Director in May 2021;
- The Schemes are not implemented;
- There is no material or noticeable disruption to the underlying operations of the Group as a result of the Schemes not being implemented;
- The Exit Financing is not secured, given the Schemes are not implemented, and the Incremental Financing of \$50.0 million is required to be repaid on 31 December 2021, along with \$2.7 million in accrued interest;
- The 31 December 2021 SSNs interest payment of \$15.2 million is paid in cash;
- The lenders under the PNC ABL maintain terms, including no line blocks of \$10.0 million, cash dominion of 12.5%, and no change to advance rates;
- There is no acceleration of debt repayments from either the TLA, TLB or SSNs; and
- No success fees are paid to professionals in August 2021 (\$9.3 million), but other fees are likely to be incurred in the context of the non-completion of the transaction and potential related litigation and/or legal action.

**Figure 7: No Transaction Forecast monthly cash and liquidity (1 January 2021 to 31 December 2021)**



Source: No Transaction Forecast

I consider the assumptions in the No Transaction Forecast to be optimistic on the basis that if the Schemes are not implemented, there is likely to be material disruption to operations, and by extension the financial results, of the Group. These disruptions are likely to include, but not be limited to, the following:

- The capital markets, including rating agencies, may react adversely to the previously announced Schemes not being effectuated;
- This is likely to cause concerns amongst trade suppliers regarding ongoing creditworthiness, which may cause tighter terms and possibly even non-supply, linked to an inability to obtain credit insurance;
- Customers may be unwilling to enter into long term contracts, given the uncertainty regarding the outlook for the Group; and
- Key executives may consider other, more stable, long term opportunities.

These issues could have significant adverse consequences to the Group's operations and financial results.

Further, the No Transaction Forecast provides that the Exit Financing is not secured, resulting in the Incremental Financing (and any related accrued interest) becoming due payable at 31 December 2021. I consider this assumption to be appropriate.

### 9.3 Solvency of the Group if Schemes not implemented

Based on the outputs of the No Transaction Forecast (and noting that I consider the forecasts to be optimistic for reasons outlined above), the Group will have insufficient liquidity at 31 December 2021 to meet the repayment of the Incremental Financing from its own operations and would be solely reliant on obtaining a refinancing, from either a third party or existing lenders or securing an extension to the repayment date, to remain solvent.

Of importance and relevance, is that all remaining finance facilities mature in FY22 (refer to Section 3.2 and Table 5). Any proposed debt or equity investment would be considered in the broader maturity profile of the Group and how those maturities would be proposed to be managed, again in light of the risks to the forecasts outlined above.

Given these issues, I have considered the ability of the Group to raise funds (either from debt or equity) to continue to meet its ongoing liabilities. In circumstances where the Schemes are not implemented, and absent express support from existing lenders, I consider that there are little to no prospects of further debt or equity being raised (particularly in view of the historical restructuring initiatives already undertaken) within the timeframes required.

Practically, in these circumstances, and in light of the currently unsustainable debt position, it could only be a significant equity injection (to repay debt), along the lines of the Schemes as currently proposed, that would be sufficient to

ensure the ongoing solvency of the Group. There appears little to no prospect of this occurring within the timeframes required.

While the repayment of the Incremental Financing is assumed to occur at 31 December 2021, the Board of Directors would need to assess the ability of the Group to secure an alternate outcome immediately following notification that the Schemes would not be implemented, in order to determine whether the Group would be insolvent at that point in time.

In my opinion, if the proposed restructure is not implemented, and no alternate restructuring plan was reasonably certain of being advanced, the Group would be in a position whereby it was likely to be unable to pay its debts as and when they fall due from the date the Schemes are either rejected or not implemented, and certainly by no later than 31 December 2021, when the Incremental Financing and any accrued interest becomes payable.

On balance, I consider it is more likely that the Group would likely be unable to pay its debts as and when they fall due from the date the Schemes are either rejected or not implemented. As at this date, there would be very little prospect of raising sufficient funds to meet the required repayment on 31 December 2021 and to repay other debt maturities coming due throughout FY22, absent a wider restructuring plan being agreed upon by all stakeholders. Given the current Scheme Proposals are effectively the restructuring plan that had been agreed upon and they would have been unable to be implemented, it is difficult to see a plausible alternative being agreed upon in the timeframes required.

In these circumstances, it is likely:

- The directors of the Scheme Companies would seek to appoint voluntary administrators (or an alternate form of insolvency appointment) to the Scheme Companies and potentially other entities;
- The lenders under the PNC ABL, the Backstop ABL, the Incremental Financing, or the Secured Scheme Creditors may call for immediate repayment or seek to accelerate debt repayments and appoint receivers to the Obligor Group; and
- Without the support of the Group's lenders, either of the above scenarios would likely result in some form of insolvency appointment to subsidiaries in other jurisdictions.

My opinion on the expected dividend to the Secured Scheme Creditors and the Unsecured Scheme Creditors should the Scheme Companies be wound-up is set out in Section 8.

## Appendix A: Curriculum vitae



### Chris Hill

Senior Managing Director  
Corporate Finance & Restructuring

Level 22, Gateway | 1 Macquarie Place, Sydney NSW 2000 Australia  
T +61 2 8247 8063  
[chris.hill@fticonsulting.com](mailto:chris.hill@fticonsulting.com)

#### Education

Bachelor of Commerce,  
The University of Adelaide

#### Certifications

Chartered Accountant  
Registered Liquidator

#### Associations

Chartered Accountants  
Australia and New Zealand  
(CAANZ)

Australian Restructuring  
Insolvency and Turnaround  
Association (ARITA)

Chris Hill has over 25 years' experience in the restructuring and advisory sector across a wide range of industries. Chris has undertaken engagements involving Independent Business Reviews, informal advisory mandates and formal insolvency roles acting as Voluntary Administrator and Receiver and Manager, across multiple industries including the Mining, Property, Infrastructure and Private Public Partnership sector. In addition, Chris has also undertaken a number of expert witness roles opining on issues associated with solvency and antecedent transactions.

Chris' engagements include acting as: Voluntary Administrator of Autocare Services Pty Ltd, a large scale logistics provider to OEM's; the Receiver and Manager of an ASX listed Network Television Station; the Voluntary Administrator of an ASX listed mining company; restructuring adviser to a partner involved in a large-scale renewables construction joint venture; and, adviser to the NSW Government in relation to a transport Private Public Partnership.

Critical aspects of both the informal and formal roles Chris has undertaken include:

- Independent, critical reviews of forecasts, including underlying assumptions, for the purpose of assessing reasonableness and conducting sensitivity analysis;
- Conducting campaigns for the sale of businesses as going concerns and assets on a piecemeal basis, including assessing the value of either businesses and/or assets for sale; and
- Managing multiple stakeholders in complex situations to drive commercial outcomes.

Prior to joining FTI Consulting, Chris was a partner at PwC in the Restructuring practice, following on from the acquisition of his former practice, PPB Advisory. Prior to that Chris held roles at National Australia Bank and Ferrier Hodgson.

#### Relevant Experience:

- Autocare Services Pty Ltd, a large-scale logistics provider to OEM's – Voluntary Administrator – recapitalised through a Deed of Company Arrangement following an on market sale campaign
- Flow Systems Pty Ltd, a private equity owned water infrastructure business – Voluntary Administrator – recapitalised through a Deed of Company Arrangement following an on market sale campaign

**Relevant Experience (Con't):**

- Ten Network Holdings Limited, an ASX listed Network television station – Receiver and Manager – sale to CBS Network in a take private transaction via section 444GA, following an on market sale campaign
- Bounty Mining Limited, an ASX listed coalminer – Receiver and Manager – sale to QCoal Limited following an on market sale campaign
- Lending syndicate on BIS Industries, a private equity held mining business – Restructuring adviser – restructured via a Creditors Scheme of Arrangement, following an assessment of market value compared to senior secured debt levels
- Lending syndicate of a marine services provider – Restructuring adviser – recapitalisation via a new equity injection and debt resizing following an assessment of market value compared to senior secured debt levels
- New Royal Adelaide Hospital – Independent Expert for a Creditors Scheme of Arrangement
- WDR Resources Limited (In Liquidation) – Independent Expert in relation to solvency
- Aurelia Metals Limited – Independent Expert in relation to solvency

## Appendix B: Engagement letter

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27 July 2021

**BY EMAIL**

Christopher Hill  
FTI Consulting  
Level 22, Gateway  
1 Macquarie Place  
Sydney NSW 2000

**ashurst**

Dear Mr Hill

**Engagement for Dividend and Solvency Analysis in relation to the Creditors' Schemes of Arrangement of Boart Longyear Limited (the Schemes)**

We act for Boart Longyear Limited (**Listco**) and its subsidiaries (**Group**), which include Boart Longyear Management Pty Limited (**FinCo 1**), BL Capital Management LLC (**FinCo 2**), Boart Longyear Investments Pty Limited (**BLY Investments**), Boart Longyear Australia Pty Limited (**BLY Australia**), BLY US Holdings Inc. (**BLY US**) and Votrant No. 1609 Pty Limited (**Votrant**).

**1. INTRODUCTION**

1.1 The Group's debt capital structure can be summarised as follows:

- (a) a Secured Revolving Credit and Security Agreement dated 23 July 2017 provided to FinCo 1, as amended and restated from time to time (**PNC ABL**);
- (b) a Secured Term Loan Securities Agreement dated 23 July 2017 provided to FinCo 1, as amended and restated from time to time (**Backstop ABL**);
- (c) a Term Loan A Securities Agreement dated 31 December 2018 issued by FinCo 2, as amended and restated from time to time (**TLA**);
- (d) a Term Loan B Securities Agreement dated 31 December 2018 issued by FinCo 2, as amended and restated from time to time (**TLB**);
- (e) 12.0%/10.0% Senior Secured PIK Toggle Notes due 31 December 2022 issued by FinCo 1, as amended and restated from time to time (**SSN's**); and
- (f) 1.50% Subordinated PIK Notes due 31 December 2022 issued by FinCo 1, as amended and restated from time to time (**SUN's**),

together, the **Finance Documents**.

- 1.2 Listco, Finco 1, Finco 2, BLY Investments, BLY Australia, BLY US and Votrant (together, the **Scheme Companies**) propose to enter into the following interdependent schemes of arrangement with certain of their creditors under the Finance Documents, being:
- (a) the holders of the TLA, TLB and SSN's (together, the **Secured Scheme Creditors**); and
  - (b) the holders of the SUN's and certain unsecured interest and premium due under the TLA, TLB and the SSN's (the **Unsecured Scheme Creditors**).
- 1.3 We have been instructed by the Scheme Companies to engage you to prepare an independent expert report on behalf of the Scheme Companies and the Group addressing financial matters relating to the proposals by the Scheme Companies and certain of their creditors to apply for orders under section 411 of the *Corporations Act 2001* (Cth) (**Act**) convening respective meetings of the Secured Scheme Creditors and the Unsecured Scheme Creditors to consider inter-conditional schemes of arrangement. Your independent expert report is also to be prepared for use by the directors of the Scheme Companies in relation to the Schemes.
- 1.4 The Scheme Companies wish to appoint you as an independent expert.

## 2. **INSTRUCTIONS**

- 2.1 You are instructed to prepare an independent expert report (**FTI Report**) addressing the following matters:

- (a) The solvency of the Group following the implementation of the proposed Schemes:
  - (i) solvency is to be determined following completion of the Schemes; and
  - (ii) you are to determine "solvency" with reference to section 95A of the Act.
- (b) The expected dividend that would be respectively available to the:
  - (i) Secured Scheme Creditors; and
  - (ii) Unsecured Scheme Creditors;

if the Scheme Companies were to be wound up within 6 months of the hearing of the application for an order under section 411(1) and (1A) of the Act.
- (c) The expected dividend that would be respectively paid to the:
  - (i) Secured Scheme Creditors; and
  - (ii) Unsecured Scheme Creditors;

if the Schemes were put into effect as proposed.

The requirement to calculate the expected dividend that would be paid to the Secured Scheme Creditors and Unsecured Scheme Creditors if the Schemes were to be put into effect is drawn from s 8201(b) in Part 2 of Schedule 8 of the *Corporations Regulations 2001* (Cth) (**Regulations**).

If, in response to paragraph (a) above, you conclude that the Scheme Companies will be solvent following the implementation of the Schemes, then the Scheme Companies would not be wound up following the implementation of the Schemes and based on the terms of the Schemes, despite the calculation required by the Regulations, no dividend would actually be paid to the Secured Scheme Creditors and Unsecured Scheme Creditors in a liquidation.

In these circumstances, the instruction in (c) above still requires you to calculate the *dividend* that would be paid to Secured Scheme Creditors and Unsecured Scheme Creditors if the Schemes were implemented.

If you conclude in response to (a) above that the Scheme Companies would be solvent following the implementation of the Schemes, in order to reduce the risk that a reader of your report might be confused by the use of the term "expected dividend" in circumstances where the Scheme Companies are not being wound up, we request that where you are addressing the calculation described in (c) above in your report you refer to the implied value to the Secured Scheme Creditors and the Unsecured Scheme Creditors (**Implied Value**) instead of "expected dividend".

- (d) The likely outcome for the Group (including the Scheme Companies) should the Schemes not be implemented having regard to the Group's (including the Scheme Companies) existing financial position, and projections.
- 2.2 The FTI Report should include a schedule listing the data, reports and other information (to the extent this material is not set out in the body of the FTI Report) which has been used to prepare the FTI Report.
- 2.3 You are also instructed to read the following **enclosed** documents:
- (a) Expert Witness Code of Conduct from the Uniform Civil Procedure Rules 2005 (NSW) and to acknowledge in the FTI Report that you have done so and agree to comply with it; and
  - (b) Regulatory Guides 60 (dated September 2020), 111 (dated October 2020) and 112 (dated March 2011) issued by ASIC and to acknowledge in the FTI Report that you have done so and consider that you are independent in accordance with the requirements of Regulatory Guides 60, 111 and 112 and that you consider that you have complied with the terms of those document.
- 2.4 You are also instructed to disclose in the FTI Report the existence of any engagements you have had with the Group.
3. **COURT PROCEEDINGS AND THE USE OF THE FTI REPORT**
- 3.1 You agree that the directors of the Scheme Companies may rely on the FTI Report for, amongst other things, considering whether the Scheme Companies would be solvent (within the meaning of section 95A of the Act) following implementation of the Schemes.
- 3.2 You agree to the inclusion of the FTI Report as:
- (a) an annexure to the Explanatory Statement to be provided by the Scheme Companies to the Secured Scheme Creditors, Unsecured Scheme Creditors and others (including ASIC and the ASX) in relation to the Schemes; and
  - (b) an annexure to a notice of meeting to the shareholders of the Scheme Companies.
- 3.3 Schemes of arrangement are subject to Court approval. Any applications by the Scheme Companies will require the following documents to be included in the applications to the Court:
- (a) the FTI Report; and
  - (b) an affidavit from you introducing and annexing or exhibiting the FTI Report and verifying the opinions contained therein.

- 3.4 You agree to the FTI Report being used in the proceedings before the Court relating to the Schemes, and to the provision of affidavits by you in relation to the FTI Report in the Court proceedings.

4. **CONFIDENTIALITY**

- 4.1 Your services as independent expert may require you to receive confidential and/or proprietary information or property of the Scheme Companies. You agree to maintain all documents, information and things obtained in connection with this matter in strict confidence. You agree to maintain any reports, work papers, memoranda or summaries which may be prepared in connection with the engagement by you or personnel assisting you in strict confidence. You agree not to disclose these things to any person or use them for any purpose apart from assisting Ashurst and the Scheme Companies in relation to this matter, and you agree to ensure your personnel are obliged to do the same. You agree to retain all such material, subject to our instructions.
- 4.2 Apart from engaging with us, the Scheme Companies and its authorised personnel or consultants, and the giving of evidence in the Court proceedings:
- (a) you must keep all communications between us confidential (including the contents of this letter). It is a condition of this engagement that you take all reasonable measures to protect the confidentiality of, and any privilege attaching to, these communications;
  - (b) you must not disclose to anyone the content of any confidential oral or written communication relating to this engagement;
  - (c) no other use, disclosure or dissemination of such materials or information gained in connection with this engagement is to be made without prior written consent, except as may be required by law; and
  - (d) you must not discuss any aspect of this matter with any other person, or inform them of your involvement in this matter, without our prior written consent.
- 4.3 There may be specific confidentiality orders applying to the Court proceedings described above. We will advise you if and when such orders apply to you. If you are ever in doubt about what may be discussed with others, please contact us to ensure there is no inadvertent breach of this agreement or any Court orders.
- 4.4 Please mark any written communications (including emails) and reports involving this matter **"Privileged and Confidential"**. Please address all letters and faxes in connection with your services to:

***Privileged and Confidential***

Attention: James Marshall  
Ashurst Australia  
Level 11, 5 Martin Place  
Sydney NSW 2000

- 4.5 All documents obtained in the course of this engagement must be returned to us upon request. The obligations in this letter expressly apply to both you and any personnel providing assistance to you. The obligations in this letter survive expiration or termination of this engagement.

5. **YOUR FEES**

We confirm that the Scheme Companies will ultimately be responsible for your fees for the preparation of the independent expert report.

6. **CONFIRMATION**

Please confirm whether you and FTI Consulting agrees to the terms of this engagement, including the confidentiality requirements, by return letter.

Please contact James Marshall or Sarah Worrall should you require any further information or confirmation, or if you have any questions or issues in relation to this letter or otherwise.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ashurst', written in a cursive style.

**Ashurst Australia**

## Appendix C: Regulatory guides

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**ASIC**  
Australian Securities &  
Investments Commission

## REGULATORY GUIDE 111

# Content of expert reports

October 2020

### **About this guide**

This is a guide for any person who commissions, issues or uses an expert report.

It provides guidance on the content of an expert report and how an expert can help security holders make informed decisions about transactions.

### About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Document history

This version was issued in October 2020 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 111, issued October 2007, reissued March 2011

### Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.



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## A Overview

### Key points

This guide gives ASIC's views on how an expert can help security holders make informed decisions about transactions.

It gives guidance to experts on how to draft an expert report that satisfies the requirements of the *Corporations Act 2001* (Corporations Act).

This guide outlines our views on:

- how experts should analyse a proposed transaction (see Section B);
- the different valuation methodologies used by experts and the treatment of assumptions (see Section C);
- general requirements for all expert reports (see Section D); and
- the regulatory action we might take against an expert (see Section E).

## Reports covered by this guide

- RG 111.1 This guide focuses on reports prepared for transactions under Chs 2E, 5, 6 and 6A of the Corporations Act, whether the reports are required by the Corporations Act or are commissioned voluntarily. The principles in this guide may also be relevant to independent expert reports commissioned for other purposes—for example, specialist reports like geologist reports or traffic forecast reports for inclusion in Ch 6D disclosure documents and Ch 7 product disclosure statements.
- RG 111.2 This guide does not apply to independent or investigating accountant reports.
- RG 111.3 Examples of transactions for which entities are required to commission an independent expert report or may do so voluntarily to assist security holders to make an informed choice are takeover bids, compulsory acquisitions and buy-outs, schemes of arrangement, related party transactions and capital reorganisations: see Table 1.
- RG 111.4 Where the Corporations Act or Australian Securities Exchange Limited (ASX) Listing Rules require an entity to commission an independent expert report, this is generally to ensure that shareholders receive an independent analysis of transactions involving related parties or other persons of influence. For example, s640 of the Corporations Act requires an independent expert report where the bidder has a 30% voting power in the target company or the bidder and target have common directors. It is important that an expert applies close scrutiny to a transaction involving a related party or other person of influence and critically analyses the information provided to it.

**Table 1: Examples of transactions for which entities commission an independent expert report**

Transaction	Circumstances
Takeover bids	<ul style="list-style-type: none"> <li>The target must commission an expert report when the bidder's voting power in the target is at least 30% of the target or when the bidder and the target have common directors: s640.</li> <li>The bidder must commission an expert report when the consideration paid by the bidder for acquiring a pre-bid stake includes unquoted securities: s636(1)(h)(iii) and 636(2).</li> <li>Targets often commission expert reports to assist security holders, even if there is no requirement to do so.</li> <li>In joint bids the bidders must use their best endeavours to have the target engage an independent expert to prepare a report on whether the joint bid is fair and reasonable to target shareholders who are not associates of the bidders: see Table 9 in <a href="#">Regulatory Guide 9 Takeover bids</a> (RG 9) and RG 9.649.</li> </ul>
Schemes of arrangement	<ul style="list-style-type: none"> <li>The scheme company must commission an expert report when the other party to the scheme holds at least 30% of the voting shares of the scheme company or when they have common directors: reg 5.1.01 and Sch 8, cls 8303 and 8306 of the Corporations Regulations 2001 (Corporations Regulations).</li> <li>Scheme companies often commission an expert report when transactions are complex or effect a takeover.</li> </ul>
Compulsory acquisitions or buy-outs	The bidder in a compulsory acquisition must commission an expert report under s663B, 664C, 665B and 667A.
Acquisitions approved by security holders under item 7 of s611	The company commissions an expert report (or, if it has the expertise, a director's report to the same standard) to discharge the requirement to disclose all material information on how to vote on the resolution: item 7(b) of s611.
Selective capital reductions	An expert report should usually accompany the explanatory memorandum to satisfy the information requirements of fairness under s256C(4).
Related party transactions	An expert report may be supplied to members as part of the material to accompany the notice of meeting: s218, 219, 220 and 221.
Transactions with persons in a position of influence	Notices of meeting for approvals under ASX Listing Rule 10.10 must be accompanied by an expert report: ASX Listing Rule 10.10.2.
Demutualisations of financial institutions	An expert report must accompany a notice of meeting for a demutualisation of a financial institution or friendly society: Sch 4, cl 29(4).
Buy-backs	If a company proposes to buy-back a significant percentage of securities or the holdings of a major shareholder, it should consider providing an independent expert report with a valuation of the shares: <a href="#">Regulatory Guide 110 Share buy-backs</a> (RG 110) at RG 110.18 and RG 110.20.

Transaction	Circumstances
Share transfers under s444GA	<p>Share transfers under s444GA that require relief from s606 will generally require an expert report to help:</p> <ul style="list-style-type: none"><li>• ASIC in determining whether to grant relief from s606;</li><li>• members, creditors, interested persons and ASIC in their decision to oppose leave of the court; and</li><li>• the court in its decision to grant leave.</li></ul>

## B Analysing a transaction

### Key points

An expert should focus on the issues facing the security holders for whom the report is being prepared: see RG 111.5–RG 111.7.

An expert should focus on the substance of the transaction rather than the legal mechanism used to achieve that purpose: see RG 111.8–RG 111.34.

Some transactions will require a different form of analysis, particularly:

- demergers and demutualisations (see RG 111.35–RG 111.40);
- approval of a sale of securities under item 7 of s611 (see RG 111.41–RG 111.46);
- compulsory acquisitions and buyouts (see RG 111.47–RG 111.51); and
- share transfers under s444GA (see RG 111.64–RG 111.80).

When assessing whether a related party transaction is ‘fair and reasonable’, an expert should consider the overall effect of the transaction: see RG 111.53–RG 111.63.

## A recommended approach

- RG 111.5 In deciding on the appropriate form of analysis for a report, an expert should bear in mind that the main purpose of the report is to adequately deal with the concerns that could reasonably be anticipated of those persons affected by the proposed transaction. An expert should focus on the purpose and outcome of the transaction, that is, the substance of the transaction, rather than the legal mechanism used to effect the transaction.
- RG 111.6 The Corporations Act requires an expert to express the opinion using particular language depending on the type of transaction. For example:
- (a) whether a takeover bid is ‘fair and reasonable’ under s640;
  - (b) whether a scheme of arrangement is in ‘the best interests of the members of the company’ under Sch 8, cl 8303 of the Corporations Regulations; and
  - (c) whether the proposed terms in the buy-out or acquisition notice give a ‘fair value’ for the securities under s667A(1).
- RG 111.7 Nevertheless, the form of analysis an expert uses to evaluate a transaction should address the issues faced by security holders. The rest of this section sets out our guidance on the form of analysis an expert should use for particular types of transactions.

## Control transactions

RG 111.8 A control transaction, when a person acquires, or increases, a controlling stake in a company, can be achieved by way of a number of different legal mechanisms, including, for example:

- (a) a takeover bid under Ch 6;
- (b) a scheme of arrangement under Pt 5.1;
- (c) approval of an issue of shares using item 7 of s611; and
- (d) a selective capital reduction or selective buy-back under Ch 2J.

Note 1: Ch 6 extends to listed managed investment schemes and listed bodies that are not companies. For the purposes of this regulatory guide, references to a 'company' in the context of Ch 6 takeovers can be read as references to these bodies or schemes, when appropriate.

Note 2: Not all transactions under item 7 of s611 involve the issue of shares. For those transactions that do not involve the issue of shares, see RG 111.41–RG 111.46.

RG 111.9 It is important for an expert to focus on the substance of a control transaction, rather than the legal mechanism used to effect it.

### Takeover bids

RG 111.10 It has long been accepted in Australian mergers and acquisitions practice that the words 'fair and reasonable' in s640 establish two distinct criteria for an expert analysing a control transaction:

- (a) is the offer 'fair'; and
- (b) is it 'reasonable'?

That is, 'fair and reasonable' is not regarded as a compound phrase.

RG 111.11 Under this convention, an offer is 'fair' if the value of the offer price or consideration is equal to or greater than the value of the securities the subject of the offer. This comparison should be made:

- (a) assuming a knowledgeable and willing, but not anxious, buyer and a knowledgeable and willing, but not anxious, seller acting at arm's length; and

Note: Any special value of the 'target' to a particular 'bidder' (e.g. synergies that are not available to other bidders) should not be taken into account under this comparison, but see RG 111.13(e).

- (b) assuming 100% ownership of the 'target' and irrespective of whether the consideration is scrip or cash. The expert should not consider the percentage holding of the 'bidder' or its associates in the target when making this comparison. For example, in valuing securities in the target entity, it is inappropriate to apply a discount on the basis that the shares being acquired represent a minority or 'portfolio' parcel of shares.

- RG 111.12 An offer is ‘reasonable’ if it is fair. It might also be ‘reasonable’ if, despite being ‘not fair’, the expert believes that there are sufficient reasons for security holders to accept the offer in the absence of any higher bid before the close of the offer.
- RG 111.13 When deciding whether an offer is reasonable, an expert might consider:
- (a) the bidder’s pre-existing voting power in securities in the target;
  - (b) other significant security holding blocks in the target;
  - (c) the liquidity of the market in the target’s securities;
  - (d) taxation losses, cash flow or other benefits through achieving 100% ownership of the target;
  - (e) any special value of the target to the bidder, such as particular technology, the potential to write off outstanding loans from the target, etc;
  - (f) the likely market price if the offer is unsuccessful; and
  - (g) the value to an alternative bidder and likelihood of an alternative offer being made
- RG 111.14 For example, a bidder who controls a target and makes a takeover bid may offer a price which is ‘not fair’ as it includes a minority discount. The offer price may, however, be greater than the price at which the securities were trading before the takeover bid was made. In such circumstances, it is appropriate for the expert to consider whether the market price may fall if the offer is unsuccessful: see RG 111.13(f). It would also be appropriate for the expert to consider the matters set out in RG 111.13(d) and RG 111.13(f) in assessing the likelihood that the bidder would increase its offer price, including to a price that an expert would assess as ‘fair’.
- RG 111.15 A bidder may also offer a price which is ‘not fair’ where the target is in financial distress. This is because the fair value of the target securities should be determined on the basis of a knowledgeable and willing, but not anxious, seller that is able to consider alternative options to the bid (e.g. an orderly realisation of the target’s assets). Such an offer may nonetheless be reasonable if the alternative methods of remedying the financial distress are likely to be less attractive to security holders than a successful offer.

Note: For the avoidance of doubt, funding requirements for a target that is not in financial distress (e.g. capital that is required to develop a project) should generally be taken into account when determining the fair value of target securities: see *Northern Energy Corporation Limited* [2011] ATP 2. Such funding requirements will generally be relevant to determining the value of the target securities assuming knowledgeable and willing, but not anxious, parties. These funding requirements will often be implicitly reflected in certain methodologies (e.g. the quoted price for listed securities). The expert may need to expressly determine to take funding requirements into account when using other methodologies (e.g. the discounted cash flow methodology).

- RG 111.16 An expert concluding that an offer is not fair, but reasonable, should clearly explain the meaning of this opinion, why the expert has reached this conclusion and the significance of the conclusion to the decision to be made by security holders (e.g. what it might mean for the security holder's decision making). Otherwise, depending on the circumstances, the report might be misleading or deceptive. In describing the factors that are relevant to a conclusion that an offer is reasonable, an expert should generally only include the factors that are material to this conclusion.
- RG 111.17 To the extent reasonably practicable, and where it can do so with sufficient precision to assist security holders, the expert should quantify the reasonableness factors it considers to be material. For example:
- (a) if the expert comments that the share price may fall if the bid is unsuccessful, the expert should consider providing quantitative information such as the pre-announcement share price (or volume weighted average price) and the liquidity profile of the target's shares; and
  - (b) if the bidder controls the target, the expert should consider quantifying the size of the minority discount.

### **Control transactions by way of a scheme of arrangement**

- RG 111.18 Schemes of arrangement can be used as an alternative to a Ch 6 takeover bid to achieve substantially the same outcome. In these circumstances, we expect the form of analysis to be substantially the same as for a takeover bid, even though the wording of the opinion will also be whether the proposed scheme is 'in the best interests of the members of the company'. This reflects that the legislative test for schemes of arrangement differs from that applicable to a Ch 6 takeover bid.
- RG 111.19 When an expert report is required in a scheme of arrangement involving a change of control, the expert is expected to apply the analysis and provide an opinion as to whether the proposal is 'fair and reasonable' as set out in RG 111.10–RG 111.17 as if:
- (a) the 'bidder' was the 'other party'; and
  - (b) the 'target' was the company that is the subject of the proposed scheme.
- RG 111.20 If an expert would conclude that a proposal was 'fair and reasonable' if it was in the form of a takeover bid, it will also be able to conclude that the scheme is in the best interests of the members of the company.
- RG 111.21 If an expert would conclude that the proposal was 'not fair but reasonable' if it was in the form of a takeover bid using the analysis described in RG 111.10–RG 111.17, it is still open to the expert to also conclude that the scheme is 'in the best interests of the members of the company'. The expert



should clearly say that the consideration is not equal to or greater than the value of the securities the subject of the scheme, but there are sufficient reasons for security holders to vote in favour of the scheme in the absence of a higher offer.

- RG 111.22 If an expert concludes that a scheme proposal is ‘not fair and not reasonable’, then the expert would conclude that the scheme is not in the best interests of the members of the company.
- RG 111.23 When a scheme of arrangement is used to acquire or increase a party’s control, the report should address the interests of members who are bound to give up rights under the scheme. The expert should separately consider the interests of each class of those members under the scheme.

### **Other control transactions**

- RG 111.24 An issue of shares by a company otherwise prohibited under s606 may be approved under item 7 of s611 and the effect on the company’s shareholding is comparable to a takeover bid. Examples of such issues approved under item 7 of s611 that are comparable to takeover bids under Ch 6 include:
- (a) a company issues securities to the vendor of another entity or to the vendor of a business and, as a consequence, the vendor acquires over 20% of the company incorporating the merged businesses. The vendor could have achieved the same or a similar outcome by launching a scrip takeover for the company; and
  - (b) a company issues securities in exchange for cash and, as a consequence, the allottee acquires over 20% of the company. The allottee could have achieved the same or a similar outcome by using a cash-rich entity to make a scrip takeover bid for the company.
- RG 111.25 If this is the case, an expert should apply the analysis outlined in RG 111.10–RG 111.17—that is, the transaction should be analysed as if it was a takeover bid under Ch 6. However, references to, for example, the ‘bidder’ and the ‘target’ should be taken to mean the ‘allottee’ and ‘company’ respectively.
- RG 111.26 An issue of shares for cash may have other benefits that should be considered in deciding whether the transaction is reasonable. These benefits may include:
- (a) the provision of new capital to exploit business opportunities;
  - (b) a reduction in debt and interest payments; or
  - (c) a needed injection of working capital.
- RG 111.27 There may be circumstances in which the allottee will acquire 20% or more of the voting power of the securities in the company following the allotment

or increase an existing holding of 20% or more, but does not obtain a practical measure of control or increase its practical control over that company. If the expert believes that the allottee has not obtained or increased its control over the company as a practical matter, then the expert could take this outcome into account in assessing whether the issue price is ‘reasonable’ if it has assessed the issue price as being ‘not fair’ applying the test in RG 111.11.

- RG 111.28 A transaction otherwise prohibited under s606 for which approval is sought under item 7 of s611 will not always involve the issue of shares. For the analysis of other transactions under item 7 of s611, see RG 111.41–RG 111.46.
- RG 111.29 Similar considerations apply in relation to control transactions by way of a selective capital reduction or selective buy-back under Ch 2J.

### **Assessing non-cash consideration in control transactions**

- RG 111.30 If the bidder is offering non-cash consideration in a control transaction, the expert should examine the value of that consideration and compare it with the valuation of the target’s securities, whether the transaction is effected by a takeover bid, a scheme of arrangement or an issue of shares.
- RG 111.31 The comparison should be made between the value of the securities being offered (allowing for a minority discount) and the value of the target entity’s securities, assuming 100% of the securities are available for sale. This comparison reflects the fact that:
- (a) the acquirer is obtaining or increasing control of the target; and
  - (b) the security holders in the target will be receiving scrip constituting minority interests in the combined entity.

However, the expert may need to assess whether a scrip takeover is in effect a merger of entities of equivalent value when control of the merged entity will be shared equally between the ‘bidder’ and the ‘target’. In this case, the expert may be justified in using an equivalent approach to valuing the securities of the ‘bidder’ and the ‘target’.

- RG 111.32 If the expert uses the market price of securities as a measure of the value of the offered consideration, the expert should consider and comment on:
- (a) the depth of the market for those securities;
  - (b) the volatility of the market price; and
  - (c) whether or not the market value is likely to represent the value if the takeover bid is successful.

- RG 111.33 For example, trading after a bid is announced may reflect some of the benefits of the combined entity, depending on whether the market has confidence that the transaction will proceed.
- RG 111.34 If, in a scrip bid, the target is likely to become a controlled entity of the bidder, the bidder's securities can also be valued assuming a notionally combined entity. However, the expert should still allow for the fact that accepting holders are likely to hold minority interests in that combined entity. The comparison should include the assets and liabilities of the target and the dilution effect of the acquisition on the target's earnings, asset backing and dividends. The expert should also discuss the bases for calculating the dilutions.

Note: Reverse takeovers (either by takeover bid or scheme of arrangement) can raise special issues: see [Regulatory Guide 60 Schemes of arrangement](#) (RG 60) at RG 60.35–RG 60.37.

## Demergers and demutualisations

- RG 111.35 Demergers and demutualisations might not involve:
- (a) a change in the underlying economic interests of security holders;
  - (b) a change of control; or
  - (c) selective treatment of different security holders.
- RG 111.36 In the absence of these factors, the issue of 'value' may be of secondary importance (particularly in demutualisations). The expert should provide an opinion as to whether the advantages of the transaction outweigh the disadvantages. In some cases, it might still be appropriate to carry out a valuation. In a demerger, the expert may still choose to value the demerged businesses to test whether the value of the sum of the parts (the demerged entities) is greater or less than the whole (the existing entity). If the expert does not undertake such a valuation, to the extent reasonably practicable, and where it can do so with sufficient precision to assist security holders, the expert should quantify the advantages and disadvantages that it considers to be material. For example, the expert may comment on the likelihood of a 'market re-rating' by analysing the post-transaction performance of other demergers.
- RG 111.37 If the demerger or demutualisation involves a scheme of arrangement and the expert concludes that the advantages of the transaction outweigh the disadvantages, the expert should say that the scheme is in the best interests of the members.
- RG 111.38 In a demerger, security holders will typically have to balance issues such as the benefits of a greater focus afforded to the demerged entities against increased costs and reduction in diversified earnings streams.

- RG 111.39 In a demutualisation, the advantages and disadvantages to be considered might include questions of unlocking value for members and greater management accountability as reasons to demutualise, as compared to the loss of the benefits of being a mutual organisation.
- RG 111.40 An expert might need to consider whether using the form of analysis described at RG 111.10–RG 111.17 is appropriate when demergers and demutualisations involve one or more of:
- (a) a change in the underlying economic interests of security holders;
  - (b) a change of control; or
  - (c) selective treatment of different security holders.

## Approval of a sale of securities under item 7 of s611

- RG 111.41 Approval for a sale of securities that would otherwise contravene s606 may be sought under item 7 of s611. Item 7 of s611 envisages that security holders not associated with such a transaction may approve it. In doing so, these security holders may be forgoing:
- (a) the opportunity of receiving a takeover bid; and
  - (b) sharing in any premium for control.
- RG 111.42 The expert should identify the advantages and disadvantages of the proposal to security holders not associated with the transaction. In contrast with the analysis for an issue of shares approved under item 7 of s611, the expert should provide an opinion either:
- (a) that the advantages of the proposal outweigh the disadvantages; or
  - (b) that the disadvantages of the proposal outweigh the advantages.
- RG 111.43 A specific issue the expert should determine is whether the vendor is to receive a premium for control.
- RG 111.44 The greater the control premium, the greater the advantages of the transaction to the non-associated holders would need to be to support a finding that the advantages of the proposal outweighed the disadvantages. These other advantages may come, for example, from a better long-term profit outlook as the incoming security holder offers superior management skills.
- RG 111.45 The expert should also inquire whether further transactions are planned between the entity, the vendor or any of their associates. If any are contemplated, the expert should determine whether those transactions would be on an arm's length basis. If not, an implication arises that they may compensate a vendor for a price that is too low.
- RG 111.46 An expert should also consider whether any proposed acquisition by way of sale, if approved, might deter the making of a takeover bid for the entity.

## Compulsory acquisitions and buy-outs

- RG 111.47 Chapter 6A prescribes the steps an expert must take in reaching an opinion for compulsory acquisitions and buy-outs. Section 667A(1) requires an expert to:
- (a) provide an opinion on whether the proposed terms in the buy-out or acquisition notice give a ‘fair value’ for the securities; and
  - (b) set out the reasons for its opinion.
- RG 111.48 To determine what is ‘fair value’, s667C requires that an expert:
- (a) first assess the value of the entity as a whole;
  - (b) then allocate that value among the classes of issued securities in the company (taking into account the relative financial risk and the voting and distribution rights of the classes); and
  - (c) then allocate the value of each class pro rata among the securities in that class (without allowing any premium or applying a discount for particular securities or interest in that class).
- RG 111.49 In determining the fair value for securities, an expert must also take into account the prices paid for securities in that class in the previous six months: s667C(2).
- RG 111.50 The weight of judicial authority is that an expert should not reflect ‘special value’ that might accrue to the acquirer (e.g. *Capricorn Diamonds Investments Pty Ltd v Catto* (2002) 41 ACSR 376 at 431; *Winpar Holdings Ltd v Austrim Nylex Ltd* [2005] VSCA 211 at [11]–[37]; *Teh v Ramsay Centauri* (2002) 42 ACSR 354 at 359). In practice, the issue of ‘special value’ might not be a critical issue. Special value might not be material once it has been allocated pro rata to each security in the class, including the securities of the party seeking to make the compulsory acquisition. An expert should not add any premium for forcible divestment: see *Capricorn* at 432.
- Note: Similar considerations apply as to whether consideration under a capital reduction ‘is fair and reasonable to the company’s shareholders as a whole’: see s256B(1)(a) and *Re Goldfields Kalgoorlie*; *Winpar Holdings Ltd v Goldfields Kalgoorlie Ltd* (2000) 34 ACSR 737 at [69].
- RG 111.51 Our approach to nominating experts to provide valuations under Ch 6A is set out in [Regulatory Guide 10](#) *Compulsory acquisitions and buyouts* (RG 10) at RG 10.173–RG 10.178.

## Related party transactions

- RG 111.52 Experts who are asked to prepare a report for the following transactions should comply with RG 111.53–RG 111.63:
- (a) a transaction with a related party that requires member approval under Ch 2E (including as modified by Pt 5C.7 for registered managed investment schemes); or
  - (b) a transaction with a person in a position of influence that requires member approval under ASX Listing Rule 10.
- RG 111.53 When analysing related party transactions, it is important that an expert focuses on the substance of the related party transaction, rather than the legal mechanism. For example, where a related party transaction is made up of a number of separate components, the expert should consider the overall effect of the related party transaction.
- RG 111.54 Where the related party transaction is one component of a broader transaction or a series of transactions involving non-related parties (such as a control transaction), the expert should carefully consider what level of analysis of the related party aspect is required: see also RG 111.4. In this consideration, the expert should bear in mind whether the report has been sought to ensure that members are provided with sufficient information to decide whether to approve giving a financial benefit to the related party as well as the broader transaction.

### **‘Fair’ and ‘reasonable’ test**

- RG 111.55 Generally, ASIC expects an expert who is asked to analyse a related party transaction to express an opinion on whether the transaction is ‘fair and reasonable’ from the perspective of non-associated members. This analysis is specifically required where the report is also intended to accompany meeting materials for member approval of an asset acquisition or disposal under ASX Listing Rule 10.1.
- RG 111.56 Where an expert assesses whether a related party transaction is ‘fair and reasonable’ (whether for the purposes of Ch 2E or ASX Listing Rule 10.1), this should not be applied as a composite test—that is, there should be a separate assessment of whether the transaction is ‘fair’ and ‘reasonable’, as in a control transaction. An expert should not assess whether the transaction is ‘fair and reasonable’ based simply on a consideration of the advantages and disadvantages of the proposal, as we do not consider this provides members with sufficient valuation information. See [Regulatory Guide 76](#) *Related party transactions* (RG 76) at RG 76.105–RG 76.112 for further details.

- RG 111.57 A proposed related party transaction is ‘fair’ if the value of the financial benefit to be provided by the entity to the related party is equal to or less than the value of the consideration being provided to the entity. This comparison should be made:
- (a) assuming a knowledgeable and willing, but not anxious, buyer and a knowledgeable and willing, but not anxious, seller acting at arm’s length; and
- Note: This is a separate test to the consideration of relevant factors and circumstances when determining whether the transaction is on ‘arm’s length’ terms for the purposes of s210: see Section C of RG 76.
- (b) for control transactions, on the basis referred to in RG 111.11.
- RG 111.58 Where the proposed transaction consists of an asset acquisition by the entity, it is ‘fair’ if the value of the financial benefit being offered by the entity to the related party is equal to or less than the value of the assets being acquired. Where the financial benefit given by the entity is securities in the entity and the consideration is securities in another entity held by a related party, the value of the entity’s securities should be compared to the value of the securities it is purchasing. If the expert uses the market price of either of the securities as a measure of their value, it should consider, among other things, the factors set out in RG 111.32(a)–RG 111.32(b).
- RG 111.59 In valuing the financial benefit given and the consideration received by the entity, an expert should take into account all material terms of the proposed transactions.
- RG 111.60 A proposed related party transaction is ‘reasonable’ if it is ‘fair’. It might also be ‘reasonable’ if, despite being ‘not fair’, the expert believes there are sufficient reasons for members to vote for the proposal.
- RG 111.61 If an expert concludes that a related party transaction is not fair, but reasonable, it should clearly explain the meaning of this opinion, why the expert has reached this conclusion, and the significance of the conclusion to the decision to be made by security holders (e.g. what it might mean for the security holders’ decision-making): see also RG 111.16–RG 111.17.
- RG 111.62 When deciding whether a proposed transaction is ‘reasonable’, factors that an expert might consider include:
- (a) the financial situation and solvency of the entity, including the factors set out in RG 111.26, if the consideration for the financial benefit is cash;
  - (b) opportunity costs;
  - (c) the alternative options available to the entity and the likelihood of those options occurring;
  - (d) the entity’s bargaining position;

- (e) whether there is selective treatment of any security holder, particularly the related party;
- (f) any special value of the transaction to the purchaser, such as particular technology or the potential to write off outstanding loans from the target; and
- (g) the liquidity of the market in the entity's securities.

RG 111.63 Generally an expert need only conduct one analysis of whether the transaction is 'fair and reasonable', even if the report has been prepared for a reason other than the transaction being a related party transaction (e.g. if item 7 of s611 approval is also required).

## Transfer of shares under s444GA

RG 111.64 Section 444GA allows shares of a company in administration to be transferred by an administrator as part of a deed of company arrangement (DOCA). The transfer may only occur if shareholders consent or when the court is satisfied that the transfer would not 'unfairly prejudice' the interests of shareholders.

RG 111.65 Where a transfer under s444GA will result in a person acquiring a relevant interest in voting shares in a company subject to Ch 6 above 20%, relief from s606 must be granted by ASIC.

RG 111.66 ASIC generally requires an expert's report to be prepared for s444GA transactions to assist in determining whether to grant relief from s606. The expert's report is also included as part of an explanatory statement to:

- (a) assist members, creditors, interested persons and ASIC in determining whether to oppose the application for leave of the court under s444GA; and
- (b) provide further evidence to assist the court in its assessment of granting leave under s444GA.

Note: [Regulatory Guide 6 Takeovers: Exceptions to the general prohibition](#) (RG 6) at RG 6.202(b) provides more information on the requirements for the explanatory statement.

RG 111.67 In exceptional circumstances, where a company clearly holds assets of negligible value and/or has no business, there may be limited benefit in providing an expert's report. In these circumstances, you should approach ASIC early in the process to discuss whether or not an expert's report is required.

RG 111.68 Provided the requirements in RG 6.202(b) are met, ASIC will generally grant relief from s606 where the expert's report concludes that shareholders' equity has no residual value. This aligns with the position of the courts when



considering whether unfair prejudice exists. The courts consider that the possibility of prejudice to a shareholder only arises if there is some residual equity in the company: see Martin CJ in *Weaver v Noble Resources Ltd* [2010] WASC 182 and White J in *Lewis, In the matter of Diverse Barrel Solutions Pty Ltd (subject to a Deed of Company Arrangement)* [2014] FCA 53.

- RG 111.69 Experts who are asked to prepare a report for share transfers using s444GA should generally comply with RG 111.70–RG 111.80.

### Form and content of report

- RG 111.70 An expert's report should provide an independent opinion of the value, if any, of shareholders' residual equity. The expert is not required to form a view on the 'fairness' or 'reasonableness' of the transaction.
- RG 111.71 Shareholders' residual equity should be derived by assessing the value of the company's assets and/or business operations, less borrowings, other liabilities and creditors' claims.
- RG 111.72 The value of shareholders' residual equity should be assessed on the basis that the company is in administration.
- RG 111.73 Consistent with the approach of the courts, an expert should generally value shareholders' residual equity in a company under administration on a 'winding up' or 'liquidation' basis where that is the likely or necessary consequence of the transfer of shares not being approved: see *Re Mirabela Nickel Ltd (subject to deed of company arrangement)* [2014] NSWSC 836 at [42]; *Re Nexus Energy Limited* (2014) 105 ACSR 246 at 254 [24].
- RG 111.74 Experts should:
- (a) value any underlying assets, and where necessary business(es), using the guidance in Part C, including crosschecks;
  - (b) consider valuation evidence provided by the sales process conducted by the administrator (if any) as well as the value (if any) of potential recoveries for voidable transactions; and
  - (c) seek specialist technical assistance, where relevant, consistent with the requirements in Section E of [Regulatory Guide 112 Independence of experts](#) (RG 112).
- RG 111.75 The selection of the appropriate approach and methods to value company assets and/or businesses will depend on the facts and circumstances involved, available data and the professional judgement of the expert. The rationale for the selection of the approach and method used should be fully disclosed in the report.

## Asset and business valuations

- RG 111.76 We expect in many cases that it will be clear from the administration process whether the company under administration holds a business (or businesses) capable of sale or, rather, a series of assets that, but for the proposed DOCA, would otherwise be sold on a piecemeal basis to realise value (if any).
- RG 111.77 Where a company under administration holds assets that form a business, the expert should generally base the assessment on the higher of;
- (a) the sum of liquidation value of the underlying business assets; and
  - (b) the value of the business as a whole.
- RG 111.78 A business will likely be subject to various constraints associated with the company being under administration. These may affect the expected performance of the business directly and/or perceptions of business risk to potential acquirers. These should be considered by the expert in deriving the expected sale value of the business and should be disclosed in the report.
- RG 111.79 Any assets that do not form part of the business may be valued assuming liquidation value. Liquidation value is defined by the International Valuation Standard 104: *Bases of Value* (effective 31 January 2020) at paragraph 80.1 as:
- the amount that would be realised when an asset or group of assets are sold on a piecemeal basis. Liquidation Value should take into account the costs of getting the assets into saleable condition as well as those of the disposal activity. Liquidation Value can be determined under two different premises of value:
    - (a) an orderly transaction with a typical marketing period, or
    - (b) a forced transaction with a shortened marketing period.
- RG 111.80 Valuations of residual company assets should generally be determined using the premise of, ‘... an orderly transaction with a typical marketing period’. The marketing period assumption should be disclosed by the expert.

## C Methodologies and assumptions

### Key points

An expert should:

- if possible use more than one valuation methodology and compare the values derived from using different methodologies to minimise the risk that the opinion is unreliable; and
- justify its choice of methodologies and describe the methods used: see RG 111.81–RG 111.90.

An expert's opinion should be based on reasonable assumptions and all material assumptions should be disclosed: see RG 111.91–RG 111.94.

An expert should usually give a range of values and that range should be as narrow as possible: see RG 111.95–RG 111.96.

An expert might need to value individual assets in certain circumstances: see RG 111.97–RG 111.100.

### Choice of methodology

RG 111.81 An expert should use its skill and judgment to select the most appropriate methodology or methodologies in its report. The expert must have a reasonable (or tenable) basis for choosing its valuation methodologies: *Re Matine* (1998) 28 ACSR 268 at 290–291. An inappropriate choice might be misleading: *Re EPHS Ltd* [2002] ATP 12. It might also lead to liability because the expert did not take sufficient care and skill in the preparation of the report: *Duke Group Ltd v Pilmer* (1999) 31 ACSR 213.

RG 111.82 We consider that an expert should, when possible, use more than one valuation methodology. We consider that this reduces the risk that the expert's opinion is distorted by its choice of methodology. We also consider that an expert should compare the figures derived from using the different methodologies and comment on any differences. Further, if the expert's valuation of a company's securities differs materially from the price of the company's securities in the period leading up to the announcement of the proposed transaction (together with a typical premium for control for such a transaction), the expert should comment on this difference and the factors underlying it. The expert should also comment if its valuation is less than the price of the company's securities in the period leading up to the announcement of the transaction.

Note: The expert should also consider whether the price of the company's securities is an appropriate valuation methodology: see RG 111.86(d).

- RG 111.83 However, we will not prescribe the valuation methodologies that an expert should use in preparing its report since an expert should exercise its own skill and judgment to choose methodologies that are appropriate in the circumstances of the entity or the asset being valued.
- RG 111.84 An expert should justify its choice of methodology or methodologies (including when the expert has used only one methodology, the basis for doing so) and describe the method or methods used in the report. We consider that an expert report that does this allows security holders to better understand the expert report and determine the weight to be attached to the report. It also allows another expert, professional adviser or institutional investor to replicate the expert's work and assess the valuation.
- RG 111.85 An expert should discuss how much weight is being placed on each methodology used in the valuation. For instance, one methodology may be identified as the primary methodology whereas another is used to provide a cross-check to the valuation.
- RG 111.86 It is generally appropriate for an expert to consider using the following methodologies:
- (a) the discounted cash flow method (see also RG 111.112–RG 111.118) and the estimated realisable value of any surplus assets;
  - (b) the application of earnings multiples (appropriate to the business or industry in which the entity operates) to the estimated future maintainable earnings or cash flows of the entity, added to the estimated realisable value of any surplus assets;
  - (c) the amount that would be available for distribution to security holders on an orderly realisation of assets;
  - (d) the quoted price for listed securities, when there is a liquid and active market and allowing for the fact that the quoted price may not reflect their value, should 100% of the securities be available for sale; and
  - (e) any recent genuine offers received by the target for the entire business, or any business units or assets as a basis for valuation of those business units or assets.
- Note: Some valuation methodologies include a premium for control while others do not. An expert needs to ensure that the choice of methodology or methodologies is appropriate for the circumstances of the transaction.
- RG 111.87 The amount an alternative bidder might be willing to offer if all the securities in the target were available for purchase may provide a useful framework for the application of methodologies (e.g. in selecting earnings multiples) and in underpinning any overall judgment as to value.

- RG 111.88 An expert should not take into account highly speculative alternative proposals which are so unformulated that no sensible value could be placed on them.
- RG 111.89 If an entity has recently conducted a sale process without success or has been ‘in play’ for some period without an alternative bid emerging, it may be possible to comment that no alternative acquirer appears likely to offer a higher price.

### Option valuations

- RG 111.90 The most commonly used methodologies for valuing unlisted or thinly traded options are the Binomial Model and the Black–Scholes Model. In selecting an approach, an expert should assess whether the assumptions used in the methodology are appropriate for the options being valued.

## Assumptions

- RG 111.91 An expert’s opinion should be based on reasonable assumptions. This reduces the risk that the report will be misleading: s670A(2); s12DA of the *Australian Securities and Investments Commission Act 2001* (ASIC Act); *MGICA (1992) Ltd v Kenny & Good Pty Ltd* (1996) 140 ALR 313 at 356; *RAIA Insurance Brokers v FAI General Insurance Co Ltd* (1993) 112 ALR 511 at 522.
- RG 111.92 An expert should disclose all material assumptions on which its report is based. This allows security holders to assess the reasonableness of the report and its main uncertainties: *Re BNQ Sugar Pty Ltd and Others* (1994) 12 ACSR 695 at 702; *GIO Australia Holdings Pty Ltd v AMP Insurance Investment Holdings Pty Ltd* (1998) 29 ACSR 584 at 621–622.
- RG 111.93 The material assumptions disclosed should be specific and definite. All-embracing assumptions of no specific relevance to the entity being valued should not be included (e.g. the continued absence of war or the non-occurrence of natural disasters). However, assumptions concerning specific future economic conditions (such as assumed interest rates, exchange rates and commodity prices) and the assessment of their impact on the report should be disclosed.
- RG 111.94 If changes in material assumptions are likely to materially impact on a report’s valuation (e.g. changes in the exchange rate or interest rate assumptions), an expert should consider including a sensitivity analysis which sets out the impact of such changes.

Note: See [Regulatory Guide 170](#) *Prospective financial information* (RG 170) at RG 170.65–RG 170.66.

## Value ranges

- RG 111.95 An expert should usually give a range of values. The value of securities is typically subject to uncertainty and volatility. Placing a precise dollar value on them is likely to imply a misleading accuracy to a valuation.
- RG 111.96 Nevertheless, the range of values should be as narrow as possible. If an expert cannot give a narrow range because of uncertainty (e.g. start-up companies), the expert should prominently explain in its report what factors create this uncertainty and how the expert is able to justify its findings despite the uncertainty. In our view, a broad range of values undermines the usefulness of the report.

## Valuing assets

- RG 111.97 An expert might need to value individual assets in undertaking the analysis required to prepare its report, for example, if the assets are considered 'surplus' to other business activities being valued. In valuing individual assets, an expert may need to quantify and discuss any material differences between its valuation and the market value of the asset used for accounting purposes.
- RG 111.98 An expert may also need to assess the carrying value of an entity's assets if the primary valuation methodology it has employed results in a value that is less than the entity's reported net assets (after allowing for reasonable realisation costs).
- RG 111.99 In such circumstances, the expert should ensure that it has the expertise to value the assets (e.g. to value real property or exploration mining tenements) or retain a specialist to do so.
- RG 111.100 Real property assets that are planned or are in the process of development should be valued on the basis of their current market value rather than on an 'as complete' basis.

## D Other key requirements

### Key points

An expert report should help security holders make their decision by clearly disclosing key information: see RG 111.101–RG 111.106.

An expert's opinion should be based on reasonable grounds. These grounds should be discussed in the report: see RG 111.107–RG 111.118.

An expert might need to act on changes in circumstances after issuing its report: see RG 111.119–RG 111.121.

Particular considerations apply to the inclusion of certain information (e.g. disclaimers): see RG 111.122–RG 111.133.

An expert should have the relevant expertise to prepare the expert report: see RG 111.134–RG 111.139.

An expert should maintain adequate records of the work undertaken to prepare the expert report: see RG 111.140–RG 111.144.

## Clear, concise and effective communication

RG 111.101 An expert report should help security holders make their decision. The report should:

- (a) address the varying information needs of a report's audience;
- (b) clearly explain the meaning of the expert's opinion and the significance of that opinion to the decision to be made by security holders;
- (c) highlight key information;
- (d) be easy to navigate and understand (e.g. through including an up-front summary of the expert's opinion and the reasons for the opinion, the use of content tables, signposting, cross-references, numbered sections, sub-sections and the avoidance of jargon); and
- (e) be as brief as possible.

RG 111.102 An expert report should only contain information that relates directly to the decision to be made by security holders. Including extraneous information in an expert report undermines the effectiveness of that report. Santow J dealt with this issue in *Re Australian Co-operative Foods Ltd* (2001) 38 ACSR 71 at 77 in the following terms:

Experts are responsible for what they say in their reports. They must ensure that their reports deal adequately with the kind of concerns that could reasonably be anticipated from those affected by the scheme, in reporting

on whether the relevant scheme proposal is fair and reasonable from their viewpoint ... This is so those members can then make an informed decision with the benefit of a report that is as simple, clear and useful as possible. A plethora of peripheral information is more likely to distract than illuminate.

- RG 111.103 For example, an analysis of the industry in which the company (i.e. the subject of the opinion) operates might be useful. However, copying material out of an industry research database may merely add to the length of reports. An expert should include an analysis of the material and relate the material directly to its opinion.

### **Technical terms**

- RG 111.104 Technical terms should be avoided when possible. If the expert uses technical terms, it should use them consistently in a report and consistently with the way they are used in the relevant industry. When appropriate, the expert should provide a glossary, especially when the definition or interpretation of specific terms is central to its report.

### **Concise or short form expert report**

- RG 111.105 We encourage an expert to consider preparing a concise or short form expert report. The commissioning party would make a longer expert report containing additional, more technical or detailed information available on request free of charge or ensure it is accessible online. This reflects a developing market practice.

Note: See RG 60.84 for information about the use of concise expert reports in schemes of arrangement.

- RG 111.106 The concise report would still need to contain sufficient information to help security holders make their decision. The concise report should include the information that we emphasise in the rest of this guide and in RG 112 (e.g. material assumptions). If the longer report contained any 'surprises' for the security holder who only read the concise report, this would indicate the concise report was inadequate or misleading. Table 2 contains examples of types of information that an expert might consider including and leaving out of the concise report. Determining what information to include in the concise report and what to leave out is a matter for the expert's professional judgment in the particular circumstances of the report. However, we are happy to work with experts on these issues.



**Table 2: Examples of information that an expert might consider putting in and leaving out of a concise expert report**

<b>Include in the concise expert report</b>	<ul style="list-style-type: none"> <li>• Expert's conclusion</li> <li>• Meaning of conclusion and significance for the decision to be made</li> <li>• Summary of reasons for conclusion</li> <li>• Summary of valuation including: <ul style="list-style-type: none"> <li>– methodologies used;</li> <li>– material assumptions; and</li> <li>– a justification of these</li> </ul> </li> <li>• Financial Services Guide</li> </ul>
<b>Leave out of the concise expert report</b>	<ul style="list-style-type: none"> <li>• Industry overview</li> <li>• Disclaimers</li> <li>• Detailed financial information</li> <li>• Detailed profile of parties to the transaction</li> <li>• Qualifications, declarations (e.g. indemnities) and consents</li> <li>• Detailed share price analysis</li> <li>• Details of capital structure (e.g. shareholder spread and directors' relevant interests if not linked to the expert's analysis)</li> <li>• List of previous ASX announcements</li> <li>• List of sources of information</li> </ul>

## Statements should be supportable

### Reasonable grounds

- RG 111.107 An expert's opinion should be based on reasonable grounds. These grounds should be set out in the report.
- RG 111.108 We consider that setting out the reasons for the opinion will assist security holders to understand the expert's opinion, to assess the weight to attach to that opinion and to evaluate the validity of the expert's conclusions: s636(2); 640(1); 667A(1)(c); Sch 8, cl 8303 of the Corporations Regulations and *Makita (Australia) Pty Ltd v Sprowles* (2001) 52 NSWLR 705 at 729 and following. Further, security holders cannot make an informed decision without the benefit of 'sufficient supporting information': *Australian Co-operative Foods* at 77.

### Review of information

- RG 111.109 We expect an expert to:
- critically evaluate the information provided to it; and
  - take note of any grounds held for questioning the truth, accuracy and completeness of the information.

- RG 111.110 An expert should conduct such critical analysis of the information on which it relied to prepare the report as is reasonable in the circumstances and as the law requires: *Australian Co-operative Foods* at 77. The more material the information is to the conclusions reached by the expert, the greater the responsibility on the expert to be satisfied that the information is not materially inaccurate. If there are indications suggesting that the information in question may not be reasonably relied on, then the expert should make additional enquiries. We do not expect an expert to conduct an audit of the subject matter of the report.
- RG 111.111 For example, the expert must review directors' valuations and management accounts, partly to detect changes in the way those valuations and accounts have been prepared from period to period: see RG 111.113. If there are no indications of irregularities or omissions, an expert will ordinarily be entitled to take at face value valuations previously prepared by outside experts, audited financial statements and the accounting records of the company. An expert may also rely on management accounts if it has established reasonable grounds: see RG 111.113.

### **Forward-looking information and use of the discounted cash flow methodology**

- RG 111.112 An expert should not include prospective financial information (including forecasts and projections) or any other statements or assumptions about future matters (together, 'forward-looking information') in its report unless there are reasonable grounds for the forward-looking information. Otherwise the opinion will be misleading under s670A(2) of the Corporations Act or s12DA of the ASIC Act.
- RG 111.113 An expert should make sufficient inquiries to satisfy itself that forward-looking information on which it has relied was prepared on a reasonable basis. It is important that those producing such information to the expert have used methods of analysis and presentations previously used by the company (unless there is a sound reason to use a different approach), and have not used new systems or approaches which favour their objectives. If there are any material variations in method or presentation, the expert should adjust for or comment on them in the report.
- RG 111.114 RG 170 gives detailed guidance on what we consider is a reasonable basis for stating prospective financial information. While RG 170 is expressed to apply to fundraising documents under Chs 6D and 7, it provides useful guidance for inclusion of prospective financial information in expert reports. We also consider that RG 170 provides useful guidance for inclusion of forward-looking information that does not fall within the definition of 'prospective financial information'.

- RG 111.115 However, we recognise that using the discounted cash flow (DCF) methodology will involve the use of forward-looking information and assumptions over a longer period than the two-year period in RG 170: see RG 170.39–RG 170.41. As long as the focus of the disclosure in the expert report is on the valuation rather than forward-looking information that supports it, the expert does not need to commission an independent accountant report for the DCF methodology: see RG 170.41. However, the expert should undertake a critical analysis of the forward-looking information used in applying the DCF methodology to ensure it is based on reasonable grounds.
- RG 111.116 ASIC recognises that there may be a reasonable basis for the use of DCF methodologies before a project generates cash flows as long as, at the date of reporting, the expert has reasonable grounds for the forward-looking information. Where the expert does not have reasonable grounds, other valuation methodologies should be used.
- RG 111.117 When an expert includes forward-looking information in its report, the report should include all information that may be required for users of the report to assess the reasonableness of the methodology and assumptions used, including:
- (a) the nature of the information, its limitations and the reason for its inclusion in the report;
  - (b) the material inputs and assumptions used and the reason for using those assumptions;
  - (c) if applicable, the discount rate selected and rationale;
  - (d) the extent and nature of the adjustments made to the DCF (if any) to allow for the development stage risks attaching to these cash flows (whether through risk weighting cash flows, adjustments to discount rates or other methods);
  - (e) the extent of inquiries and research undertaken by the expert and the compiler of that information;
  - (f) the technical and financial qualifications of the expert and the compiler in relation to the relevant industry and asset; and
  - (g) the specific period to which the information relates and the reason for the use of that period.
- RG 111.118 Full disclosure of the types of matters raised in RG 111.117 and any other risk disclosure, warnings or cautionary language does not affect the requirement for forward-looking information to be based on reasonable grounds. It will also not prevent particular information from being misleading.

## Changes in circumstances

- RG 111.119 An expert who has delivered its report to the commissioning party should notify that party as soon as possible if the expert becomes aware of a significant change affecting the information in its report or if the expert believes that a material statement in the report is misleading or deceptive. The commissioning party should also notify the expert if that party becomes aware of a significant change affecting the information in the expert report prior to a meeting being held or during the offer period.
- RG 111.120 When a material change in circumstances has arisen since a report was prepared, a failure by the expert to provide a supplementary report to its client may constitute misleading or deceptive conduct. Security holders will rely on an expert report when making their decision, not when they first receive the report: *ASIC v Solution 6 Holdings Ltd* (1999) 30 ACSR 605 at 611. If an expert becomes aware of a material change in circumstances, then depending on the circumstances, it may be appropriate for a commissioning party to send a supplementary report, even if security holders would receive the report:
- (a) shortly before a meeting is held; or
  - (b) towards the end of an offer period.

See *Troy Resources NL v Taipan Resources NL* (2000) 36 ACSR 197.

Note: Commissioning parties should consider what period is appropriate for security holders to have to consider any supplementary information: see also RG 60.92–RG 60.93.

- RG 111.121 Changes affecting valuations in reports are more likely to trigger the supplementary report obligation than tactical events in the progress of transactions, for example, the level of acceptances in a bid.

## Inclusion of other information

### Confidential information

- RG 111.122 While an expert should not omit material information from its report merely because it is confidential, the expert may be able to adequately support an opinion by careful disclosure without revealing confidential information.

### Disclaimers

- RG 111.123 The purpose of an expert report is to give security holders an assessment on which they can rely. A disclaimer defeats this purpose.
- RG 111.124 An expert cannot limit its statutory liability for the report through disclaimers (e.g. that the expert will not be liable for any loss incurred through reliance on its report). An expert report that purports to exclude the expert from liability may be misleading.

- RG 111.125 An expert should consider refusing to give a report when it has not been given:
- (a) sufficient information or unimpeded access to an entity's records; or
  - (b) enough time to prepare the report.
- RG 111.126 When an expert decides that its report will assist security holders despite limitations that the expert cannot resolve (e.g. because the expert does not have time to investigate the reliability of certain information), the expert should prominently explain the nature of the uncertainties and the impact on its opinion so that security holders can assess what weight to attach to the opinion.
- RG 111.127 When an expert is retained to provide a report on a limited matter, the expert may disclaim responsibility for matters outside the scope of its retainer.

### **Indemnities**

- RG 111.128 An expert may take an indemnity from the commissioning party (or any other person) under which it is to be compensated for certain liability. An acceptable indemnity would cover liability that arises because:
- (a) the expert relied on information provided by the person; or
  - (b) the person did not provide the expert with material information.
- RG 111.129 Such an indemnity will not diminish the liability of an expert to security holders. Nor will it reduce the expert's responsibility to ensure that it has reasonable grounds for its opinion and that the report is not misleading or deceptive.
- RG 111.130 An expert report that implies that an indemnity relieves the expert from liability to security holders is potentially misleading. ASIC expects reports to explain the effect of any indemnity.

### **Additional disclosures**

- RG 111.131 Security holders will generally expect that an expert report will have been prepared on the following basis:
- (a) the expert has made all the inquiries that it believes are desirable and appropriate in order to prepare the report; and
  - (b) the report has not omitted any matter that the expert regards as material to security holders' assessment of the expert's conclusions.

Note: To the extent that there are any normally applicable standards and guidelines for valuing a particular class of assets (e.g. the Valmin Code for valuations involving mineral and hydrocarbon assets), security holders will generally expect that these have been complied with. The report should disclose if that is not the case as that will be a matter that is relevant to security holders' assessment of the expert's conclusions.

- RG 111.132 If an expert report has not been prepared on this basis, the report should prominently explain why this is the case and the impact of this on the report. If the report is unable to be prepared on such a basis, the expert may need to consider refusing to give the report: see RG 111.125–RG 111.126.
- RG 111.133 An expert should also disclose to security holders, to the extent necessary to help them assess what weight to give to reports:
- (a) the source of material used in the reports;
  - (b) the inquiries made by the expert;
  - (c) any unacceptable or unusual time constraints the expert worked under;
  - (d) whether the expert is dissatisfied with the quality of the information used for the report; and
  - (e) whether any concerned party to the relevant transaction has refused to provide adequate:
    - (i) access to information; or
    - (ii) explanations;
 if the information or the explanations might have impacted on the report's conclusions.

## Expertise

- RG 111.134 ASIC expects an expert preparing an expert report to be, in fact, an expert in the relevant field. Section 9 defines an expert as 'a person whose profession or reputation gives authority to a statement made by him or her'. To this end, we expect an expert and the commissioning party to ensure that:
- (a) the expert's profession or reputation is relevant to the matters upon which the expert is to report;
  - (b) the expert holds the licences or authorities necessary for providing the type of advice sought; and
  - (c) the expert states in the report its qualifications and experience or, if the report is made by a corporation or firm, the qualifications and experience of the individuals responsible for preparing the report.
- RG 111.135 Gyles J observed in *Reiffel v ACN 075 839 266 Ltd* (2003) 45 ACSR 67 at 87:
- It is implicit ... that such an expert will exercise the care, skill and judgment appropriate to the relevant field of expertise in forming and expressing the opinion.
- RG 111.136 For technical matters beyond the expert's expertise, an expert should retain a specialist to advise them (e.g. a geologist to provide an opinion on recoverable ore the subject of mining tenements, or a traffic forecast report in relation to a toll road): see RG 112.67–RG 112.70.

RG 111.137 An expert should ensure that staff preparing and supervising the preparation of the report have sufficient skill, knowledge and experience to perform the expert's role.

RG 111.138 Expert reports typically constitute the giving of financial product advice so an expert must hold an Australian financial services (AFS) licence. An AFS licensee should have sufficient human and technological resources to provide the services specified in its licences and should ensure its staff are adequately trained and competent to provide those services: s912A(1).

Note: ASIC has taken action against an expert when the expert lacked the expertise to complete the task, failed to comply with the law and did not meet standards of good practice.

RG 111.139 Detailed guidance on how we consider these licence obligations can be met are contained in [Regulatory Guide 104](#) *AFS licensing: Meeting the general obligations* (RG 104), [Regulatory Guide 105](#) *AFS licensing: Organisational competence* (RG 105) and [Regulatory Guide 146](#) *Licensing: Training of financial product advisers* (RG 146).

## Working papers

RG 111.140 In preparing an expert report, an expert should document its work and maintain adequate working papers that record the basis of the report. The expert should be able to readily draw on its working papers to demonstrate that its opinion is reasonably based.

Note: Much of the expert's analysis will be described in the report. The requirement to document and maintain adequate working papers does not detract from the obligations of an expert with respect to the contents of an expert report.

RG 111.141 Maintaining adequate working papers is an important aspect of an expert's quality control and review process. In our view, the duties imposed by the Corporations Act on AFS licensees require licensees to keep adequate records about their financial services business: see [Regulatory Guide 175](#) *Licensing: Financial product advisers—Conduct and disclosure* (RG 175) at RG 175.97 and RG 175.145.

RG 111.142 Maintaining adequate working papers will also assist the expert in demonstrating compliance with its legal obligations (including the obligations described in this guide and RG 112 and its obligations as an AFS licensee) and its internal procedures and processes.

RG 111.143 Working papers should be compiled so that someone with no prior involvement with the transaction can review them and understand the major issues. They should include, for example:

- (a) documents supporting the expert's choice of methodology;
- (b) documents supporting significant assumptions underpinning the expert's opinion;

- (c) factual information relied on, or used by, the expert in preparing the report and material documenting the inquiries made by the expert in relation to that information;
- (d) analysis of any financial models that the expert has relied on. Where the expert has relied on a financial model, the expert should undertake a review of the model and document its analysis, including which aspects of the model have been reviewed by the expert and the extent of the review. We do not expect an expert to conduct an audit of the model; and
- (e) file notes of discussions and correspondence between the expert and the commissioning party: see RG 112.47.

RG 111.144 All records relevant to the preparation of an expert report may be subject to review by ASIC. Even where we do not have any particular concerns about an expert report, we may review the report, the working papers and the independence of the expert as part of our regular review of the independent expert sector.



## E Regulatory action

### Key points

We will consider regulatory action if we consider there are material issues with the content of an expert report or have concerns about the independence of an expert.

- RG 111.145 We will consider regulatory action if we consider that there are material issues with the content of the report (e.g. as to the adequacy and the completeness of the expert's analysis) or if we have concerns about the independence of an expert.
- RG 111.146 We might write to the expert or the commissioning party or both to raise concerns or request changes to an expert report. However, when delay might prejudice the interests of security holders or the market, we might take enforcement action without consulting the expert or the commissioning party.
- RG 111.147 The action we might take could be one or more of the following:
- (a) in a takeover bid, an application to the Takeovers Panel for a declaration of unacceptable circumstances;
  - (b) in a scheme of arrangement, opposition to the scheme at a court hearing;
  - (c) action for contravention of misleading or deceptive conduct provisions;
  - (d) action by us to revoke, suspend the expert's licence or add a condition after a hearing: s915C; or
  - (e) action by us to cease or suspend nominating the expert to prepare reports in compulsory acquisitions: s667AA and RG 10.173.

## Key terms

Term	Meaning in this document
administrator	Has the meaning given in s9 of the Corporations Act  Note: The definition in s9 includes both deed administrators and voluntary administrators.
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services  Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act  Note: This is a definition contained in s761A of the Corporations Act.
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASX	Australian Securities Exchange Limited
bidder	Has the meaning given in s9 of the Corporations Act
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
DOCA	A deed of company arrangement
DOCA proposal	A proposed DOCA or proposed variation of a DOCA
DOCA proponent	A person who advocates for the DOCA proposal
expert	Has the meaning given in s9 of the Corporations Act
prospective financial information	Financial information of a predictive character based on assumptions about events that may occur in the future and on possible actions by an entity
related party	Has the meaning given in s228 of the Corporations Act
reg 5.1.01 (for example)	A regulation of the Corporations Regulations (in this example numbered 5.1.01)
RG 175 (for example)	An ASIC regulatory guide (in this example numbered 175)
s648A (for example)	A section of the Corporations Act (in this example, numbered 648A), unless otherwise specified
Sch 4 (for example)	A schedule of the Corporations Act (in this example numbered 4), unless otherwise specified

Term	Meaning in this document
scheme of arrangement	A scheme of arrangement conducted under Pt 5.1
securities	Has the meaning given in s9 of the Corporations Act
security holder	The holder of interests or securities
target	Has the meaning given in s9 of the Corporations Act
Valmin Code	Code for the Technical Assessment and Valuation of Mineral and Petroleum Assets and Securities for Independent Expert Reports

## Related information

### Headnotes

experts, expert report, analysis of control transactions, substance of transaction not legal mechanism used, assumptions, methodology, valuing assets, clear communication, incorporation by reference, supportable statements, prospective financial information, disclaimers, indemnities, expertise, related party transactions

### Regulatory guides

[RG 6](#) *Takeovers: Exceptions to the general prohibition*

[RG 9](#) *Takeover bids*

[RG 10](#) *Compulsory acquisitions and buyouts*

[RG 60](#) *Schemes of arrangement*

[RG 74](#) *Acquisitions agreed to by shareholders*

[RG 76](#) *Related party transactions*

[RG 104](#) *AFS licensing: Meeting the general obligations*

[RG 105](#) *AFS licensing: Organisational competence*

[RG 110](#) *Share buy-backs*

[RG 112](#) *Independence of experts*

[RG 146](#) *Licensing: Training of financial product advisers*

[RG 170](#) *Prospective financial information*

[RG 175](#) *Licensing: Financial product advisers—Conduct and disclosure*

### Legislation

ASIC Act, s12DA

Corporations Act, Chs 2E, 2J, 6 and 7; Pt 5.3A; s9, 210, 218, 219, 220, 221, 256C(4), 444GA, 606, item 7(b) of 611, 636(1)(g), 636(1)(h)(iii), 636(2), 640, 663B, 664C, 665B, 667A, 667C, 670A(2), 766B(3), 766(4), 912A(1) and Sch 4, cl 29(4)

Corporations Regulations, reg 5.1.01, Sch 8, cls 8303 and 8306

## Cases

*ASIC v Solution 6 Holdings Ltd* (1999) 30 ACSR 605

*Re Australian Co-operative Foods Ltd* (2001) 38 ACSR 71

*Re BNQ Sugar Pty Ltd and Others* (1994) 12 ACSR 695

*Capricorn Diamonds Investments Pty Ltd v Catto* (2002) 41 ACSR 376

*Duke Group v Pilmer* (1999) 31 ACSR 213

*Lewis, In the matter of Diverse Barrel Solutions Pty Ltd (subject to a Deed of Company Arrangement)* [2014] FCA 53

*Re EPHS Ltd* [2002] ATP 12

*Re Goldfields Kalgoorlie; Winpar Holdings Ltd v Goldfields Kalgoorlie Ltd* (2000) 34 ACSR 737

*Re Mirabela Nickel Ltd (subject to a Deed of Company Arrangement)* [2014] NSWSC 836

*Re Nexus Energy Limited* (2014) 105 ACSR 246

*GIO Australia Holdings Pty Ltd v AMP Insurance Investment Holdings Pty Ltd* (1998) 29 ACSR 584

*Makita (Australia) Pty Ltd v Sprowles* (2001) 52 NSWLR 705

*Re Matine* (1998) 28 ACSR 268

*MGICA (1992) Ltd v Kenny & Good Pty Ltd* (1996) 140 ALR 313

*Northern Energy Corporation Limited* [2011] ATP 2

*RAIA Insurance Brokers v FAI General Insurance Co Ltd* (1993) 112 ALR 511

*Reiffel v ACN 075 839 266 Ltd* (2003) 45 ACSR 67

*Teh v Ramsay Centauri* (2002) 42 ACSR 354

*Troy Resources NL v Taipan Resources NL* (2000) 36 ACSR 197

*Weaver v Noble Resources Ltd* [2010] WASC 182

*Winpar Holdings Ltd v Austrim Nylex Ltd* [2005] VSCA 211

## Consultation papers and reports

[CP 62](#) *Better experts' reports*

[CP 142](#) *Related party transactions*

[CP 143](#) *Expert reports and independence of experts: Updates to RG 111 and RG 112*

[CP 326](#) *Chapter 6 relief for share transfers using s444GA of the Corporations Act*

[REP 233](#) *Response to submissions on CP 142 Related party transactions*

[REP 234](#) *Response to submissions on CP 143 Expert reports and independence of experts*

[REP 670](#) *Response to submissions on CP 326 Chapter 6 relief for share transfers using s444GA of the Corporations Act*

## **Miscellaneous**

ASX Listing Rule 10

International Valuation Standard 104: Bases of Value (effective 31 January 2020)



**ASIC**

Australian Securities & Investments Commission

## REGULATORY GUIDE 112

# Independence of experts

March 2011

### About this guide

This is a guide for any person who commissions, issues or uses an expert report.

It explains how ASIC interprets the requirement that an expert is independent of the party that commissions the expert report (commissioning party) and other interested parties.

**Note:** An interested party is a person with an interest in the outcome of the transaction different from the interest of the general body of security holders.

### About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Document history

This version was issued on 30 March 2011 and is based on legislation and regulations as at 30 March 2011. The reference to the relief instrument in RG 112.37 was updated in August 2015 because this instrument was reviewed as part of the sunseting of legislative instruments under the *Legislative Instruments Act 2003*.

Previous versions:

- Superseded Regulatory Guide 112, issued 30 October 2007

### Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.



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## A Overview

### Key points

This guide gives ASIC's view on:

- the need for an expert to be independent (see Section B);
- how previous and existing relationships with commissioning and other interested parties may affect the independence of an expert (see Section C);
- how an expert should deal with the commissioning party and other interested parties to maintain its independence (see Section D); and
- when and how an expert should use a specialist when preparing an expert report (see Section E).

## Reports covered by this guide

- RG 112.1 This guide focuses on reports prepared for transactions under Chs 2E, 5, 6 and 6A of the *Corporations Act 2001* (Corporations Act), whether the reports are required in the Corporations Act or are commissioned voluntarily. The principles in this guide may also be relevant to independent expert reports commissioned for other purposes—for example, specialist reports like geologist reports or traffic forecast reports (see Section E) for inclusion in Ch 6D disclosure documents and Ch 7 Product Disclosure Statements (PDSs).
- RG 112.2 We consider that security holders regard an expert report as being prepared by an independent expert irrespective of whether the report has been prepared voluntarily or because it is required under statute.
- RG 112.3 This approach is consistent with the obligations on the holder of an Australian financial services licence (AFS licensee) to manage conflicts of interest. An AFS licensee's obligation to manage conflicts of interest applies to all of its activities as an AFS licensee and, as such, an expert who holds an AFS licence needs to manage conflicts of interest in respect of all expert reports it prepares.
- RG 112.4 This guide does not apply to independent or investigating accountant reports.

## Underlying principles

- RG 112.5 An expert report that is biased frustrates rather than assists informed decision-making. Security holders will assume that an expert report is an independent opinion and will be misled if the opinion is not.

RG 112.6      Brooking J described the role of an expert in *Phosphate Co-operative v Shears (No 3)* (1988) 14 ACLR 323 (*Pivot*) at 339 in the following terms:

Those who prepare experts' reports in company cases carry a heavy moral responsibility, whatever their legal duties may be. These reports are either required by the [Corporations Act] or provided by way of analogy with those requirements. In either case, they are supposed to be for the protection of individuals who are being invited to enter into some kind of transaction. Unless high [independence] standards are observed by those who prepare these reports, there is a danger that systems established for the protection of the investing public will, in fact, operate to their detriment through reliance on these reports and on the reputations of those who furnish them. In lending his name, the expert will often, as in this case, be lending a name to conjure with ... The expert's integrity and freedom from baneful influences are essential.

RG 112.7      The Corporations Act indicates the need for an expert to be independent:

- (a) an expert must not be associated with certain interested parties, and must disclose certain interests and relationships, when preparing reports required by the Corporations Act for:
  - (i) a takeover bid under Ch 6 (s648A);
  - (ii) a scheme of arrangement (reg 5.1.01 and Sch 8, cls 8303 and 8306 of the Corporations Regulations 2001 (Corporations Regulations)); and
  - (iii) a compulsory acquisition or buy-out under Ch 6A (s667B); and
- (b) as an AFS licensee, an expert needs to establish and maintain systems to comply with its obligations to manage conflicts of interest.

## B Expert needs to be independent

### Key points

An expert should be, and should appear to be, independent: see RG 112.8–RG 112.15.

An expert should give an opinion that is genuinely its own opinion: see RG 112.16–RG 112.20.

### Independence

- RG 112.8 The Corporations Act contains indicators that an expert must be, and must appear to be, independent in the provisions requiring an expert report for certain takeover bids, schemes of arrangement, for any compulsory acquisition and in the AFS licensee conflicts management provisions.
- RG 112.9 The need for an expert to be, and to appear to be, independent is also indicated in case law establishing that the independence of an expert is critical for the protection of security holders. Mullighan J observed in *Duke Group v Pilmer* (1998) 27 ACSR 1 at 268:
- It may be seen that a true state of independence on the part of the expert is crucial to the efficacy of the [takeover] process and for the protection of the public generally and the company and its members in particular.
- RG 112.10 We will consider regulatory action if we have concerns about the independence of an expert: see Regulatory Guide 111 *Content of expert reports* (RG 111) at RG 111.128–RG 111.130.
- Note: In addition to the term ‘independence’, language also used by the courts, our policies and commentators include: ‘impartial judgment’; ‘disinterested’; ‘objective’; ‘unbiased’; ‘genuine expression of opinion’; ‘integrity’ and, negatively: ‘conflict of interest’; ‘compromised’; ‘collusion’ and ‘acting in a partisan capacity’.

### AFS licensee obligations to manage conflicts

- RG 112.11 An expert report typically includes a statement of opinion or recommendation intended to influence investors in making a decision on a financial product: s766B(1). This means the expert report usually constitutes financial product advice, triggering the need for an AFS licence: s766A and 911A(1). Accordingly, in most cases, an expert who prepares an independent expert report that will be made available to retail investors will hold an AFS licence.
- RG 112.12 Under s912A(1)(aa), an AFS licensee must:
- have in place adequate arrangements for the management of conflicts of interest that may arise wholly, or partially, in relation to activities

undertaken ... in the provision of financial services as part of the financial services business of the licensee or the representative ...

- RG 112.13 This conflicts management obligation applies irrespective of:
- (a) whether the expert states that it is independent of the commissioning party;
  - (b) any requirement that the expert not be an associate of the commissioning party or any other interested party to a transaction (e.g. s648A); or
  - (c) whether the expert report has been prepared to meet a statutory obligation.
- RG 112.14 Whether an expert's conflicts management arrangements (i.e. measures, processes and procedures) are adequate will depend on the nature, scale and complexity of the expert's business and the circumstances of the expert's engagement. The expert should document its conflicts management policies and procedures. The expert should keep records demonstrating how it has complied with those procedures. General guidance on these obligations is provided in Regulatory Guide 181 *Licensing: Managing conflicts of interest* (RG 181) at RG 181.10–RG 181.11.
- RG 112.15 Expert reports are exempt from the licensing regime (reg 7.6.01(u)) when the advice is an opinion on matters other than financial products (e.g. a geologist report) and:
- (a) it does not include advice on a financial product;
  - (b) the document includes a statement that the person is not operating under an AFS licence when giving the advice; and
  - (c) the expert discloses remuneration, interests and relationships.

## Genuine opinion

- RG 112.16 The courts have required the opinion of an expert to be genuine and a product of the expert's professional judgment. An expert's opinion that is tailored to support the views of the commissioning party or any other interested party is not a genuine opinion. It may also be misleading or deceptive.
- RG 112.17 A court found that a commissioning party's active role in shaping an expert report meant that the expert report was not the product of 'an exercise of judgment' by the expert 'uninfluenced by pressure brought to bear by or on behalf of [the commissioning party]' and was not 'a genuine expression of opinion ... but was the result of an exercise carried out for the purpose of arriving at a desired result': *Pivot* at 340 and 342 per Brooking J.
- RG 112.18 An expert is subject to statutory obligations to avoid making misleading or deceptive statements and engaging in misleading or deceptive conduct.

Note: See, for example, s412(8), 670A(1)(h), 1041E, 1041F and 1041H and s12DA of the *Australian Securities and Investments Act 2001* (ASIC Act).

- RG 112.19 An expert has been found to have engaged in misleading or deceptive conduct when the expert did not hold the opinions expressed in the expert report: *MGICA v Kenny & Good* (1996) 140 ALR 313 at 356–357 (a case involving a property valuation).
- RG 112.20 Similarly in *Reiffel v ACN 075 839 226* (2003) 45 ACSR 67 at 92–93, the court held that the expert report was misleading and deceptive in circumstances when ‘there was no reasonable basis for the [expert’s] statement in the report’ and the expert ‘did not hold the opinion it expressed’. The court held that the expert should have disclosed that it disagreed with the methodology used by a promoter in its forecasts and disclosed the methodology that the expert in fact used.

## C Relationship between the expert and the commissioning party

### Key points

An expert should identify relationships and interests that may affect, or may be perceived to affect, the expert's ability to prepare an independent report: see RG 112.21–RG 112.24.

The expert should then consider whether, on the basis of that relationship or interest:

- it should decline the engagement (see RG 112.25–RG 112.27); or
- the relationship or interest can be adequately dealt with by way of disclosure in the expert report (see RG 112.28–RG 112.37).

The expert may also need to take other actions to manage a conflict of interest: see RG 112.38.

Before engaging an expert, a commissioning party should be satisfied that the expert is independent and has sufficient expertise and resources to provide a thorough report: see RG 112.39–RG 112.41.

*Note:* A reference to expert in this guide is to the person or entity that issues the report. In most cases, this will be a corporate entity holding an AFS licence, even though a senior director or employee may sign the report in the name of the corporate entity and be principally responsible for preparing the report.

## Identifying relationships

- RG 112.21 Previous and existing relationships may threaten, or appear to threaten, the independence of an expert. The objectivity of an expert may also be compromised, or called into question, if the expert has an interest in the outcome of the transaction that is the subject of its report.
- RG 112.22 The closer the relationship between the expert and a commissioning party or any other interested party, the greater the onus on the expert to demonstrate the absence of bias.
- RG 112.23 In identifying relationships and interests that may affect, or may be perceived to affect, the expert's ability to prepare an independent report, the expert should not only identify relationships with, and interests of, the expert but also of:
- (a) the expert's associates;
  - (b) those directors and senior employees who are principally responsible for preparing and issuing the expert report; and
  - (c) the spouse, children and associates of the directors and senior employees who are principally responsible for preparing and issuing the expert report.
- RG 112.24 The need to undertake this identification process also arises from the obligation to manage conflicts of interest if the expert is an AFS licensee.

## Declining the engagement

- RG 112.25 An expert should seriously consider declining an engagement when:
- (a) a person to be involved in preparing the expert report is an officer of the commissioning party or an interested party;
  - (b) the expert, a director or a senior employee who is involved in preparing the expert report has a substantial interest in or is a substantial creditor of the commissioning party or has other material financial interests in the relevant transaction;
  - (c) the expert has participated in strategic planning work for the commissioning party as a lawyer, financial consultant, tax adviser or accountant, whether in connection with the relevant transaction or generally (e.g. advising on possible takeovers or takeover defences); or
  - (d) the expert has acted as a lawyer, financial consultant, tax adviser or accountant to the commissioning party (other than providing professional services strictly for compliance purposes rather than strategic or operational decisions or planning).
- RG 112.26 The Corporations Act specifically states that an expert must decline an engagement for the preparation of an expert report in each of the following circumstances:
- (a) when the report is to be cited or included in a target statement if the expert is an ‘associate’ (as defined in s12) of the bidder or the target and the bidder has 30% or more of the voting power in the target entity or there are common directors of the target and the bidder (s640 and 648A(2));
  - (b) when the report is to be cited or included in a bidder’s statement if the expert is an ‘associate’ (as defined in s12) of the bidder or the target and the consideration for a pre-bid stake acquired in a target was unquoted securities (s636(1)(h)(iii), 636(2) and 648A(2));
  - (c) when the report is to be cited or included in the explanatory statement for a scheme of arrangement if the expert is an ‘associate’ (as defined in s12) of the parties to the scheme if the other party to a reconstruction in a scheme of arrangement has at least 30% of the voting shares of the scheme company or there are common directors (reg 5.1.01(b) and Sch 8, cls 8303 and 8306 of the Corporations Regulations); and
  - (d) if the expert is an ‘associate’ (as defined in s12) of the person issuing a compulsory acquisition or buy-out notice (s663B, 664C, 665B and 667B).
- RG 112.27 An expert’s AFS licensee obligations to manage conflicts of interest may oblige an expert to decline engagements in some circumstances. Licensee experts may be offered an engagement in which relationships and interests pose such a serious risk of conflict of interest that the threat to the expert’s



independence cannot be adequately managed through disclosure or internal controls. The only way an expert can adequately manage these threats is to avoid them and the expert's conflicts management policies and procedures should give specific guidance on circumstances when it should decline engagements: see RG 181.42–RG 181.43 and RG 181.60.

## Disclosing relationships and interests

### Requirement

- RG 112.28 As security holders rely on an expert report, they should be clearly informed about any relationships or interests (including financial or other interests) that could reasonably be regarded as relevant to the independence of the expert. This requirement arises from the Corporations Act and case law: see *ANZ Nominees v Wormald* (1988) 13 ACLR 698 at 707.
- RG 112.29 Disclosure of relationships or interests is required under the Corporations Act for an expert report when the report is required to be included in:
- (a) a target statement, when the bidder has 30% or more of the voting power in the target entity or there are common directors of the target and the bidder (s648A(3));
  - (b) a bidder's statement, when the consideration for a pre-bid stake acquired in a target is unquoted securities (s648A(3)); and
  - (c) a compulsory acquisition or buy-out notice (s667B(2)).
- RG 112.30 Similarly, as an AFS licensee, an expert needs to make appropriate disclosure of conflicts of interest to commissioning parties and to those relying on the report as part of the conflicts management obligation: see RG 181.49–RG 181.63.

### Content of disclosure

- RG 112.31 An expert should prominently disclose in the report:
- (a) the business or professional relationships with a commissioning party or any other interested party;
  - (b) any financial or other interest that could reasonably be regarded as capable of affecting the expert's ability to give an unbiased opinion on the matter being reported on; and
  - (c) any fee or benefit (whether direct or indirect) to be received in connection with the report (s648A(3) and 667B(2)).
- RG 112.32 If an expert has, within the previous two years, valued assets representing more than a *de minimus* (i.e. trivial) proportion by value of the assets that it

has been engaged to value for the commissioning party, this should also be prominently disclosed in the report.

Note: Disclosure is also required by RG 112.31 if the expert was previously engaged to value the relevant assets by the commissioning party or any other interested party.

RG 112.33 These disclosures should be made in all expert reports irrespective of whether the report is required to be prepared by the Corporations Act or is voluntarily commissioned and supplied to security holders.

RG 112.34 These disclosures should relate to relationships or interests existing at the time of preparation of the report or existing in the previous two years. This two-year period is a minimum period for disclosure and earlier relationships might be so significant that they warrant disclosure as well.

Note: In *Duke Group v Pilmer*, Mullighan J referred to this benchmark with approval (at 268).

RG 112.35 Disclosures should be timely, prominent, specific and meaningful. An expert should not use 'boilerplate' disclosures (e.g. that the expert has been paid 'a normal professional rate'). An actual amount should be shown for fees paid to an expert for the report.

RG 112.36 When an expert report is cited or included in a bidder's statement in which any securities in the bidder (or a person who controls the bidder) are offered as consideration under the bid, these disclosures must also meet the specific disclosure obligations that apply to prospectuses under s711(2)–(4), including:

- (a) any interests that the expert has in the bidder; and
- (b) any fees or benefits given or agreed for the expert's services (s636(1)(g)).

RG 112.37 As an expert report will usually constitute financial services advice, an expert will need to give retail investors a Financial Services Guide (FSG). We have given relief to allow an expert to include a FSG as a separate and clearly identifiable part of an expert report: see ASIC Corporations (Financial Services Guides) Instrument 2015/541. In view of this relief, we consider that an expert should include all of its disclosure of interests and benefits, whether flowing from the FSG requirements, conflicts management, s648A or case law, in the FSG rather than duplicating that disclosure in another part of the expert report.

## Other measures

RG 112.38 In addition to disclosing any conflict of interest, an expert will need to consider whether other measures to properly manage the conflict of interest are appropriate (e.g. implementing information barriers): see RG 181.35–RG 181.37.

## Commissioning an expert

- RG 112.39 In commissioning an expert, a commissioning party should consider whether the expert is independent and whether the expert has sufficient expertise and resources to give a thorough opinion on the proposed transaction. The quality of an expert report may be affected if this is not the case. If an expert considers that it is not independent or does not have sufficient expertise or resources to give a thorough opinion, it should decline the engagement.
- RG 112.40 In selecting an appropriate expert, we consider that relevant factors are likely to include:
- (a) whether the expert has adequate resources (which may include access to appropriate third party specialists) to perform the necessary work;
  - (b) the qualifications of the expert and whether the expert has the requisite level of technical expertise (including whether the expert meets the requirements of any relevant industry codes);
  - (c) the experience of the expert. For example, a commissioning party may ask what comparable transactions the expert has given an opinion on and whether that experience is relevant to the current transaction;
  - (d) whether the expert can meet the timeframe required for the report to be produced; and
  - (e) whether there are any independence issues.
- RG 112.41 While a commissioning party should satisfy itself that an expert is competent, it should ensure that any pre-engagement discussions do not compromise the expert's independence. For example, these discussions should not deal with how the expert proposes to evaluate the transaction or the merits of the transaction: see RG 112.46–RG 112.48.

## D Expert's conduct in preparing its report

### Key points

An expert should:

- obtain written terms of engagement from the commissioning party before commencing work;
- take care to avoid any communication with the commissioning party or any other interested party that may undermine, or appear to undermine, independence; and
- consent to the use or incorporation of its report.

Commissioning parties should be careful not to release the conclusions of an expert report in advance of the final report.

## Interactions with commissioning party

### Terms of engagement

- RG 112.42 Before commencing work, an expert should obtain written terms of engagement from the commissioning party that:
- (a) set out the scope and purpose of the report;
  - (b) set out the facts of the proposal and relevant data;
  - (c) recognise the expert's right to refuse to give an opinion or report at all if it is not given the information and explanations it requires to prepare the report;
  - (d) give the expert the same access to the commissioning party's records as the auditor of the commissioning party; and
  - (e) set out the fee.

### Approval of appointment

- RG 112.43 It is possible that some directors of a commissioning party may have a conflict of interest in the proposed transaction, such as cross-directorships held in the target and the bidder. In these circumstances, the expert and commissioning party should ensure that the directors without a conflict select and engage the expert.
- RG 112.44 The commissioning party should ensure that the method by which an expert is appointed, and the scope of its engagement, is consistent with the concepts of independence and perceived independence of the expert. For example, it may be appropriate to have a non-executive director oversee the appointment process if management is likely to be perceived to have a strong interest in the outcome of the expert report.

## Expert's fee

- RG 112.45 We will consider that an expert is not independent if the amount it is to receive for the expert report depends in any way on the outcome of the transaction to which the report relates. This is consistent with the requirement that a person who provides financial services must not hold itself out as 'independent', 'impartial' or 'unbiased' if it is paid success fees or has a conflict of interest arising from a relationship with an issuer of financial products that might reasonably be expected to influence the report: s923A.

## Manner of communication

- RG 112.46 Ensuring security holders receive an objective expression of opinion in an expert report involves more than identifying and dealing with previous or existing relationships or interests. An expert's objectivity, or the appearance of objectivity, may be undermined by the interactions between the expert and the commissioning and other interested parties.
- RG 112.47 We are likely to view the following interactions as indicators of a lack of independence:
- (a) the commissioning party having rejected another expert after the expert disclosed its likely approach to evaluating the proposal;
  - (b) an expert attending discussions on the development of the transaction, the merits of the transaction or on strategies to be adopted by the commissioning party;
  - (c) an expert taking instructions from, or holding discussions with, a commissioning party, its advisers or any interested party on the choice of methodologies for the report or evaluation of the transaction (including the underlying assumptions or reasoning), although the expert may interrogate those parties for the purpose of the expert's own analysis;
  - (d) an expert accepting from a commissioning party, its advisers or any interested party their analysis of the transaction, although the expert may interrogate those parties for the purpose of the expert's own analysis;
  - (e) the expert discussing preliminary views or findings with the commissioning party or any other interested party;
  - (f) the expert entering into a success fee arrangement with the commissioning party or any other interested party;
  - (g) the expert discussing future business relationships with the commissioning party or any other interested party before finalising the report. This includes refraining from cross-selling other services of the expert; and
  - (h) the expert changing its opinion at the suggestion of the commissioning party or any other interested party without adequate explanation: see RG 112.56–RG 112.57.

- RG 112.48 We expect that an expert who is an AFS licensee will include in its internal policies and procedures guidelines to address:
- (a) communications and interactions with the commissioning party and any other interested party during the commissioning of the expert and the preparation of the report;
  - (b) remuneration arrangements; and
  - (c) supervision of the preparation of the report.

## Preparing the report

### Access to information

- RG 112.49 The expert, not the commissioning party, should determine what information will be required for the report. The commissioning party should give the expert all the information it is aware of about the subject of the expert report, in sufficient detail to enable the expert to determine its relevance.
- RG 112.50 If the expert is not given access to the records it requires, or is given an unduly short time to complete the report (relative to any applicable statutory time constraints), it should consider refusing to prepare a report at all. An expert should not prepare an unsatisfactory report and attempt to deal with deficiencies in the report by disclaiming responsibility.

### Communication

- RG 112.51 An expert and its commissioning party may communicate and meet with each other during the preparation of the expert report for the expert to:
- (a) discuss the progress of the report;
  - (b) gain access to information;
  - (c) ascertain matters of fact or to correct factual errors (*Re Matine* (1998) 28 ACSR 268 at 288); and
  - (d) interrogate the commissioning party or another interested party for the purposes of its own analysis.
- RG 112.52 To help maintain independence and negate any inference of bias, we consider that an expert should direct and lead all meetings and discussions with the commissioning party, its advisers and any other interested party. The expert should keep appropriate file notes of discussions and retain copies of documents worked on in discussions with the commissioning party, its advisers and any other interested party.
- RG 112.53 Brooking J in *Pivot* at 339 summarised this issue in the following terms:
- The guiding principle must be that care should be taken to avoid any communication which may undermine, or appear to undermine, the independence of the expert.

## Drafts of reports

- RG 112.54 An expert may give draft copies of parts of its report to a commissioning party or its advisers for factual checking before delivery of a full draft copy of the report. These early drafts should not contain the expert's analysis of the transaction, the merits of a transaction or the methodologies employed: *Pivot* at 339.
- RG 112.55 The expert should only provide a full draft copy of the report to the commissioning party for factual checking when the expert is reasonably assured that the conclusions in the report are unlikely to change.
- RG 112.56 If a commissioning party or an adviser disagrees with the expert's analysis in a draft of the expert report, the report should only be altered if the expert is persuaded that all or part of the expert's assessment is based on an error of fact. We would expect an expert, in this situation, to independently reassess the whole or relevant part of the report based on its view of the revised facts.
- RG 112.57 After a full draft copy of an expert report has been provided to a commissioning party or its advisers, any alteration of the report made at the suggestion of the commissioning party or its advisers that affects an expert's analysis of the transaction or the expert's conclusions should be clearly and prominently disclosed in the report. This disclosure should include an explanation of the changes, the reasons why the expert considered the changes appropriate and the significance of the changes to the expert's opinion.
- RG 112.58 Minor factual corrections made at the suggestion of the commissioning party or its advisers that are immaterial to an expert's analysis, conclusions or opinion need not be disclosed in the report.

## Use and distribution

- RG 112.59 If a party commissions two or more reports, a copy of each report should be sent to security holders. This should be done regardless of whether more than one report is prepared by the same expert or by different experts: *Pivot* at 339. It should also be done regardless of whether the commissioning party is obliged to do so under s648A(1).
- RG 112.60 An expert should deliver its final, signed report to the commissioning party even if the commissioning party requests otherwise (unless the transaction is discontinued or varied substantially).
- RG 112.61 The directors of a commissioning party should not adopt or recommend that security holders accept the findings of an expert report without critically analysing the report. The directors should satisfy themselves that the information relied on in the report is accurate and that the report has not omitted material information known to the directors but not given to the expert.

## Release of conclusions of expert reports

- RG 112.62 An expert report needs to contain sufficient information to assist security holders to make a decision, including providing details of the methodologies and material assumptions on which the report is based, together with any qualifications: see RG 111.64–RG 111.79. The directors of a commissioning party need to ensure that an expert report is not used or referred to in a way that may be misleading or deceptive.
- RG 112.63 If a commissioning party releases the conclusions of an expert report in advance of the final report, this is likely to be misleading or deceptive, particularly if the final report contains any ‘surprises’ for a person who has only read the conclusions. Releasing conclusions without providing relevant supporting information may cause confusion or uncertainty since security holders and the market will not be able to determine whether those conclusions are reasonable.

Note: In *Re Origin Energy Limited 02* [2008] ATP 23, the Takeovers Panel considered that it was potentially misleading to quote the conclusions of a technical expert’s report in a target’s statement without giving shareholders a copy of the report or the underlying assumptions and qualifications.

- RG 112.64 Consequently, a commissioning party that releases the conclusions of an expert report in advance of the final report risks regulatory action for contravention of the misleading or deceptive conduct provisions or other regulatory action. For example, if a report is provided in relation to a bid, the commissioning party risks an application by us, or another party, to the Takeovers Panel for a declaration of unacceptable circumstances.
- RG 112.65 There may be limited situations in which a commissioning party’s continuous disclosure obligations will require disclosure of the conclusions of an expert report in advance of the final report (e.g. if confidentiality has been lost before the final report is ready for release to the market). Commissioning parties and experts should put in place processes that minimise the risk that preliminary disclosure will be required before the report has been finalised. If preliminary disclosure is required, commissioning parties should ensure that this is done in a way that is not misleading or confusing (e.g. by highlighting the limitations of the preliminary disclosure and providing all available material information about the report).

## Consent of expert

- RG 112.66 An expert report may only be incorporated or referred to in a bidder’s statement or target statement if the expert has consented to the use of the report in the form and context in which it appears: s636(3) and 638(5). Before consenting, the expert should consider whether the report has been accurately reproduced and used for the purpose for which it was commissioned. The expert should also consider the appropriateness, or otherwise, of express or implied representations about its report, the conclusions or recommendations: see Regulatory Guide 55 *Prospectus and PDS: Consent to quote* (RG 55), which also applies to the consent obligations in s636(3) and 638(5).



## E Use of specialists

### Key points

If an expert does not have the necessary specialist expertise on a matter that must be determined for the purposes of the report, it should retain an appropriate specialist for that matter who is independent of the commissioning party: see RG 112.67–RG 112.70.

The specialist should report to the expert rather than the commissioning party: see RG 112.71–RG 112.72.

The expert should ensure that the specialist has consented to the use of its report: see RG 112.73–RG 112.77.

### Engagement of specialists

RG 112.67 It is the expert's responsibility to:

- (a) determine that a specialist's assistance is required on a matter that must be determined for the purposes of the report;
- (b) select the specialist and ensure that the specialist is competent in the field;
- (c) negotiate the scope and purpose of the specialist's work and ensure that this is clearly documented in an agreement (though the agreement may be with the commissioning party or the expert); and
- (d) be satisfied that the specialist is independent of, and is perceived to be independent of, the commissioning party and any other interested party.

RG 112.68 We consider best practice would be for the expert to pay the specialist its fees and recover those fees from the commissioning party.

RG 112.69 We would expect a specialist report to be specifically commissioned and prepared for the transaction the subject of the expert report. We would also expect the expert to make it clear to the specialist that the report is being commissioned for inclusion in the expert report. If the specialist report is not prepared specifically for the current transaction, this should be clearly explained to security holders. The Takeovers Panel in *Re Great Mines Limited* [2004] ATP 01 expressed the disclosure requirement in the following terms (at [56]):

Wherever a report is re-used in this way, however, shareholders should be advised of the purpose for which the report was prepared. It would be inappropriate to re-use a report in this way to satisfy a requirement for an independent experts report and in general, it would be misleading to describe a report re-used in this way as independent.

RG 112.70 While these comments were made in the context of an independent expert report, we consider they are equally applicable to the use of a specialist report.

## Review of specialist report

RG 112.71 The expert should:

- (a) critically review the specialist report, particularly to consider whether the specialist has used assumptions and methodologies which appear to be reasonable and has drawn on source data which appears to be appropriate in the circumstances;
- (b) have reasonable grounds for believing the specialist report is not false or misleading;
- (c) ensure the specialist signs its report and consents to its use in the form and context in which it will be published; and
- (d) ensure that the specialist report is used in a way that will not be misleading or deceptive.

RG 112.72 A specialist report commissioned by the expert should be dated close enough to the date of the expert report to ensure that assumptions applied have not been overtaken by time or events.

## Use of specialist report

RG 112.73 The expert should ensure that the specialist consents to the use of its report in the form and context in which it will be published. If a specialist does not take responsibility for, or authorise the use of, its report and the expert considers that the material the subject of the report needs to be included in the expert report, the expert must accept entire responsibility for the statements as the expert's own and, as such, must have reasonable grounds for believing the statements not to be misleading or deceptive. This is consistent with our approach to directors assuming responsibility for statements in a prospectus or PDS that are not attributed to another person: see RG 55.11–RG 55.12.

RG 112.74 The expert should exercise its judgment to determine whether to include the specialist report in full or include a concise or short form version or cite or extract the specialist report.

RG 112.75 We encourage an expert to consider whether it is appropriate to have the specialist prepare a concise or short form specialist report for inclusion in the expert report with a longer specialist report available on request free of charge or accessible online.

RG 112.76 An expert should only quote or cite the specialist's work in a way that is fair and representative. Otherwise the expert risks misleading security holders. If the full specialist report contains any 'surprises' for the security holder who only reads the short form or concise report, this would indicate the short form specialist report was misleading.

RG 112.77 In the situation when an expert has obtained more than one specialist report on the same matter, we consider that security holders will not be given all material information if the expert merely supplies abridged results of those reports, and states, without comment or analysis, the result is the sum of the values given in each of the specialist reports.

## Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services  Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act  Note: This is a definition contained in s761A of the Corporations Act.
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
expert	The meaning given to that term in s9 of the Corporations Act
Financial Services Guide (FSG)	A document that must be given to a retail client in relation to the provision of a financial service in accordance with Div 2 of Pt 7.7 of the Corporations Act  Note: See s761A for the exact definition.
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act  Note: See s761A for the exact definition.
reg 5.1.01 (for example)	A regulation of the Corporations Regulations (in this example numbered 5.1.01)
RG 181 (for example)	An ASIC regulatory guide (in this example numbered 181)
s648A (for example)	A section of the Corporations Act (in this example, numbered 648A), unless otherwise specified
Sch 4 (for example)	A schedule of the Corporations Act (in this example numbered 4), unless otherwise specified

## Related information

### Headnotes

experts, expert reports, independence, genuine opinion, relationships or interests, declining the engagement, disclosing relationships or interests, conduct of experts, use of specialists

### Regulatory guides

RG 55 *Disclosure documents and PDS: Consent to quote*

RG 111 *Content of expert reports*

RG 181 *Licensing: Managing conflicts of interest*

### Legislative instruments

ASIC Corporations (Financial Services Guides) Instrument 2015/541

### Legislation

Corporations Act, Chs 2E, 6 and 6A, s12, 412(8), 636, 638, 640, 648A, 663B, 664C, 665B, 667B, 670A(1)(h), 711, 766A, 766B(1), 911A(1), 912A(1)(aa), 1041E, 1041F and 1041H, Corporations Regulations, regs 5.1.01 and 7.6.01(u), Sch 8, cls 8303 and 8306

ASIC Act, s12DA

### Cases

*ANZ Nominees v Wormald* (1988) 13 ACLR 698

*Re Aulron Energy Limited* [2003] ATP 31

*Duke Group v Pilmer* (1998) 27 ACSR 1

*Re Great Mines Limited* [2004] ATP 01

*Re Matine* (1998) 28 ACSR 268

*MGICA v Kenny & Good* (1996) 140 ALR 313

*Re Origin Energy Limited 02* [2008] ATP 23

*Phosphate Co-operative Co of Aust Ltd v Shears & Anor (No 3)* (1988) 14 ACLR 323

*Reiffel v ACN 075 839 226* (2003) 45 ACSR 67

### Consultation papers and reports

CP 62 *Better experts' reports*

CP 143 *Expert reports and independence of experts: Updates to RG 111 and RG 112*

REP 234 *Response to submissions on CP 143 Expert reports and independence of experts*

## Appendix D: Limitations & disclosures

### Qualifications

I, Christopher Clarke Hill, am a Senior Managing Director in the Corporate Finance & Restructuring division of FTI Consulting and specialise in corporate insolvency and restructuring.

In this role I have undertaken engagements involving Independent Business Reviews, informal advisory mandates and formal insolvency roles acting as Voluntary Administrator and Receiver and Manager, as well as expert witness roles opining on issues associated with solvency and antecedent transactions.

In these engagements I regularly conduct:

- Independent, critical reviews of forecasts, including underlying assumptions, for the purpose of assessing reasonableness and conducting sensitivity analysis; and
- Campaigns for the sale of businesses as going concerns and assets on a piecemeal basis, including assessing the value of either businesses and/or assets for sale.

Additionally, FTI Consulting provides a range of corporate advisory services and has advised on numerous takeovers, valuations, acquisitions, and restructures.

Other relevant information to the provision of this Report is the following:

- I am a Chartered Accountant with a Bachelor of Commerce from The University of Adelaide majoring in Accounting;
- I am a Registered Liquidator having first been registered as a liquidator in 2006;
- I have over 25 years of experience working in the restructuring and advisory sector;
- I am a member of the Institute of Chartered Accountants Australia & New Zealand; and
- I am a member of the Australian Restructuring Insolvency and Turnaround Association.

My curriculum vitae is attached as Appendix A.

### Disclaimers

This Report was not prepared for any other purpose or for use by any other person other than for the purpose of assisting the Court and ASIC in their determinations regarding the Schemes and providing information to creditors. Neither FTI Consulting nor I accept any responsibility to any other person for the use of the Report outside the stated purpose without the written consent of FTI Consulting. Except in accordance with the stated purpose, no extract, quote or copy of this Report, in whole or in part, should be reproduced without prior written consent from FTI Consulting, as to the form and context in which it may appear.

Other than this Report, neither FTI Consulting nor I have been involved in the preparation of the Explanatory Statement or any other document prepared in respect of the Schemes. Accordingly, we take no responsibility for the content of the Explanatory Statement as a whole, or other documents prepared in respect of the Schemes.

I note that the forward-looking financial information prepared by the Group and its advisors does not include estimates as to the potential impact of any future changes in taxation legislation or accounting policies.

### Current market conditions

My opinion is based on economic, market and other conditions prevailing at the Valuation Date and the Report Date. Such conditions can change significantly over relatively short periods of time. Changes in those conditions may result in any valuation or other opinion becoming quickly outdated and in need of revision. I reserve the right to revise any valuation or other opinion in the light of material information existing at the Valuation Date or the Report Date that subsequently becomes known to me.

## Currency

All references to '\$' and 'dollars' are references to United States dollars unless stated otherwise.

## Rounding

Due to rounding, numbers presented throughout this document may not add up to the totals provided and percentages may not reflect the absolute figures.

## Independence

Prior to accepting this engagement, I have considered my independence with respect to the parties involved with the Schemes with reference to the RG 112 and APES 110 'Code of Ethics for Professional Accountants' ("APES 110") issued by the Accounting Professional and Ethics Standards Board.

Neither I, nor the other FTI Consulting staff working on this Report, have at the date of this IER, and have not had within the previous two years, any business or professional relationship with the Group or any financial or other interest that could reasonably be regarded as capable of affecting its ability to provide unbiased opinions in relation to the Schemes.

I have read ASIC RG 112 and am of the opinion that there is no:

- Actual, or perceived, conflict of interest;
- Actual, or perceived, threat to independence; or
- Other reason for which the engagement could not be accepted.

In accordance with RG 112.23, and RG 112.28 to RG 112.36, the below provides a summary of the prior engagements FTI Consulting has undertaken during the period 2016 to date for the Group and its legal advisors:

### February 2020

- FTI Consulting's Corporate Finance & Restructuring division in the USA was engaged by the Group to undertake a working capital optimisation engagement.
- This was a non-bankruptcy operational restructuring piece of work and the job matter was closed on 10 October 2020 which precedes the date on which I was contacted by Ashurst Australia to undertake the production of this Report.

### May 2017

- FTI Consulting's Corporate Finance & Restructuring division in Australia was engaged to chair the scheme meetings related to the 2017 schemes of arrangements.

### November 2016

- FTI Consulting's Corporate Finance & Restructuring and Forensic & Litigation Consulting divisions in the USA and Australia were engaged by the Group as financial advisors. The role incorporated the consideration of Chapter 11 and Chapter 15 protection in the USA, and voluntary administration planning in Australia. Members of the FTI Consulting Strategic Communications division in Australia provided communications support.
- The Group did not enter in Chapter 11 as a result of pursuing the 2017 schemes of arrangement and the engagement was finalised on 2 January 2018.

In my opinion, I do not consider that the engagements detailed above impact on my independence on the basis that:

- These engagements occurred prior to my engagement as independent expert; and
- These engagements were managed and led by different FTI Consulting staff. No FTI Consulting staff members who have had prior dealings with the Group have assisted me in the preparation of this Report.

## Ashurst

FTI Consulting undertakes work from time to time on behalf of Ashurst Australia. In my opinion, this relationship does not result in a conflict of interest or duty. I have not identified any issue in relation to this relationship that would give rise to a conflict in undertaking the completion of this engagement.

## Proposed Appointment as Scheme Administrators of the Schemes

If the Schemes are agreed to by both the Secured Scheme Creditors and the Unsecured Scheme Creditors, and approved by the Court, Christopher Hill and David Peter McGrath of FTI Consulting have agreed to act as both Secured Scheme Administrators and Unsecured Scheme Administrators.

Neither FTI Consulting nor I have had any part in the formulation of the Schemes. Our only role has been the preparation of this Report. During the preparation of this Report, I provided draft copies of this Report to Management and its advisors for comment as to factual accuracy, as opposed to opinions which are my responsibility. Changes made to this Report as a result of those reviews have not altered my opinions as stated in this Report.

Neither FTI Consulting nor I were involved with, or have any interest in, the outcome of the Schemes other than that of independent expert and the preparation of this Report.

FTI Consulting is entitled to receive a fee based on commercial rates and including reimbursement of out-of-pocket expenses for the preparation of this Report.

Except for these fees, neither FTI Consulting nor I will be entitled to any other pecuniary or other benefit, whether direct or indirect, in connection with the issuing of this Report. The payment of this fee is in no way contingent upon the outcome of the Schemes. Neither FTI Consulting nor I will receive any other benefit for the preparation of this Report.

I consider myself to be independent in terms of RG 112.

## Consents

I consent to issuing this Report in the form and context in which it is included in the Explanatory Statement. Apart from the Report, neither FTI Consulting nor I are responsible for the contents of Explanatory Statement, or any other document or announcement associated with the Explanatory Statement. I acknowledge that this Report may be lodged with regulatory bodies.

## Reliance on information

The statements and opinions contained in this Report are given in good faith and are based upon my consideration and assessment of information provided by Management and its advisors.

I believe the information provided to be reliable, complete, and not misleading, and I have no reason to believe that any material facts have been withheld. The information provided has been evaluated through analysis, inquiry, and review for the purpose of forming my opinions.

The procedures I have adopted in forming my opinions may have involved an analysis of financial information and accounting records. This did not include verification work nor constitute an audit or review in accordance with Australian Auditing and Assurance Standards Board standards and consequently does not enable me to become aware of all significant matters that might be identified in an audit or review. Accordingly, I do not express an audit or review opinion.

It was not my role to undertake, and I have not undertaken, any commercial, technical, financial, legal, taxation or other due diligence, or other similar investigative activities in respect of the Group or the Schemes.



I understand that the Group have been advised by legal, accounting, and other appropriate advisors in relation to such matters, as necessary. Neither FTI Consulting nor I provide any warranty or guarantee as to the existence, extent, adequacy, effectiveness and/or completeness of any due diligence or other similar investigative activities by the Group and/or their advisors.

It is understood that, except where noted, the accounting information provided to me was prepared in accordance with generally accepted accounting principles (including adoption of Australian equivalents to International Financial Reporting Standards) and prepared in a manner consistent with the method of accounting used by the Group in previous accounting periods.

## Prospective financial information

In preparing the Report, I have had regard to prospective financial information in relation to the Group ("Prospective Financial Information"). I understand that the Prospective Financial Information has been prepared as part of the ongoing management processes of the Group, and in particular in connection with the proposed Schemes.

For the purposes of my Report, I understand and have assumed that the Prospective Financial Information:

- Has been prepared fairly and honestly, on a reasonable basis and is based on the best information available to the Management of the Group and its advisors; and
- Has practical constraints and limitations due to the ongoing COVID-19 environment, and does not reflect any material bias, either positive or negative.

I understand that the Prospective Financial Information has been based on assumptions concerning future events and market conditions, and while prepared with due care and attention and Management and its advisors consider the assumptions to be reasonable, future events and conditions are not predictable and the assumptions and outcomes are subject to significant uncertainties. Actual results are likely to vary from the Prospective Financial Information and variations may be materially positive or negative. Accordingly, neither I, the Group, its Management, its advisors, nor FTI Consulting guarantee that the Prospective Financial Information or any other prospective statement contained in the IER or otherwise relied upon will be achieved.

Neither FTI Consulting nor I have been engaged to undertake an independent review of the Prospective Financial Information in accordance with Australian Auditing and Assurance Standards Board standards and has not undertaken such a review.

However, in order to disclose and to rely on the Prospective Financial Information in the Report, I am required to satisfy myself that the Prospective Financial Information has a reasonable basis.

Set out below are some of the indicative factors that would support a conclusion that the Prospective Financial Information has a reasonable basis:

- A material portion of the Prospective Financial Information incorporates established trends in the Group's business life cycle and current arrangements in place with key stakeholders. The Prospective Financial Information reflects Management's best assessment at the time of preparation noting the current challenges caused by ongoing impacts of COVID-19.
- The Prospective Financial Information has been prepared as part of the ongoing management of the Group, and in particular in connection with the proposed restructuring of the Group via the proposed Schemes of Arrangement and broader restructuring outlined in the RSA.
- The reporting and budgeting processes of the directors of the Group have been in place for some time and involve regular reporting of actual performance to budget variances, management follow up, and input from senior management and its advisors, and that the process itself is under continuous review.
- The Prospective Financial Information is based on the Group's forecast financial models (namely the FY21 Group Budget and FY21 RF1 Budget) that have been created from a 'bottom up' basis.
- The Prospective Financial Information has been endorsed by the directors and management of the Group.

■ In addition, I have:

- Obtained details of the Prospective Financial Information and the process by which this information was prepared;
- Held discussions with Management of the Group regarding the basis on which the Prospective Financial Information was formulated and where possible on a 'desktop' level, undertaking evaluation of such information, by reference to past trading performance, industry data, available evidence and/or other documentation provided;
- Reviewed assumed growth against historical earnings;
- Investigated previous forecasting history and accuracy, to the extent relevant given the COVID-19 environment; and
- Reviewed the most recently available monthly management accounts considered the relevant industry trends and the position adopted by the Group and as reflected in the model.

## APES 225

My Report has been prepared in accordance with professional standard APES 225 'Valuation Services' issued by the Accounting Professional & Ethical Standards Board.

## Appendix E: Glossary

Table 37: Glossary

Term	Definition
<b>\$ or USD</b>	United States Dollars
<b>%</b>	Percentage
<b>x</b>	times
<b>2017 RSA</b>	Restructuring Support Agreement entered into by the Group with some of its largest creditors on 3 April 2017
<b>20##A</b>	Actual for calendar year 20##
<b>20##F</b>	Forecast for calendar year 20##
<b>A\$ or AUD</b>	Australian Dollars
<b>AASB</b>	Australian Accounting Standards Board
<b>AASB 5</b>	AASB 5 'Non-current Assets Held for Sale and Discontinued Operations'
<b>AASB 15</b>	AASB 15 'Revenue from Contracts with Customers'
<b>AASB 16</b>	AASB 16 'Leases'
<b>the Act</b>	the Corporations Act 2001 (Cth)
<b>Adjusted EBITDA</b>	The Group reports Adjusted EBITDA that excludes significant items such as recapitalisation / restructuring costs (including employee and related costs), impairments, legal provisions, and, once-off onerous expenses
<b>AHG</b>	Ad-hoc group consisting of Ares, Ascribe, Nut Tree, and FPA
<b>AJ Lucas</b>	AJ Lucas Limited
<b>APES</b>	Accounting Professional & Ethical Standards
<b>APES 110</b>	APES 110 'Code of Ethics for Professional Accountants'
<b>APES 215</b>	APES 215 'Forensic Accounting Services'
<b>APES 225</b>	APES 225 'Valuation Services'
<b>Ares</b>	Ares Management LLC
<b>ASA</b>	Asset Sale Agreement
<b>Ascribe</b>	Ascribe II Investments LLC
<b>Asia Pacific</b>	Australasia and South East Asia
<b>ASIC</b>	Australian Securities & Investments Commission
<b>ASX</b>	Australian Securities Exchange
<b>Backstop ABL</b>	The Term Loan Securities Agreement, dated as of 23 July 2017, by and among Boart Longyear Management Pty Limited, as issuer, the guarantors party thereto, Wilmington Trust, National Association, as administrative agent, and the purchasers party thereto, providing for the issuance of term loan securities due 2022, as amended, restated, amended and restated, supplemented or otherwise modified from time to time
<b>BCM</b>	BL Capital Management LLC ARBN 649 445 321
<b>BLA</b>	Boart Longyear Australia Pty Ltd ACN 000 401 025
<b>BLI</b>	Boart Longyear Investments Pty Limited ACN 124 070 373
<b>BLY</b>	Boart Longyear Limited ACN 123 052 728
<b>BLY IP</b>	BLY IP Inc.

Term	Definition
<b>BLY Issuer</b>	Boart Longyear Management Pty Limited ACN 123 283 545
<b>BLY US</b>	BLY US Holdings Inc. ARBN 649 445 394
<b>c</b>	cents or 1/100 <sup>th</sup> of a \$ (also referred to as a penny)
<b>CAD</b>	Canadian Dollars
<b>CAPEX</b>	Capital expenditure
<b>Capital</b>	Capital Limited
<b>CAPM</b>	Capital Asset Pricing Model
<b>CDI</b>	A CHESS Depository Interest, that being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules
<b>Centerbridge</b>	Centerbridge Partners L.P.
<b>CEO</b>	Chief Executive Officer
<b>CODI</b>	Cancellation of Debt Income
<b>Commitment Letter</b>	An unexecuted commitment letter (including a term sheet) for the Exit Financing that outlines the agreed terms between the Group and the proposed exit financiers which is anticipated to be executed by each of the parties on or around 19 July 2021
<b>Controlled Insolvency Scenario</b>	Scenario contemplating that the Scheme Companies are to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act, the Schemes are not implemented, and the business of the Group will be sold as a going concern in its distressed state
<b>COVID-19</b>	Coronavirus disease 2019
<b>CRA</b>	Canadian Revenue Authority
<b>Creditor Share Purchase Option</b>	A right made available to creditors under the Schemes to purchase a pro rata share of new equity in BLY, after implementation of the Schemes, offered to each SUN holder, and if undersubscribed, each participating holder of TLA claims, TLB claims or SSN claims, subject to an aggregate maximum cap of \$2.5 million plus any undersubscription of the Share Purchase Plan
<b>Drilling Services</b>	The Drilling Services segment of the Group, which provides aboveground and underground drilling services predominately to mining and resource companies across North America, LAM, Asia Pacific and EMEA
<b>DTA</b>	Deferred tax asset
<b>EBIT</b>	Earnings before interest and tax
<b>EBITDA</b>	Earnings before interest, tax, depreciation, and amortisation
<b>EMEA</b>	Europe, the Middle East, and Africa
<b>EPM</b>	Entity Priority Model
<b>ERP</b>	Enterprise Resource Planning
<b>EV</b>	Enterprise Value
<b>Exit Financing</b>	A new money loan for the amount necessary to fully refinance the Backstop ABL and Incremental Financing
<b>Finance Facilities</b>	The Group's total finance debt including accrued PIK, accrued interest, and applicable premium
<b>FPA</b>	First Pacific Advisers LP
<b>Foraco</b>	Foraco International SA
<b>FRS</b>	Financial Reporting Standard

Term	Definition
<b>FTI Adjusted EBITDA</b>	The Group's Adjusted EBTIDA, further adjusted for: AASB 16 (where relevant), gain on sale of assets (to be \$3.0m in each financial year), and the removal of VAT write-offs
<b>FTI Consulting</b>	FTI Consulting (Australia) Pty Ltd
<b>Geodrill</b>	Geodrill Limited
<b>GDP</b>	Gross Domestic Product
<b>the Group</b>	Boart Longyear Limited and subsidiaries
<b>GST</b>	Goods and services tax
<b>H#FY##</b>	Financial year half #, financial year 20##
<b>Q#FY##</b>	Financial year quarter #, financial year 20##
<b>FY##</b>	Financial year 20##
<b>FY##A</b>	Actuals for financial year 20##
<b>FY##B</b>	Budget results for financial year 20##, based on the FY21 Group Budget
<b>FY##F</b>	Forecast for financial year 20##
<b>FY21 RF1 Budget</b>	2021 Group Budget Forecast Model (RF1)
<b>FY21 Group Budget</b>	The Group's original FY21 budget
<b>IER or Report</b>	Independent Expert's Report
<b>IFRS</b>	International Financial Reporting Standards
<b>IFRS 16</b>	IFRS 16 'Leases'
<b>Implied Value</b>	The Implied Value that would be respectively be available to the Secured Scheme Creditors and the Unsecured Scheme Creditors if the Schemes were to be put into effect as proposed
<b>Incremental Financing</b>	The Term Loan Securities Agreement dated 1 June 2021 entered into by and among Boart Longyear Management Pty Limited, as issuer, the guarantors party thereto, the purchasers party thereto, Wilmington Trust, National Association, as administrative agent and U.S. Bank, National Association, as collateral agent
<b>IVS</b>	International Valuation Standards
<b>IVS 104</b>	IVS 104 'Bases of Value'
<b>LAM</b>	Latin America
<b>LME</b>	London Metal Exchange
<b>LSE</b>	London Stock Exchange
<b>LTM</b>	Last-twelve-months
<b>Long Term Forecast</b>	The Group' 3-year forecast model (2021 to 2023) - transaction completed
<b>m</b>	millions
<b>M&amp;A</b>	Mergers and acquisitions
<b>Major</b>	Major Drilling Group Inc.
<b>Management</b>	Management of the Group
<b>Members' Scheme of Arrangement</b>	The compromise or arrangement under Part 5.1 of the Corporations Act between BLY and its shareholders, pursuant to which BLY will become a wholly owned subsidiary of New BLY Parent by the transfer of all Shares to New BLY Parent in exchange for the issue of New BLY Parent CDIs to BLY Shareholders
<b>Mitchell Services</b>	Mitchell Services Limited
<b>MRP</b>	Market Risk Premium
<b>NBV</b>	Net book value

Term	Definition
<b>New BLY Parent</b>	Boart Longyear Ltd, a limited company incorporated in Ontario, Canada, which is a newly incorporated company established for the purposes of the Members' Scheme of Arrangement
<b>New BLY Parent CDI</b>	A CDI representing a beneficial interest in one New BLY Parent share
<b>New Warrants</b>	Issuance of new warrants to the holders of the SUNs in connection with the Schemes
<b>New Common Equity</b>	The single class of BLY shares to be issued by BLY under the Schemes
<b>Non-Associated Shareholders</b>	All shareholders in BLY other than those who hold any position in TLA, TLB, SSN and SUNs
<b>NPAT</b>	Net profit after tax
<b>Nut Tree</b>	Nut Tree Capital Management
<b>Obligor Group</b>	The group of entities consisting of Boart Longyear Australia Pty Limited; Boart Longyear Limited; Boart Longyear Investments Pty Limited; Votaint No. 1609 Pty Limited; Boart Longyear Canada; Boart Longyear Manufacturing Canada Ltd.; Longyear Canada, ULC; Boart Longyear Chile Limitada; Boart Longyear S.A.C.; Boart Longyear Suisse Sarl; Boart Longyear Company; Boart Longyear Manufacturing and Distribution Inc.; BLY IP Inc.; BL Capital Management LLC; BLY US Holdings Inc.; and, Longyear TM, Inc.
<b>OEM</b>	Original Equipment Manufacturer
<b>Orbit</b>	Orbit Garant Drilling Inc.
<b>oz</b>	Ounce
<b>P.c.p</b>	Prior corresponding period
<b>P&amp;L</b>	Profit and Loss Statement
<b>PBT</b>	Profit before tax
<b>Perenti</b>	Perenti Global Limited
<b>PIK</b>	Payment-in-kind
<b>PNC ABL</b>	The Amended and Restated Revolving Credit and Security Agreement, dated 23 July 2017, as amended, restated, amended and restated, supplemented or otherwise modified from time to time, among PNC Bank National Association as lender and as agent, Boart Longyear Management Pty Limited as a borrower, the other borrowers party thereto and the guarantors party thereto
<b>PP&amp;E</b>	Property, plant, and equipment
<b>Products</b>	The Products segment of the Group, which manufactures drill rigs and drill components for the sale to third parties and its own Drilling Services segment
<b>Prospective Financial Information</b>	Prospective financial information in relation to the Group
<b>RBA</b>	Reserve Bank of Australia
<b>Regulations</b>	Corporations Regulations 2001 (Cth)
<b>Report Date</b>	27 July 2021
<b>Restructuring Term Sheet</b>	The restructuring term sheet attached to the RSA
<b>RG</b>	Regulatory guide
<b>RG 60</b>	RG 60 'Schemes of Arrangement'
<b>RG 111</b>	RG 111 'Content of Expert's Reports'
<b>RG 112</b>	RG 112 'Independence of Experts'
<b>RSA</b>	Restructuring Support Agreement dated 12 May 2021 made between, amongst others, BLY, BLY Issuer, BCM, AHG, and funds associated with Centerbridge, which the parties have agreed is to be amended in accordance with the terms of the RSA amendment deed to be entered into between, amongst others, BLY, BLY Issuer, BCM, AHG, and funds associated with Centerbridge

Term	Definition
<b>RSA Date</b>	The date on which the Schemes are assumed to be effected by Management in the FY21 RF1 Budget and the Long Term Forecast, being 31 August 2021
<b>Scheme Companies / Scheme Co's</b>	BLY, BLY Issuer, BLA, BLI, Votaint, BCM, and BLY US
<b>Scheme Documents</b>	The Creditors' Schemes of Arrangements and the Explanatory Statement
<b>Schemes</b>	The Secured Creditors Scheme and the Unsecured Creditors Scheme
<b>Secured Scheme Creditors</b>	The holders of certain secured amounts owing under Term Loan A, Term Loan B, and the SSNs
<b>Share Purchase Plan</b>	The share purchase plan offered to eligible share purchase plan shareholders on the terms set out in the share purchase plan booklet dated on or about the date of the Explanatory Statement, pursuant to which eligible share purchase plan shareholders may subscribe for up to A\$30,000 worth of Shares, provided that the maximum amount to be raised by the share purchase plan is \$2.5 million
<b>the Share Sale Companies / SSA Co's</b>	Entities in the Group excluding the Scheme Companies
<b>Share</b>	Fully paid ordinary shares in the capital of BLY
<b>SG&amp;A</b>	Selling, general, and administrative expenses
<b>SPV</b>	Special Purpose Vehicle
<b>SSA</b>	Share Sale Agreement
<b>SSNs</b>	The notes issued under that certain Indenture, dated 27 September 2013, by and among the Boart Longyear Management Pty Limited, as issuer, the guarantors party thereto, and U.S. Bank National Association, as trustee and collateral agent, providing for the issuance of 14.5% / 12.0% / 10.0% senior secured PIK toggle notes due 2022, as amended, restated, amended and restated, supplemented or otherwise modified from time to time
<b>SSNs (stub) / stub SSNs</b>	The SSNs that were non-consenting to the June 2020 amendment
<b>Swick</b>	Swick Mining Limited
<b>SUNs</b>	Those notes issues under that certain Indenture, dated 28 March 2011, by and among Boart Longyear Capital Management Pty Limited, as issuer, the guarantors party thereto, and Delaware Trust Company, as trustee, providing for the issuance of 1.50% unsecured subordinated PIK notes due 2022, as amended, varied, or amended and restated from time to time, as amended, restated, amended and restated, supplemented or otherwise modified from time to time
<b>Term Loan A or TLA</b>	The Term Loan A Securities Agreement dated as of 31 December 2018 (as amended by the First Amendment to Term Loan A Securities Agreement dated as of July 17, 2019, the Second Amendment to Term Loan A Securities Agreement dated as of June 24, 2020 and as further amended, varied or amended and restated from time to time) by and among BL Capital Management LLC, Boart Longyear Management Pty Limited, the other guarantors party thereto, and Wilmington Trust, National Association, as administrative agent, providing for the issuance of term loan securities due 2022
<b>Term Loan B or TLB</b>	The Term Loan B Securities Agreement dated as of 31 December 2018 (as amended by the First Amendment to Term Loan B Securities Agreement dated as of 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated as of 24 June 2020 and as further amended, varied or amended and restated from time to time) by and among BL Capital Management LLC, Boart Longyear Management Pty Limited, the other guarantors party thereto, and Wilmington Trust, National Association, as administrative agent, providing for the issuance of term loan securities due 2022
<b>TV</b>	Transaction Value
<b>Uncontrolled Insolvency Scenario</b>	Scenario contemplating that the Scheme Companies are to be wound up within six months of the hearing of the application for an order under section 411(1) and (1A) of the Act, the Schemes are not implemented, and the business of the Group will cease, and its assets, located in various entities in a variety of international jurisdictions, will be liquidated to pay outstanding liabilities
<b>TV</b>	Transaction value

Term	Definition
UK	United Kingdom
Unsecured Scheme Creditors	The holders of certain unsecured amounts owing under Term Loan A, Term Loan, B, the SSNs, and the SUNs
US or USA	United States of America
Valuation Date	The valuation date is 25th May 2021. Including, to the extent possible and practical, any information that was made available and is considered important up to the Report Date
VAT	Value-added tax
Votraint	Votraint No. 1609 Pty Limited ACN 119 244 272
WACC	Weighted average cost of capital
Y.o.Y	Year-on-year
YTD	Year-to-date



## Appendix F: Sources of information

In preparing this Report, I have been provided with, and considered, the following sources of information.

### Publicly available information

- AJ Lucas Group FY19 Annual Report
- APES 110 'Code of Ethics for Professional Accountants'
- APES 215 'Forensic Accounting Services'
- APES 225 'Valuation Services'
- ASIC's Regulatory Guide 111 'Content of Expert's Reports'
- ASIC's Regulatory Guide 112 'Independence of Experts'
- ASIC's Regulatory Guide 60 'Schemes of Arrangement'
- Beacon Securities Limited, Geodrill Limited, 12 May 2021
- Bloomberg
- The Board of Governors of the Federal Reserve System – 'Why does the Federal Reserve aim for inflation of 2 percent over the longer run?'
- Boart Longyear Limited FY12, FY13, FY14, FY15, FY16, FY17, FY18, FY19, and FY20 Annual Reports
- Capital Limited FY20 Annual Results, 18 March 2021
- Capital Limited FY19 Annual Report
- Capital Limited FY20 Annual Report
- Foraco International FY19 Annual Report
- Foraco International FY20 Statutory Auditor's Report on The Consolidated Financial Statements
- Foraco International Reports Q2 2020
- Foraco Investor Presentation 2019
- Geodrill Limited FY19 Annual Report
- Geodrill Limited Management's Discussion and Analysis For The Year Ended 31 December 2020
- IBISWorld – Oil and Mineral Exploration Drilling in Australia – Report #OD5427, August 2020
- International Valuation Standards 2019
- Major Drilling Group FY19 Annual Report
- Major Drilling Group FY20 Annual Report
- Mitchell Services FY19 Annual Report
- Orbit Garant Drilling FY19 Annual Report
- Orbit Garant Drilling FY20 Annual Report
- Paradigm Capital, Orbit Garant Drilling Inc., 14 May 2021
- Perenti 2020 Annual Report
- Perentri ASX Release 24 August 2020
- Proactive Investors, Capital Limited, 20 August 2020
- RBA Speech 'After the Boom', 13 September 2016
- Resources and Energy Quarterly, Office of the Chief Economist, March 2021
- S&P Global: World Exploration Trends March 2021

- S&P CapitalIQ
- Swick Mining Services FY19 Annual Report
- Swick Mining Services FY20 AGM Presentation, 6 November 2020
- Swick Mining Services FY20 Annual Report
- US Department of the Treasury Daily Treasury Yield Curve

## Non-public information

- ABL Borrowing Base Calculations between July 2019 and March 2021
- Accounts Payable Aging as at 30 April 2021
- Accounts Receivable Aging as at 30 April 2021
- April 2021 Management Accounts and supporting schedules
- Boart Longyear Limited Board of Directors Minutes, February 2021
- Boart Longyear Limited Restructuring Support Agreement and supporting schedules/calculations
- Boart Longyear Limited Sharetrak Top 100 Share Register Analysis, 31 March 2021
- Covenant Reporting Packs and Compliance Certificates
- Customer and Supplier Concentration Analysis
- Debt Structure Outline as at 30 April 2021
- Fixed Assets Register as at 30 April 2021
- FY21 Group Budget and supporting schedules
- FY21 RF1 Budget and supporting schedules
- Group Structure as at 31 December 2020
- Lease Liability Summary as at 30 April 2021
- Long Term Forecast
- Monthly Operating Review Presentations from July 2019 to February 2021
- No Transaction Forecast
- Tax Disputes and Payables Summary as at 30 March 2021
- Valuation Report on the Intellectual Property Assets of Boart Longyear, February 2021
- Weekly Cash Flow Forecasts

## Appendix G: Valuation methods

### Valuation methods for the valuation of a business

#### Overview

Below are commonly used valuation methods for valuing businesses:

- The discounted cash flow method;
- The capitalisation of earnings method;
- The net asset value method;
- The quoted market price method; and
- Reference to any recent genuine offers received.

Each of the methods are discussed in the following paragraphs.

#### Discounted cash flow method

The discounted cash flow method assesses the value of a business by forecasting its future cash flows and then discounting them back to their present value at the valuation date by applying an appropriate discount rate.

The discount rate applied is generally based on the opportunity cost of capital to the investor, reflecting the return that an investor expects to obtain from investments with equivalent risks. The discount rate reflects the time value of money and the risk profile of the cash flow stream being valued.

Where the business (or asset) being valued is assumed to have a very long or infinite remaining life, a terminal value may be incorporated in the discounted cash flow, reflecting the future value at the end of the period for which cash flows are forecast. The terminal value is best estimated at a future point in time where cash flows are expected to be stable going forward and is based on an assumed future growth rate.

The discounted cash flow method is particularly useful in circumstances where the business has a short history of stable earnings or earnings are expected to change significantly from recent history (for example, start-up companies or other companies expecting significant growth, such as a restructured businesses coming out of administration).

#### Capitalisation of earnings method

The capitalisation of earnings method is commonly applied when valuing businesses where a future 'maintainable' earnings can be estimated with a level of confidence. Generally, this applies in circumstances where the business is relatively mature, has a proven track record and expectations of future profitability and has relatively steady growth prospects. Such a method is generally not as useful when a business is in a start-up phase, has a finite life, or is loss making.

Capitalisation multiples can be applied to various earnings measures including estimates of future maintainable operating cash flows, EBITDA, EBIT, or net profit after tax. The maintainable earnings are often based on forecasts, adjusted for abnormal or non-recurring items. Historical results can also be used as an estimate of future earnings but may require adjustments.

The appropriate capitalisation rate (or multiple) to be applied to earnings is usually derived from the stock market trading in shares of listed comparable companies which provide some guidance as to the value, and from transactions involving acquisitions comparable companies.

The multiple should reflect the business' outlook including future growth prospects, risks, the industry's outlook, and investor expectations. Multiples derived from comparable company sources need to be reviewed and analysed in the context of the differing investment characteristics and growth prospects between the company being valued and the comparable companies. When valuing controlling interests in a company, an adjustment is often required to

incorporate a control premium. The earnings from any surplus assets or non-trading assets are to be excluded from the estimate of future maintainable earnings and the value of such assets is often estimated separately and added to the EV in order to form an opinion on the total value of the company before debt.

### Net asset value method

The net asset value method is particularly useful in circumstances where neither the discounted cash flow method nor capitalisation of earnings method are appropriate, or as a cross check to other methods. The net asset value method can be applied when the entity is no longer a going concern, or the orderly realisation of assets and distribution of proceeds is proposed.

The net asset value method estimates the value of a business by reference to the realisable value of its assets. There are multiple bases for estimating the realisable value of the assets, including based on an orderly realisation basis, a liquidation basis, or on a Going Concern basis.

Generally, the lowest asset values are derived from a 'liquidation' assumption, while the highest asset values are derived from a 'Going Concern' assumption.

The assumption chosen is critical, as it impacts each of the following estimates required under the asset-based approach:

- The value attributed to assets of the company;
- Liabilities payable by the company; and
- The costs of undertaking any realisation or sale process.

There may be situations where it is appropriate to eliminate the carrying value of goodwill and any identifiable intangible assets, on the basis that the company is deriving insufficient earnings or cash flows to justify any premium in value over net tangible assets.

If a company is considered to be a going concern, no liquidation of assets is assumed, so no allowance for realisation costs is made.

### Quoted market price method

A business can be valued by reference to the quoted price for listed securities, when there is a liquid and active market, and allowing for the fact that the quoted price may not reflect their value, should 100% of the securities be available for sale.

### Recent offers

A business can be valued by reference to any recent genuine offers received by the target for the entire business, or any business units or assets, as a basis for valuation of those business units or asset.

## Appendix H: Calculation of discount rate

Under the discounted cash flow method, projected free cash flows are discounted to the Valuation Date to provide a net present value for the cash flows projected for the business. The discount rate used to equate the future cash flows to their present value reflects a market-based estimate of the risk adjusted rate of return demanded by an investor. A company's weighted average cost of capital is the average of forward-looking estimates of its cost of equity and its cost of debt weighted by the assumed levels of equity and debt, respectively, in its capital structure.

**Based on my assumptions, as detailed below, I have estimated the Group's WACC as being in the range of 14.64% to 16.74%.**

The WACC can be calculated using the following formula:

**Table 38: WACC formula**

<b>WACC = (E/V) x Ke + (D/V) x Kd x (1 – t)</b>	
<b>Where:</b>	
Ke	= required return on equity
Kd	= required return on debt
t	= corporate tax rate
E / V	= proportion of company funded by equity
D / V	= proportion of company funded by debt

Source: FTI Consulting analysis

### Cost of equity

The cost of equity represents the rate of return required by equity investors. There are a number of theoretical risk and return models available to estimate the cost of equity. The capital asset pricing method ("CAPM") is the most widely accepted and used method. The CAPM is based on the theory that a rational investor will value an asset such that the expected rate of return is equal to the risk-free rate of return, plus a premium to compensate for the risk inherent in investing in the asset and that risk can be estimated by calculating the relationship between the volatility of the investment and the volatility of the market as a whole.

In my calculation of the cost of equity for the Group I have used the modified CAPM, which includes an additional premium, alpha, to reflect specific risks that are not correlated with the market. The modified CAPM formula is as follows:

**Table 39: Modified CAPM formula**

$$K_e = R_f + \beta \times (R_m - R_f) + \text{Alpha}$$

Where:	
$K_e$	= required return on equity
$R_f$	= the risk-free rate
$R_m$	= the expected return of the market portfolio
$(R_m - R_f)$	= collectively termed the equity market risk premium
$\beta$	= beta is the systematic risk of a stock relative to the market
Alpha	= alpha is the entity specific risk premium not captured in the beta

Source: FTI Consulting analysis

I have calculated the cost of equity based on the following assumptions:

### Risk-free rate

The risk-free rate is the return on a risk-free security, typically for a long-term period. It compensates the investor for the time value of money and the expected inflation rate over the investment period. In practice, longer term government bonds are used as a benchmark for a risk-free security.

I have assumed a risk-free rate of 2.26%, being the spot nominal yield on the 30-year USA government bond as at Valuation Date<sup>28</sup>.

### Market risk premium

The market risk premium ("MRP") is the expected return on a market portfolio that represents the return required by investors on equity securities. The MRP is therefore the difference between the expected rate of return on the market portfolio and the risk-free rate. The MRP represents the additional return that investors require to invest in the equity securities, as compared to a risk-free investment.

The MRP is the 'expected' premium and is therefore unobservable. For practical reasons, the historical premium is generally used as a proxy for the MRP on the basis that a long term average return of what has been earned from equity investments would be a fair indication of what investors would expect to earn for a medium to long term investment horizon.

A MRP range of 5.0% to 7.0% is commonly used by many academics and valuers. The KPMG Valuation Practices Survey (2019) indicates that approximately 40% of Australian valuers adopt a MRP of between 6.0% and 6.5% when valuing USA assets.

For my valuation, I have assumed a market risk premium of 6.0%.

### Beta

Beta is a measure of the systematic risk of a stock relative to the market portfolio. The expected beta cannot be observed. Therefore, the historical beta is generally used as a proxy. Beta can be estimated by regressing the excess returns of comparable company shares against the excess returns of an index representing the market portfolio.

<sup>28</sup> US Department of the Treasury Daily Treasury Yield Curve (<https://www.treasury.gov/resource-center/data-chart-center/interest-rates/pages/textview.aspx?data=yield>)

## Unlevered (or asset) beta

Beta is impacted by a traded entity's capital structure. Since leverage is likely to be different between companies it is appropriate to compare betas between companies having regard to leverage. In practice, betas are often de-gearred (or 'de-levered') to remove the estimated impact of leverage, using an equation such as:

**Table 40: Unlevered beta formula**

$$\beta (\text{ungeared}) = \beta (\text{geared}) / (1 + (D/E) \times (1 - t))$$

<b>Where:</b>	
$\beta (\text{ungeared})$	= beta with the impact of leverage removed
$\beta (\text{geared})$	= beta is the systematic risk of a stock relative to the market
D	= market value of debt (or equivalent proxy)
E	= market value of equity
t	= corporate tax rate

Source: FTI Consulting analysis

The un-levered or 'asset' betas of comparable companies can then be analysed to determine an appropriate asset beta for the subject of the valuation, and it can be re-gearred (or 're-levered') to reflect the appropriate capital structure. The re-levered betas are also known as 'equity' betas.

The table below summarises the two-year levered beta, two-year unlevered beta, and r-squared for the listed comparable companies selected (see Appendix I).

**Table 41: Asset betas (two-year weekly) of comparable companies**

Company	Historical two-year avg. levered $\beta$	Historical two-year avg. unlevered $\beta$	R-squared (%)	R <sup>2</sup> Flag
Orbit Garant Drilling Inc.	1.33	0.75	5.1%	Fail
Foraco International SA	0.98	0.23	1.4%	Fail
Geodrill Limited	1.09	1.09	2.3%	Fail
Swick Mining Services Limited	0.91	0.82	8.2%	Pass
Perenti Global Limited	2.16	1.61	42.7%	Pass
Capital Limited	1.02	1.02	7.9%	Pass
AJ Lucas Group Limited	0.75	0.24	1.0%	Fail
Mitchell Services Limited	1.10	0.98	22.5%	Pass
<b>Memo - All companies</b>				
Median	1.06	0.90		
Mean	1.17	0.84		
<b>Memo - Companies with positive t-test</b>				
Median	1.06	1.00		
Mean	1.30	1.11		

Source: S&P CapitalIQ, FTI Consulting analysis

R-squared is a goodness-of-fit measure for linear regression models and indicates the strength of the relationship between two variables ranging from 0.0% to 100.0%. In my view, the r-squared for the above betas are low. I have adopted the average unlevered beta of 1.11 for comparable companies with r-squared greater than 7.5%.

## Re-levered (or equity) beta

The un-levered or 'asset' betas can be re-gearred (or 're-levered') to reflect an appropriate capital structure.

The following formula calculates the equity beta:

$$\beta (\text{geared}) = \beta (\text{ungeared}) \times (1 + (D / E) \times (1 - t))$$

In re-levering the asset beta, I have assumed:

- A target equity to capital ratio of 30% (or 70% debt to capital) based on the Long Term Forecast provided; and
- A global effective tax rate of 34% based on representations made by Management.

Based on my assumptions as detailed above, I have estimated an equity beta of 1.42.

## Alpha (company specific risk premium)

The company specific risk premium adjusts the cost of equity for company specific factors, including unsystematic risk factors such as (but not limited to): company size, depth and quality of management, product or customer concentration, and reliance on key personnel.

The CAPM assumes, amongst other things, that rational investors seek to hold efficient portfolios, that is, portfolios that are fully diversified. One of the tenets of the CAPM is that investors do not have regard to specific company risks since those risks are hypothetically diversified away. There are several empirical studies that appear to demonstrate that the investment market does consider specific company risks.

It is common practice to apply a specific risk premium or 'alpha' to capture specific risks that have not been covered in the cost of equity. Alpha is applied because the required return the CAPM model calculates does not capture unsystematic risks (company specific risks) associated with the particular investment. If these risks are not (or cannot) be reflected in the cash flows, an alpha is appropriate.

In selecting the appropriate alpha, I have considered:

- The risks to the Group achieving its financial projections, in particular the growth in FY21; and
- That the discounted cash flow method theoretically includes a control premium, whereas my valuation using the capitalisation of earnings method does not. A higher WACC therefore ensures more direct comparability to the valuation under the capitalisation of earnings method.

I have assumed a company specific risk premium (alpha) of 7.0% to 10.0% in my valuation range under the discounted cash flow method.

## Cost of debt

The cost of debt is the rate of return that investors require to make an investment in the debt of a firm. The cost of debt is typically lower than the cost of equity, reflecting the fewer risks debt investors face when compared to the equity-holders, as they are entitled to cashflows and claims before equity-holders.

I have adopted a pre-tax cost of debt of 11% based on the cost of debt in the Long Term Forecast provided by Management.



## Summary

Based on the above factors, I have derived a WACC range of between 14.64% and 16.74% as detailed below:

**Table 42: WACC range summary**

Component	Low	High
<b>Cost of equity</b>		
MRP	6.00%	6.00%
Asset beta	1.11	1.11
Equity beta	1.42	1.42
Equity Risk Premium	8.54%	8.54%
Risk-free rate	2.26%	2.26%
Alpha	7.00%	10.00%
<b>Cost of equity</b>	<b>17.80%</b>	<b>20.80%</b>
<b>Cost of debt</b>		
Pre-Tax Cost of Debt	11.00%	11.00%
1-Tax Rate	66.00%	66.00%
<b>Cost of Debt</b>	<b>7.26%</b>	<b>7.26%</b>
<b>Capital Structure</b>		
Equity	70.00%	70.00%
Debt	30.00%	30.00%
<b>Calculated WACC</b>		
Equity	12.46%	14.56%
Debt	2.18%	2.18%
<b>WACC</b>	<b>14.64%</b>	<b>16.74%</b>

Source: S&P CapitalIQ, FTI Consulting analysis

## Appendix I: Comparable listed companies

### Comparable listed companies' descriptions

I provide detailed business descriptions for the specific comparable listed companies I have selected below.

**Table 43: Company descriptions of comparable listed companies**

Ticker	Company name	Business description
TSX:OGD	Orbit Garant Drilling Inc.	Orbit Garant Drilling Inc. provides mineral drilling services in Canada, the United States, South America, and West Africa. It provides underground and surface diamond drilling services to mining companies through various stages of mineral exploration, mine development, and production. The company also offers geotechnical and water drilling services to mining or mineral exploration companies, engineering and environmental consultant firms, and government agencies. In addition, it manufactures and sells surface and underground drills to other drilling companies, and custom drill rigs. As of September 28, 2020, the company operated 231 drill rigs. Orbit Garant Drilling Inc. was founded in 1965 and is headquartered in Val-d'Or, Canada.
TSX:FAR	Foraco International SA	Foraco International SA, together with its subsidiaries, provides drilling services worldwide. It operates through mining and water segments. The company offers its drilling services to the mining and energy industry, such as exploration, development, and production related underground water drilling services. It also drills wells for drinking, irrigation, industrial water, and dewatering wells, and undertakes a range of projects, including village water drilling programs, specialised drilling projects to access mineral water using sanitary protection methods, and large diameter well fields for residential supply in urban environments, as well as providing inspection, servicing, and rehabilitation services for existing wells. As of December 31, 2020, the company operated 302 drill rigs, including 62 rotary drilling rigs, 190 core diamond drilling rigs, 18 combination rigs, and 32 underground rigs. It serves mining companies, governmental organisations, and international development funds. The company was incorporated in 1997 and is headquartered in Marseille, France.
TSX:GEO	Geodrill Limited	Geodrill Limited, together with its subsidiaries, provides mineral exploration drilling services to mining companies in West Africa, Zambia, and Peru. It offers reverse circulation, core, air-core, deep directional, reverse circulation grade control, water borehole, underground, mine blast hole, and horizontal drilling services. The company operates a fleet of multi-purpose, core, air-core, grade control, and underground drill rigs; boosters and auxiliary compressors; and various support vehicles, such as pick-up, MAN, and other trucks, as well as purpose-built crawler-mounted support vehicles and bell tractors. As of December 31, 2020, it operated a fleet of 68 drill rigs. The company was incorporated in 1998 and is headquartered in Douglas, Isle of Man.
ASX:SWK	Swick Mining Services Limited	Swick Mining Services Limited, together with its subsidiaries, provides mineral drilling services to the mining industry in Australia, North America, Europe, and the Asia Pacific regions. The company offers services primarily in the areas of underground diamond drilling and surface reverse circulation drilling. It also carries out research and development activities in mineral analysis technologies. The company was incorporated in 2005 and is headquartered in South Guildford, Australia.

Ticker	Company name	Business description
ASX:PRN	Perenti Global Limited	Perenti Global Limited operates as a mining services company worldwide. It operates through surface mining, underground mining, and investment segments. The surface mining segment offers exploration drilling, production drilling, blasting, and geotechnical services, as well as end-to-end contract surface mining; and logistics management and moving mining equipment and goods. The underground mining segment provides underground mining services specialising in mine development, production, diamond drilling, vertical development, design planning and scheduling, and equipment supply and maintenance. The investments segment is involved in mining supplies, and products and services, including equipment rental, equipment parts and sales, and energy drilling and mineral analysis. The company was formerly known as Ausdrill Limited and changed its name to Perenti Global Limited in October 2019. Perenti Global Limited was founded in 1987 and is headquartered in Perth, Australia.
LSE:CAPD	Capital Limited	Capital Limited, together with its subsidiaries, provides various drilling solutions to customers in the minerals industry. It offers exploration drilling services, including air core, reverse circulation, diamond core, deep hole diamond, directional, and underground diamond drilling; mineral geochemical analysis laboratory services; and grade control drilling services, such as advanced/deep grade control, shallow grade control, reverse circulation, and underground diamond drilling. The company also provides blast hole drilling services that include pre-splits, down the hole, and rotary top hammer services; load and haul, rehandling, equipment hire and maintenance, and management services; and hydraulic, general maintenance and fabrication, mining supplies, asset rentals, and asset and component rebuild services. In addition, it offers de-watering, reverse circulation, core orientation, rig alignment, borehole management, geophysical logging, and magnetic survey cameras. Further, the company provides equipment rental and IT support services. It also operates fleet of 99 rigs, including 34 diamond core rigs, 4 air core rigs, 20 reverse circulation/grade control rigs, 32 blast hole rigs, and 9 underground rigs. The company was formerly known as Capital Drilling Limited and changed its name to Capital Limited in June 2020. Capital Limited was founded in 2004 and is headquartered in Ebene, Mauritius.
ASX:AJL	AJ Lucas Group Limited	AJ Lucas Group Limited, together with its subsidiaries, provides drilling services in Australia. The company operates in two segments: drilling, and oil and gas. The drilling segment offers drilling services primarily to the coal and coal seam gas industries for the degasification of coal mines and associated services, as well as commercial extraction of gas. This segment also provides a range of engineering services, including design of wells, drilling optimisation, professional steering services, and specialised equipment for directional drilling programs. The oil and gas segment engages in the exploration, development, and commercialisation of unconventional and conventional hydrocarbons in the United Kingdom. It serves energy, mining, and infrastructure sectors. The company was incorporated in 1993 and is headquartered in North Sydney, Australia. AJ Lucas Group Limited is a subsidiary of Kerogen Investments No. 1 (HK) Limited.
ASX:MSV	Mitchell Services Limited	Mitchell Services Limited, together with its subsidiaries, provides exploration and mine site drilling services to the exploration, mining, and energy industries, primarily in Australia. It offers coal exploration, mineral exploration, mine services, large diameter, coal seam gas, directional drilling services, coal mine gas drainage, and wireline services. The company was formerly known as Drill Torque Limited and changed its name to Mitchell Services Limited in December 2013. Mitchell Services Limited was founded in 1969 and is headquartered in Seventeen Mile Rocks, Australia.
TSX:MDI	Major Drilling Group International Inc.	Major Drilling Group International Inc. provides contract drilling services for mining and mineral exploration companies in Canada, the United States, Mexico, South America, Asia, Africa, and Europe. The company offers a suite of drilling services, including surface and underground coring, directional, reverse circulation, sonic, geotechnical, environmental, water-well, coal-bed methane, shallow gas, underground percussive/longhole drilling, surface drill and blast, and various mine services. As of July 31, 2020, it had 613 drill rigs. The company was founded in 1980 and is headquartered in Moncton, Canada.

Source: S&P CapitalIQ

## Selection of comparable listed companies

I provide comments on the comparable listed companies I have selected below.

### Orbit Garant Drilling Inc (“Orbit”)

Orbit is a Canadian company which has a reporting date of 30 June. Orbit reports in \$.

Orbit provides mineral drilling services in Canada, the United States, South America, and West Africa. It provides underground and surface diamond drilling services to mining companies through various stages of mineral exploration, mine development, and production.

I have selected Orbit as a comparable company because<sup>29</sup>:

- It has similar operations to the Group, being drilling services;
- In FY20 it reported approximately 80% of revenue as being generated in Canada; and
- In FY20 it reported 66% of revenue from the gold mining segment.

Similar to the Group, Orbit’s revenue decreased in FY19 and FY20.

- The decrease in FY19 was primarily attributable to a decline in metres drilled by Orbit, the conclusion of a large drilling contract in Chile during the third quarter of FY19, and the conclusion of an additional multi-year drilling contract in Chile at the beginning of the fourth quarter of FY19<sup>30</sup>.
- The decrease in FY20 was primarily attributable to a decline in drilling activities in Canada and internationally due to the impact of the COVID- 19 pandemic starting in mid-March 2020<sup>31</sup>.

Orbit is forecast to have an increase in revenue by 4% in FY21 and 13% in FY22, compared to the Group, which is forecasting an approximately 30% increase in FY21 and a smaller increase in FY22.

Orbit’s higher multiples in FY20 and LTM reflect its lower EBITDA due to COVID-19. The lower forecast multiples reflect higher EBITDA in the LTM and forecast across FY21 and FY22.

I note Paradigm Capital increased their target price estimate for Orbit from CAD1.75 to CAD2.00, adopting a projected FY22 EBITDA multiple of 6.0 times. This reflects Orbit’s improved outlook, with Orbit well positioned to take advantage of the accelerating demand environment (particularly in West Africa and Chile).

I have not presented a FY19 multiple because Orbit did not report their FY19 results under IFRS 16.

### Foraco International SA (“Foraco”)

Foraco is a Canadian company which has a reporting date of 31 December. Foraco reports in \$.

Foraco is highly comparable to the Group because it generates approximately 30% of its income from the gold mining industry and is based in North America.

Foraco reported a 14.1% increase in revenue in FY19 and 0.8% increase in FY20. Revenue increased in FY19 due to higher rigs utilisation rate (48% in FY19 compared to 45% in FY18) mainly due to increase in activity Australia, Brazil and Russia<sup>32</sup>.

According to Foraco, the impact of COVID-19 on the Q2 2020 revenue was uneven between regions<sup>33</sup>.

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<sup>29</sup> Orbit FY20 Annual Report

<sup>30</sup> Orbit Garant Drilling Fiscal 2019 Fourth Quarter and Year-End Financial Results

<sup>31</sup> Orbit Garant Drilling Fiscal 2020 Fourth Quarter and Year-End Financial Results

<sup>32</sup> Foraco International Q4 2019 Financial Results

<sup>33</sup> Foraco International Unaudited Financial Results Q2 2020 Press Release

- The pandemic affected revenue in certain important operation centres, particularly in North and South America but stronger revenues were recorded in other regions;
- Overall, revenue of the period amounted to \$47.4 million compared to \$54.1 million in Q2FY19, a decrease of 12%, but the Q2FY20 revenue decrease, excluding the impact of exchange rate movements was only 3%.
- This trend is confirmed by the rigs utilisation rate which remained relatively stable at 47% in Q2FY20 compared to 50% in Q2FY19.

S&P CapitalIQ reports no forecasts for Foraco. I am unable to compare the growth outlook for the Group against Foraco.

### Geodrill Limited (“Geodrill”)

Geodrill is a Canadian company which has a reporting date of 31 December. Geodrill reports in \$.

Geodrill provides mineral exploration drilling services to mining companies in West Africa, Zambia, and Peru. It offers reverse circulation, core, air-core, deep directional, reverse circulation grade control, water borehole, underground, mine blast hole, and horizontal drilling services.

I have selected Geodrill as a comparable company because it provides drilling services for exploration companies. Additionally, the majority of its income is from gold (approximately 95%).

Unlike the Group, the majority of its revenue is from Africa and South America, whereas the Group’s largest regions are North America and Asia Pacific.

Geodrill has a similar revenue growth pattern to the Group:

- Revenue decreased by 6% in FY20. According to Geodrill, the first quarter of FY20 was extremely slow as Geodrill entered the year with Burkina Faso still not operating at full capacity due to the November 2019 militant attack which caused one of their larger clients to curtail their drilling activities during the first quarter of FY20. Furthermore, towards the end of first quarter of FY20, COVID-19 impacted the Group as certain jobs and rigs paused as a result of uncertainty relating to the global COVID-19 pandemic<sup>34</sup>.
- The consensus broker forecast is for revenue to increase by approximately 30% in FY21 and 7% in FY22, whereas the Group is projecting revenue to increase by approximately 30% in FY21 and an approximately similar amount to Geodrill in FY22.

I note that Beacon Securities Limited increased their target price estimate of Geodrill from CAD2.90 to CAD4.00. In their analysis of Geodrill, Beacon Securities<sup>35</sup>:

- Consider Geodrill will experience growth, post record results and successfully diversify its business from West Africa/gold with early success in South America; and
- Refer to a historical valuation range during an upcycle of 4 to 5 times EBITDA, which is materially similar to the multiple in FY19 prior to COVID-19.

### Swick Mining Limited (“Swick”)

Swick is an Australian company which has a reporting date of 30 June. Swick reports in A\$.

Swick provides mineral drilling services to the mining industry in Australia, North America, Europe, and the Asia Pacific regions. Swick generates the majority of its revenue in Australia (approximately 70% in FY20), whereas the Group’s largest region is North America.

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<sup>34</sup> Geodrill Limited Management’s Discussion and Analysis for the Year Ended 31 December 2020

<sup>35</sup> Beacon Securities Limited, Geodrill Limited, 12 May 2021

Swick offers services primarily in the areas of underground diamond drilling and surface reverse circulation drilling. It also carries out research and development activities in mineral analysis technologies.

I have selected Swick as a comparable company because:

- Over 95% of its revenue in FY20 relates to drilling services; and
- Gold accounted for approximately 65% of revenue in FY20.

Whilst the Group incurred year on year revenue declines in FY19 and FY20, Swick had modest revenue growth of 4.3% and 4.9% respectively. Revenue growth was supported from expanded drilling business contracts secured in early FY20<sup>36</sup>.

Similar to the Group, margins decreased in FY20, with the reduction reflecting the impact from COVID-19 and ramp up costs from the significant Pogo contract in Alaska at the start of the year.

S&P CapitalIQ reports no forecasts for Swick. I am unable to compare the growth outlook for the Group against Swick.

### Perenti Global Limited (“Perenti”, formerly Ausdrill)

Perenti is an Australian company which has a reporting date of 30 June. Perenti reports in A\$.

Perenti provides a range of services to mining companies, including exploration drilling, mineral analysis, water well drilling and mining logistics services.

I have included Perenti as a comparable company because<sup>37</sup>:

- It operates in the drilling services segment of the mining industry. In FY20 over 90% of revenue related to surface and underground mining; and
- The majority of its revenue in FY20 related to gold (approximately 70%), which is similar to the Group (67%). It however only generated 3% of revenue in FY20 from copper (whereas the Group reported approximately 17%).

Unlike the Group, Perenti:

- Does not report significant revenue in North America. In FY20, Perenti reported 44% of revenue from Australia, 19% from Ghana and 14% from Burkina Faso<sup>38</sup>.
- Experienced significant growth in revenue and EBITDA margin in FY19 and FY20. In FY20 growth was driven by new project wins including their first major project in North America, and a A\$200 million contract win with Barrick at their Hemlo project in Canada<sup>39</sup>.
- Is forecast to experience a revenue decrease in FY21 and a slight increase in FY22, whereas the Group is forecasting an approximately 30% increase in revenues in FY21.

The lower forecast multiples in FY22 and FY23 reflect growth in EBITDA.

Whilst comparable, Perenti has a different growth profile to the Group (both historical and forecast) as shown in Table 22. In FY19 Perenti’s revenue grew by 85%, primarily due to the acquisition of Barmenco.

### Capital Limited (“Capital”)

Capital is a UK-based company which has a reporting date of 31 December. Capital reports in \$.

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<sup>36</sup> Swick Mining Services AGM Presentation, 6 November 2020

<sup>37</sup> Perenti FY20 Annual Report

<sup>38</sup> Ibid

<sup>39</sup> Perenti ASX Announcement, 24 August 2020

Capital provides various drilling solutions to customers in the minerals industry, offering: exploration drilling services, including air core, reverse circulation, diamond core, deep hole diamond, directional, and underground diamond drilling; mineral geochemical analysis laboratory services; and, grade control drilling services, such as advanced/deep grade control, shallow grade control, reverse circulation, and underground diamond drilling.

I have selected Capital as a comparable listed company because it has similar operations to the Group, being drilling services for exploration companies. In FY20, 87% of its revenue was from drilling activities. Capital is also heavily dependent on the gold mining industry<sup>40</sup>.

Unlike the Group, the majority of Capital's revenue is derived from:

- Tanzania and West Africa<sup>41</sup>, whereas the Group's largest region is North America; and
- Capital reported 3% of revenue from exploration, whereas the Group generates the majority of its revenue from development (near mine/brownfield).

Unlike the Group, Capital increased revenue in FY20 by approximately 18%, as a result of new contract start-ups and improved revenues at MSALABS, attributed to their continued growth in Africa<sup>42</sup>. Capital is forecast to increase revenue by a further 42% in FY21 and a further approximately 19% in FY22.

### AJ Lucas Limited ("AJ Lucas") and Mitchell Services Limited ("Mitchell Services")

Whilst AJ Lucas and Mitchell Services are also ASX listed companies, they generate the majority of their revenue from the coal mining industry and from sources in Australia, whereas the Group generates approximately 85% of revenues from the gold and copper mining industries and 44% of revenue in North America.

As a result, I have placed less emphasis on AJ Lucas and Mitchell Services in selecting an EBITDA multiple for the Group as neither are particularly comparable by either geographic operations or commodity exposures.

### Major Drilling Group ("Major")

Major is a Canadian company which has a reporting date of 30 April. Major reports in CAD.

Major is one of the world's largest drilling services firms, with operations around the globe. Geographically, it is well diversified, with approximately half of its FY20 revenues coming from Canada and the USA and the remaining split evenly between South & Central America, and Asia & Africa. Gold and copper drilling contribute approximately 75% of Major's revenue.

Major is highly comparable to the Group as:

- Approximately 75% of revenue in FY20 was related to gold and copper (the Group reported approximately 85%)<sup>43</sup>; and
- It has similar geographical locations to the Group – the majority of revenue is from North America (50% in FY20)<sup>44</sup>.

Whilst the Group has higher revenue and earnings than Major, Major's market capitalisation is considerably larger than the Group's and the other selected comparable listed companies. For instance, it reported a market capitalisation of CAD859 million and FY20 EBITDA of CAD48.2 million. The higher market capitalisation and lower earnings results in multiples significantly larger than the other comparable listed companies.

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<sup>40</sup> Proactive Investors, 20 August 2020

<sup>41</sup> Capital 2020 Annual Results, 18 March 2021

<sup>42</sup> Capital FY20 Annual Report, page 26

<sup>43</sup> Major Drilling Group FY20 Annual Report

<sup>44</sup> Ibid

According to analyst reports, Major trades well above its peers due to its strong balance sheet, geographic diversity, and lower exposure to cyclical revenue streams. This is reflected in the implied multiples of 16.8 times LTM EBITDA, which is considerably greater than the other selected comparable listed companies.

Given the fact that Major appears to be an outlier in terms of market multiples compared to its peers, I have not relied on the earnings multiples of Major.



## Appendix J: Industry and economic background

### Drilling services and products industry

The Group provides various drilling services and products to mining companies involved in the following stages of the mining cycle:

- **Exploration:** This is the earliest stage of mining cycle. Drilling is used to identify and define mineral deposits by penetrating the underlying rock to extract samples for analysis;
- **Development:** Drilling is used to outline the precise location of a mineral deposit; and
- **Production:** Once a mine is operating, drilling is required over the life of the mine to further define the boundaries of the mineral deposit for planning and quality control purposes.

As per Table 44 below, 58% of the Group's revenue is derived from customers in the development stage of the mining cycle.

**Table 44: Drilling Services revenue by stage**

%	FY17A	FY18A	FY19A	FY20A
Development (near mine/brownfield)	57%	59%	58%	58%
Production (in-pit)	24%	21%	23%	24%
Exploration (greenfield)	10%	13%	12%	13%
Non-mining	9%	7%	7%	5%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: the Group's annual reports

Mineral exploration/mining companies have an ongoing requirement to drill, and typically use drilling services providers.

As per Table 45 below, the Group's revenues are generated from customers involved in mining various resources, with a high concentration in gold and copper, accounting for approximately 84% of FY20 revenues.

**Table 45: Drilling Services revenue by commodity**

%	FY17A	FY18A	FY19A	FY20A
Gold	54%	53%	63%	67%
Copper	20%	21%	18%	17%
Other metals	3%	4%	5%	6%
Non-mining water	4%	7%	7%	4%
Energy	4%	5%	3%	4%
Nickel	6%	5%	2%	1%
Iron	4%	3%	1%	-
Other	5%	2%	1%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: the Group's annual reports

### Determinants of demand

Demand for drilling products and services are closely related to the underlying performance of the resource industry. There is a positive relationship, where increased activity in exploration markets/mining leads to increased demand for exploratory drilling, development, and production services.

Other key external drivers include:

- **Commodity prices:** Demand for drilling services is positively related to higher commodity prices, that is, higher commodity prices increase the incentive for mineral mining companies to explore for potential resources (and engage drilling companies) and develop mines; and
- **Capital expenditure on mining:** Mining companies require a range of drilling services when expanding operations and establishing new mining projects. Demand for drilling services is positively related to increased capital expenditure of mining companies.

## Revenue volatility

Volatility is high due to the high variability of commodity prices and markets. Drilling services for greenfield mineral exploration is subject to the additional risk that new unproven sites will not become economically viable resource deposits.

## Competition

According to IBISWorld<sup>45</sup>:

- Competition is at a medium level, and steady, in the industry:
  - Internally, companies compete with each other on price, and the technical knowledge and skill that exploration drillers provide; and
  - Externally, mining companies can also use their own exploration drilling services.
- Barriers to entry are also at a medium level, and steady, and include:
  - High capital expenditure requirements;
  - Significant levels of regulation;
  - The need for a highly skilled labour force; and
  - Existing relationships and contracts locked in by larger, more established players.

## Capital intensity

The level of capital intensity is high with participants investing in a range of capital machinery and equipment (including drills, trucks and other specialised equipment)<sup>46</sup>.

## Industry trends

### Impact of COVID-19

In its FY20 annual report, the Group stated:

“The exploration market, mining market, and construction market were materially impacted by the COVID-19 pandemic in 2020. The [Group] saw a decline in global customer activities due to government-imposed closures and customers choosing to reduce exposure across their operations by delaying new projects.”

COVID-19 resulted in significant changes to the volatility, prices and demand of commodities and capital expenditure budgets of companies across the sector. According to S&P Market Intelligence<sup>47</sup>:

- Industrial metals prices trended lower through the first three months of 2020 as COVID-19 restrictions globally impacted industrial activity.

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<sup>45</sup> IBISWorld - Oil and Mineral Exploration Drilling in Australia – Report #OD5427, August 2020, pages 9 and 38

<sup>46</sup> Ibid, page 36

<sup>47</sup> S&P Global: World Exploration Trends March 2021, page 5

- By early April, however, prices had begun rising on the back of resurging Chinese demand, as a squeeze on global supply and a weakening USD helped drive prices to multi-year highs in the second half and in the early months of 2021.

S&P Global Market Intelligence's survey of approximately 2,500 companies in 2020<sup>48</sup> reported a:

- 10% decrease in global aggregate nonferrous budgets to \$8.3 billion; and
- 11% decrease in global budgets to an estimated \$8.7 billion from \$9.8 billion in 2019.

Base metals have recovered to pre-COVID-19 levels, largely due to the Chinese economic rebound as well as markets anticipating vaccine rollouts<sup>49</sup>.

### Capital raising and expenditure<sup>50</sup>

In 2019, exploration budgets decreased due to poor price performance by most metals early in the year and a slowdown in financing activity. There was an upward trend towards the end of 2019 in precious metals prices, while base metals prices stabilised which coincided with increased market activity.

However, during the early part of 2020, capital expenditure and capital raisings were postponed due to remaining economic uncertainty following the COVID-19 outbreak and associated investor caution and the rapid fall in base metals prices. \$601.4 million was raised globally for exploration in Q1 2020, which was significantly below the \$862.8 million raised in Q4 2019, but approximately double the low recorded in Q1 2019. In 2020, only gold and silver posted year-on-year increases in exploration, while industrial metals declined, led by copper, zinc, lithium, and cobalt.

Towards the end of 2020, financings recovered sharply. Junior and intermediate companies were successful in raising funds in 2020, with \$11.2 billion raised globally in the year (across all stages), which was the highest total since 2012. The bulk of funds were raised on the Toronto Stock Exchange (\$5.5 billion) and ASX (posting a record-setting year at \$4.3 billion). The number of active explorers increased 3%, primarily targeting gold.

According to S&P Market Intelligence, there has been a shift of focus from exploration at early-stage assets to advanced and mine site assets, in particular during downturns, due to<sup>51</sup>:

- Juniors opting to spend scarce funding on proven assets rather than on riskier early-stage exploration; and
- Majors focus on maximising value at their existing mines.

In 2020, this trend continued as existing mine site exploration proved resilient, dropping by only 4% despite COVID-19-driven uncertainty:

- Mine site exploration accounted for 41% of the global budget (a second consecutive all-time high); whilst
- Grassroots and late-stage budgets declined by 19% and 10% respectively from 2019.

According to S&P Market Intelligence<sup>52</sup>:

- While explorers remain risk-averse and have a preference of exploring more promising advanced projects, existing mines large-scale grassroots programs will be more difficult to conduct than more concentrated mine site exploration;
- There have been fewer initial resource announcements as a consequence of moving away from grassroots exploration:

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<sup>48</sup> S&P Global: World Exploration Trends March 2021, page 6

<sup>49</sup> Resources and Energy Quarterly – Office of the Chief Economist, March 2021

<sup>50</sup> S&P Global: World Exploration Trends 2021

<sup>51</sup> Ibid

<sup>52</sup> Ibid

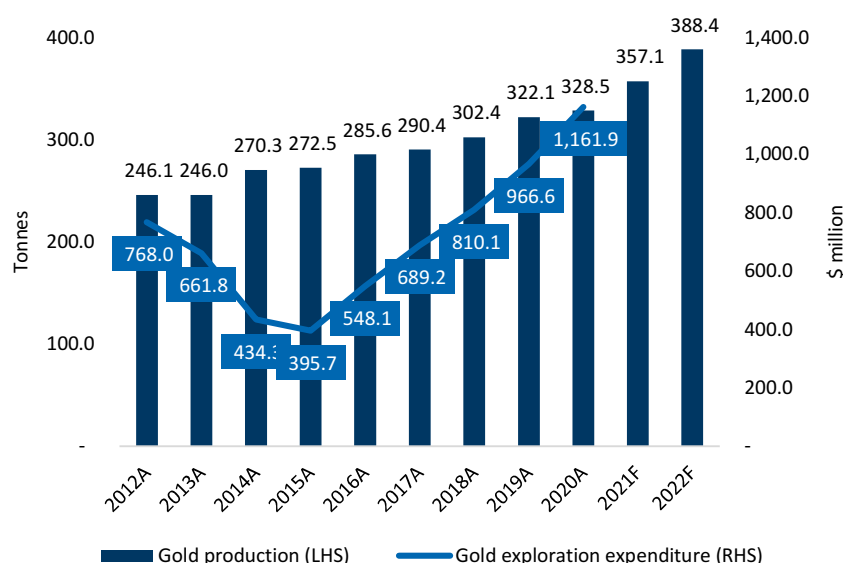
- There were 52 initial resources recorded in 2020 (a five-year low and significantly less than the 10-year high of 175 new deposits in 2012, when grassroots exploration comprised around one-third of exploration budgets);
  - From 2016 to 2020 there was an average of 65 initial resources, approximately one-third less than the average of 91 from 2011 to 2015; and
  - Major discovery rates for gold and copper deposits have also fallen drastically over the past 10 years, compared 2000 to 2010.
- The lack of grassroots exploration could negatively impact future production. This has resulted in some governments providing incentive programs to increase domestic exploration. The impact could be that explorers and producers focus their efforts on finding new discoveries at grassroots projects over the coming years, as metals prices are forecast to rise while the project pipeline narrows.

Gold was the top exploration commodity in 2020, with a 17% increase in the number of projects drilling and a 19% increase in the number of holes drilled<sup>53</sup>. The gold drilling increase was mainly at late-stage and mine site projects and the drilling increase reflects<sup>54</sup>:

- Companies' ability to conduct focused drilling on late-stage and mine site targets during the pandemic instead of large-scale, early-stage regional programs; and
- Miners' focus on advanced projects to take advantage of gold's rising price.

Figure 8 below shows gold production and exploration expenditure, which suggests increased mineral exploration expenditure may be required for the anticipated growth in production.

**Figure 8: Gold production and exploration expenditure – 2012A to 2022F**



Source: S&P Global Market Intelligence

Gold represented approximately 67% of the Group's drilling services revenue in FY19 and FY20. The Group's revenue and earnings are sensitive to the demand and price for gold.

Gold is a safe-haven asset. The demand for gold is generally inversely correlated to global economic health. Economic uncertainty due to COVID-19 resulted in increased demand for safe-haven assets, with gold prices increasing sharply in 2020.

<sup>53</sup> S&P Global: World Exploration Trends 2021

<sup>54</sup> Ibid

According to IBISWorld<sup>55</sup>:

- Rising gold prices following the outbreak of COVID-19 is anticipated to support demand; and
- COVID-19 related supply disruptions in Brazil have supported demand for Australian iron ore, while economic uncertainty has increased investor demand for safe-haven assets, such as gold.

**Figure 9: Historical gold prices – January 2018 to May 2021**



Source: Bloomberg

I make the following comments in relation to Figure 9 above:

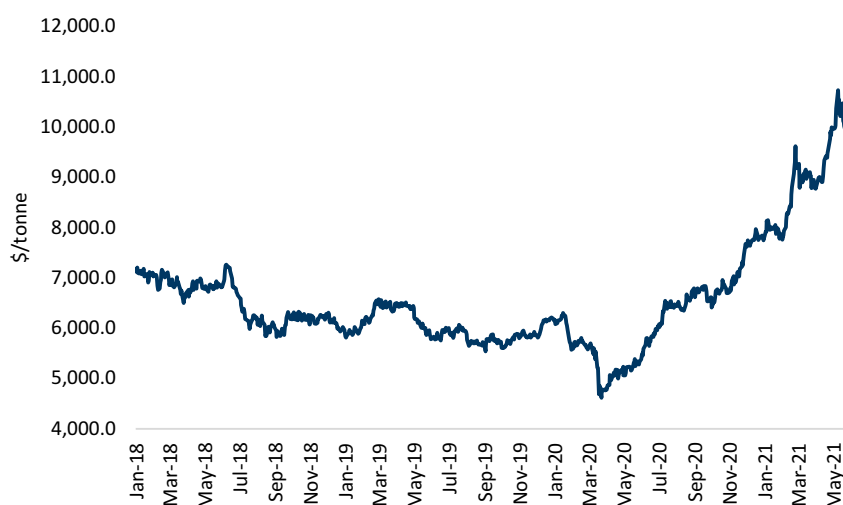
- Gold prices currently remain historically high at approximately \$1,830 an ounce in May 2021, with a record of \$2,064 an ounce on 6 August 2020;
- The London Bullion Market Association gold price averaged \$1,805 an ounce in 2020, a 26% increase from 2019; and
- According to the Office of the Chief Economist (in March 2021), gold prices have declined from the peak of August 2020 following an increase in USA real bond yields and investment cash flows being directed to COVID-19 vaccines rather than precious metals<sup>56</sup>.

In addition to Gold, the Group's revenue and earnings are sensitive to the demand and price for copper. Copper represented approximately 17% of the Group's drilling services revenue in FY19 and FY20.

<sup>55</sup> IBISWorld - Oil and Mineral Exploration Drilling in Australia – Report #OD5427, August 2020, page 22

<sup>56</sup> Resources and Energy Quarterly – Office of the Chief Economist, March 2021, page 9

**Figure 10: Historical copper prices – January 2018 to May 2021**



Source: Bloomberg

I make the following comments in relation to Figure 10 above:

- Prices increased towards the end of 2020 and into early 2021 after a significant decline from March 2020 due to COVID-19;
- According to the London Metal Exchange (“LME”) the copper spot price averaged \$6,200 a tonne in 2020, 3% higher than 2019;
- Copper prices increased in the March 2021 quarter due to the positive sentiment around vaccine rollouts and the world economic recovery; and
- According to the Office of the Chief Economist (in March 2021), the LME copper spot reached its highest point in over a decade in February 2021 (exceeding \$9,000 a tonne), amid a weaker USD and strong consumption expectations<sup>57</sup>.

## Outlook

The following market indicators support increased demand for mining companies looking to increase exploration and production, and in turn, the demand for drilling services.

### Outlook for gold and copper

Exploration and mining expenditure are highly exposed to expectations of future commodity prices.

<sup>57</sup> Resources and Energy Quarterly – Office of the Chief Economist, March 2021, page 124

**Table 46: Gold outlook**

Item	Forecast (F)				Projection (Z)			CAGR (%) <sup>58</sup>
	2020A	2021F	2022F	2023F	2024Z	2025Z	2026Z	
Fabrication (tonnes)	1,714	2,090	2,308	2,515	2,681	2,835	2,973	9.6%
Total demand (tonnes)	3,760	4,080	4,259	4,566	4,784	4,991	5,162	5.4%
Mine production (tonnes)	3,401	3,588	3,696	3,769	3,807	3,777	3,746	1.6%
Price – nominal (\$/oz)	1,770	1,703	1,554	1,467	1,405	1,377	1,350	(4.4%)
Price – real (\$/oz)	1,805	1,703	1,522	1,405	1,315	1,260	1,208	(6.5%)

Source: Resources and Energy Quarterly – Office of the Chief Economist (March 2021)

The real price of gold is projected to fall from \$1,703 to \$1,208 an ounce across 2021 to 2026<sup>59</sup>.

According to the Office of the Chief Economist (in March 2021)<sup>60</sup>:

- Global gold consumption is forecast to increase by 8.5% to 4,080 tonnes in 2021, as lower gold prices and the roll-out of COVID-19 vaccines help to support the sale of gold jewellery; and
- Demand from China is expected to pick up, as price-sensitive Chinese consumers react to price reductions.

**Table 47: Copper outlook**

Item	Forecast (F)				Projection (Z)			CAGR (%) <sup>61</sup>
	2020A	2021F	2022F	2023F	2024Z	2025Z	2026Z	
Production – mine (kt)	20,761	22,131	23,238	24,307	24,525	24,648	24,771	3.0%
Production – refined (kt)	24,134	25,292	26,026	26,572	27,130	27,537	27,978	2.5%
Consumption (kt)	24,213	25,459	26,110	26,662	27,044	27,608	28,031	2.5%
Closing stocks (kt)	1,315	1,148	1,064	975	1,060	989	936	(5.5%)
Weeks of consumption	3	2	2	2	2	2	2	n/a
Price LME – nominal (\$/t)	6,169	8,258	8,056	7,724	8,093	8,672	8,877	6.3%
Price LME – nominal (c/lb)	280	375	365	350	367	393	403	6.3%

Source: Resources and Energy Quarterly – Office of the Chief Economist (March 2021)

The price of copper is forecast to increase to an average \$8,260 a tonne in 2021, before stabilising around a projected \$7,940 a tonne (in real terms) in 2026.

## Capital expenditure

According to the Group, improving cash and balance sheet strength of key customers (due to capital raisings and lower expenditure in 2020) will underpin growth.

According to S&P Market Intelligence, capital expenditure for exploration and drilling is forecast to increase due to increased capital raisings, noting the number of financings more than doubled in 2020 while drilling activity was up marginally, and there is usually a delay between funds being raised and the funds put to use<sup>62</sup>. Capital expenditure is

<sup>58</sup> Compound annual growth rate (per cent), for the period from 2020 to 2026, or from 2019–20 to 2025–26

<sup>59</sup> Resources and Energy Quarterly – Office of the Chief Economist, March 2021

<sup>60</sup> Ibid, page 98

<sup>61</sup> Compound annual growth rate (per cent), for the period from 2020 to 2026, or from 2019–20 to 2025–26

<sup>62</sup> S&P Global: World Exploration Trends 2021

also forecast to increase due to higher metal prices and a persistent lack of project pipeline investment, which should stimulate an increase in exploration<sup>63</sup>.

## Recovery from COVID-19

According to Kevin Murphy, Principal Analyst, S&P Global Market Intelligence<sup>64</sup>:

“The industry optimism in late 2019 was wiped out by the global pandemic, but the quicker-than-expected recovery for the mining industry bodes well for 2021.”

## Other factors

In its FY20 annual report, the Group considers that reduced reserve to production ratios at many gold mines and diminishing opportunities for major producers to replace reserves through acquisition will underpin growth in exploration drilling services.

According to IBISWorld, mining companies are expected to outsource exploration drilling to drilling services firms across the next five years. The volume of exploration contract work is predicted to exceed its capacity for this period, potentially allowing the negotiation of higher prices for drilling services companies.

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<sup>63</sup> S&P Global: World Exploration Trends 2021, page 2

<sup>64</sup> Ibid



## Appendix K: Company background

The information contained within Appendix K has been predominantly compiled from the Group's annual reports.

### Segments

The Group operates two distinct segments throughout various geographical locations, namely Drilling Services and Products, which includes Geological Data Services.

#### Drilling Services

The Group performs various types of drilling services within the mining and minerals industry. Contracts entered into with customers incorporate services which involve different processes and continuous drilling services activities in a sequential set of mobilisation, drilling, and demobilisation activities which are invoiced to the customer as those activities progress. These processes and activities are highly inter-related, and the Group provides a significant service of integration of such activities. Where this is the case, these activities and processes are accounted for as one performance obligation.

Revenue from services rendered is recognised in the statement of profit and loss and other comprehensive income over time. The Group has a contractual right to consideration from a customer for an amount that corresponds directly with the value to the customer of the performance completed to date (for example, number of metres drilled). As a result, the Group applies the practical expedient under AASB 15 paragraph B16 to recognise revenue at the amount which it has the right to invoice.

Customers are generally invoiced on a fortnightly basis and revenue is recognised in the accounting period in which the right to invoice is obtained. Payment is received following invoicing according to standard payment terms, which are generally between 30 to 60 days. There are no significant financing components. Most drilling services contracts do not include variable payment terms. Where variable payment terms exist, these are usually in the form of penalties for late completion. Variable consideration is only recognised to the extent that it is considered highly probable that such amounts will not reverse in the future and is estimated using the expected value approach.

The Group's mining and exploration activities span a wide range of commodities, including copper, gold, nickel, zinc, uranium, and other metals and minerals.

A split of the Group's Drilling Services revenue by commodity is set out below:

**Table 45: Drilling Services revenue by commodity**

%	FY17A	FY18A	FY19A	FY20A
Gold	54%	53%	63%	67%
Copper	20%	21%	18%	17%
Other metals	3%	4%	5%	6%
Non-mining water	4%	7%	7%	4%
Energy	4%	5%	3%	4%
Nickel	6%	5%	2%	1%
Iron	4%	3%	1%	-
Other	5%	2%	1%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: the Group's annual reports

Table 45 above indicates that over 80% of Drilling Services revenue was derived from gold and copper projects in both FY19 and FY20.

The majority of revenue for both Drilling Services and Products is derived from providing drilling services and products to the mining industry and is dependent on global mineral exploration, development, and production activities. A split of the Group's Drilling Services revenue by stage is set out below:

**Table 44: Drilling Services revenue by stage**

%	FY17A	FY18A	FY19A	FY20A
Development (near mine/brownfield)	57%	59%	58%	58%
Production (in-pit)	24%	21%	23%	24%
Exploration (greenfield)	10%	13%	12%	13%
Non-mining	9%	7%	7%	5%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: the Group's annual reports

## Products

The Group manufactures, distributes and sells equipment that is necessary for the mining and mineral industry. Sales orders are completed across multiple geographies for products, such as large drill rigs, and drilling components, such as bits and coring rods.

According to the Group's FY20 annual report:

- Each product promised to the customer is distinct under the contract and gives rise to a separate performance obligation;
- Revenue is recognised when control of the products has transferred to the customer;
- Transfer of control happens at the point the products are delivered to the customer for drilling rigs and at the point the products are shipped to the customer's specific location for drilling components;
- The transaction price is allocated to each product on stand-alone basis. Payment is received following invoice according to standard payment terms, which are generally between 30 to 60 days; and
- There are no significant financing components and there is no significant reversal of variable consideration expected at the point of revenue recognition.

## Regions

A split of the Group's revenue by region is shown below:

**Table 21: Group revenue by region**

%	FY17A	FY18A	FY19A	FY20A
North America	45.8%	45.9%	45.8%	44.3%
ASIA Pacific	21.2%	21.9%	23.1%	25.9%
Latin America	14.7%	14.3%	13.1%	10.2%
EMEA	18.3%	17.9%	18.0%	19.5%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Source: the Group's annual reports

The Group generates most of its revenue in North America.

## Customer contracts

According to the Group's FY20 annual report:

- Approximately 89% of Drilling Services' revenue for FY20 was derived from major mining companies, including AngloGold Ashanti, Barrick, Newmont, and Rio Tinto; and
- The top 10 Drilling Services customers represented approximately 52% of the segments' revenue in FY20, with no single contract contributing more than 10% of consolidated revenue.

This indicates that the Group has both a stable and diversified customer base.

## Previous restructurings of the Group

### FY15 restructure

The Group was adversely impacted by from financial difficulties over a number of years, culminating in a financial restructuring in FY14 and FY15. On completion of that restructuring, Centerbridge became the Group's largest shareholder with 48.9% of shares and the Group had the following financial indebtedness:

- \$195.0 million senior secured notes due 1 October 2018, 10% interest rate (SSNs);
- \$120.0 million term loan A due October 2020, 12% interest rate (TLA);
- \$105.0 million secured term loan B due 1 October 2018, 12% interest rate (TLB); and
- \$284.0 million unsecured notes due 1 April 2021, 7% interest rate (SUNs).

The maturity dates for the TLA and TLB were subsequently extended to 3 January 2021.

### FY17 scheme of arrangement

Despite the FY15 restructure, the Group continued to suffer losses and defaulted on interest payments under the SSNs on 1 April 2017. The Group therefore pursued a further restructuring, announcing its entry into a Restructuring Support Agreement ("2017 RSA") with some of its largest creditors, including Ares, Ascribe and Centerbridge on 3 April 2017.

Centerbridge was the sole lender under the TLA and Centerbridge, Ares and Ascribe held significant percentages of the SSN debt.

The Group's restructuring plan involved the RSA and two creditors' schemes of arrangements:

- The FY17 'Unsecured Creditors' Scheme'; and
- The FY17 'Secured Creditors' Scheme'.

This restructuring detailed in the 2017 RSA was effected in August 2017 and resulted in the following:

- \$196.0 million of the SUNs were to be exchanged for 42% of the Group's post-restructuring equity;
- The remaining \$88.0 million of SUNs were to be reinstated with an interest rate of 1.5%;
- The holders of the SSNs, and the holder of the TLA and TLB, would vote as a single class;
- The maturity dates of the TLA, TLB and SSNs were extended to 31 December 2022;
- Payments of interest on all facilities was converted to PIK until December 2018;
- The interest rate of the TLA and TLB was reduced from 12% to 10% in exchange for Centerbridge receiving 56% of the Group's post restructuring equity; and
- Centerbridge would also be granted the right to appoint five directors to the board of the Group and the holders of those instruments waived their rights in relation to any change of control event occurring as a result of the restructure.

## Impact of COVID-19

In March 2020, the World Health Organization declared the COVID-19 outbreak a global pandemic. That same month, as a result of the COVID-19 pandemic, the Group implemented its business continuity plan. The Group's business continuity plan included:

- Measures required to protect the health and wellbeing of employees while ensuring the sustainability of ongoing operations;
- Transitioning of corporate and regional offices staff to 'working from home' arrangements; and
- Ceasing all non-essential international and domestic travel.

The plan also contained initiatives aimed at maintaining liquidity, including but not limited to, temporary salary reductions, and amending the terms of the Group's SSNs to satisfy interest payments due in respect of the notes on 30 June 2020 and 31 December 2020 by way of PIK rather than by payment in cash.

The exploration, mining, and construction markets were materially impacted by the COVID-19 pandemic in 2020. The Group saw a decline in global customer activities due to government-imposed closures and customers choosing to reduce exposure across their operations by delaying new projects.

While COVID-19 materially impacted normal operations for much of FY20, the strength in key commodity prices drove continued capital raisings in the mining space, with \$3.5 billion raised globally in Q3FY20, the strongest quarter in eight years. This is anticipated to drive exploration activity in the short term to medium term, particularly as current COVID-19 related restrictions are eased.

In addition, the recovery of China's economy is quickly driving demand for the key bulk commodities of copper, iron ore, and nickel, while gold prices continue to hold well above the all-in sustaining cost for major mines. Adding to the China-driven increases in demand are the twin emerging global trends of electrification of vehicle fleets and conversion to green energy, further supporting the prospects for sustained growth in copper, nickel, and lithium exploration and production over the coming years.

## Historical financial performance

Summarised in Table 48 below is the financial performance of the Group for FY17 to FY20 based on the Group's audited statutory accounts:

**Table 48: Statement of financial performance – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
Net revenues	739.1	770.2	745.0	657.3
Cost of sales	(628.5)	(639.1)	(606.3)	(559.8)
<b>Gross profit</b>	<b>110.6</b>	<b>131.1</b>	<b>138.7</b>	<b>97.5</b>
Gross margin %	15.0%	17.0%	18.6%	14.8%
Other income	6.6	10.4	6.8	5.8
Operating expenses				
General & administrative	(152.9)	(80.6)	(83.0)	(69.8)
Sales and marketing expenses	(27.4)	(22.1)	(20.3)	(17.0)
Other expenses	(24.7)	(21.1)	(15.0)	(17.1)
<b>EBIT</b>	<b>(87.7)</b>	<b>17.6</b>	<b>27.2</b>	<b>(0.7)</b>
Interest income	1.8	0.9	0.1	0.0
Finance costs	(57.2)	(69.5)	(75.4)	(92.9)
<b>PBT</b>	<b>(143.1)</b>	<b>(51.0)</b>	<b>(48.2)</b>	<b>(93.5)</b>
Income taxes	(6.9)	7.5	(8.5)	(5.3)
<b>NPAT</b>	<b>(150.0)</b>	<b>(43.5)</b>	<b>(56.6)</b>	<b>(98.8)</b>
<b>KPIs</b>				
Revenue growth (%)	n/a	4.2%	(3.3%)	(11.8%)
Gross margin (%)	15.0%	17.0%	18.6%	14.8%
Reported EBITDA (\$'m)	(36.6)	54.1	66.5	40.3
Reported EBITDA margin (%)	(5.0%)	7.0%	8.9%	6.1%
Adjusted EBITDA	43.1	80.6	87.3	60.1
Adj. EBITDA margin (%)	5.8%	10.5%	11.7%	9.1%
EBIT margin (%)	(11.9%)	2.3%	3.6%	(0.1%)

Source: the Group's annual reports, FTI Consulting analysis. Note: minor differences exist between statutory accounts and management accounts

I make the following comments in relation to the table above:

- Revenue increased during FY18 (v.s. p.c.p.) as a result of higher volumes due to strengthening sentiment in the mining industry, resulting in improved spending on exploration and development;
- Revenue decreased during FY19 (v.s. p.c.p.) as H2FY19 saw several significant mergers and acquisitions within the mining industry, which in turn delayed mineral exploration projects and reduced overall market activity;
- Revenue decreased during FY20 by 11.8% or \$87.7 million, predominantly because of project cancellations, deferrals, and stoppages due to COVID-19. This also had an impact on the Group's earnings;
- Gross margin improved between FY17 and FY19 due to cost savings from various initiatives, but declined in FY20 due to the pause in activity levels related to COVID-19. The Group implemented a number of measures to somewhat offset the impact of the lower activity levels in FY20 across its operating regions globally;
- Other income primarily relates to gains on sale of assets;
- General and administrative expense in FY17 of \$152.9 million is materially higher than other years. This is primarily due to \$77 million of costs related to the recapitalisation and restructuring; and
- General and administrative expense decreased in FY20 as the Group implemented initiatives to reduce the workforce commensurate to the reduction in activity levels during COVID-19.

## Historical financial performance by segment

Summarised in Table 49 below is the financial performance of the Group, as reported in the segment note to the audited statutory accounts, for FY17 to FY20:

**Table 49: Segment financial performance – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
<b>Segment revenue</b>				
Drilling Services	500.6	533.6	516.3	456.3
Products (excl. sales to Drilling Services)	238.5	236.6	228.7	201.0
<b>Total revenue</b>	<b>739.1</b>	<b>770.2</b>	<b>745.0</b>	<b>657.3</b>
<b>Segment profit</b>				
Drilling Services	36.4	57.1	58.3	8.5
Products (excl. sales to Drilling Services)	2.8	23.5	14.6	16.4
<b>Total segment profit</b>	<b>39.2</b>	<b>80.6</b>	<b>72.8</b>	<b>24.9</b>
Unallocated costs	(47.3)	(36.6)	(45.7)	(25.6)
Significant items	(79.7)	(26.5)		
<b>EBIT</b>	<b>(87.7)</b>	<b>17.6</b>	<b>27.2</b>	<b>(0.7)</b>
Net interest	(55.4)	(68.6)	(75.3)	(92.8)
<b>PBT</b>	<b>(143.1)</b>	<b>(51.0)</b>	<b>(48.2)</b>	<b>(93.5)</b>

Source: the Group's annual reports, FTI Consulting analysis

In the following paragraphs I provide commentary in relation to revenue and profitability of the Drilling Services and Products segments.

## Segment revenue

The historical split of the Group's revenue by segment is shown below:

**Table 50: Segment revenue – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
Drilling Services	500.6	533.6	516.3	456.3
Products (excl. sales to Drilling Services)	238.5	236.6	228.7	201.0
<b>Total</b>	<b>739.1</b>	<b>770.2</b>	<b>745.0</b>	<b>657.3</b>
<b>KPIs</b>				
Drilling Services % of total revenue	67.7%	69.3%	69.3%	69.4%
Products % of total revenue	32.3%	30.7%	30.7%	30.6%
Drilling Services revenue growth (%)	n/a	6.6%	(3.2%)	(11.6%)
Products revenue growth (%)	n/a	(0.8%)	(3.3%)	(12.1%)

Source: the Group's annual reports, FTI Consulting analysis

Approximately 69% of the Group's revenue in FY20 was derived from Drilling Services, which is consistent with historical trends:

- In FY18, revenue increased by 6.6% primarily driven by volume (driven by Surface Coring and Underground Coring work in the Australia, EMEA, and LAM);
- In FY19, revenue declined by 3.2%. The revenue decrease was driven by volume, primarily due to existing customers cancelling or significantly reducing their programs. The reductions were not specific to a particular region, but several of the decreases were likely the result of M&A activity; and
- In FY20, revenue declined by 11.6%, driven by the COVID-19 pause through the second and third quarters as governments and customers restricted activities while developing safe work practices to protect employees from the transmission of COVID-19. Canada, Australia, Asia, and Africa recovered more quickly from COVID-19 restrictions than the United States, Chile, and Argentina. The majority of the year over year decrease in revenue is

attributable to these three countries. Prices remained relatively flat compared to the prior year and changes in foreign exchange rates resulted in a \$0.5 million decrease in revenue in FY20 compared to FY19.

Approximately 31% of the Group's FY20 revenue was derived from Products:

- In FY19, revenue declined by 3.3% due to revenues generated from coring tooling and production tooling becoming slightly weaker in 2019 relative to the prior period; and
- In FY20, revenue declined by 12.1%. Revenues generated from capital equipment, spares, and production tooling were the main drivers contributing to weaker revenue in FY20 relative to the prior period. The decrease in revenues across these product lines were primarily a result of decreased demand in the second and third quarters due to the COVID-19 pandemic which drove governments and customers to delay project activity while they implemented safe work practices to reduce the transmission of the COVID-19 virus.

The Products segment also made the following intercompany sales to the Drilling Services segment:

**Table 51: Intercompany revenue – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
Products sales to Drilling Services	54.5	56.0	56.9	56.4

Source: the Group's annual reports, FTI Consulting analysis

There is no formal contract in place between Products and Drilling Services. Drilling Services purchase items from Products at cost and contribute directly to any supply chain costs. The Group has a Master Distribution Agreement in place that governs its transfer pricing across the globe between manufacturing entities.

## Segment profit

The historical split of the Group's segment profits and segment profit margins is shown below:

**Table 52: Segment profit – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
Drilling Services	36.4	57.1	58.3	8.5
Products	2.8	23.5	14.6	16.4
<b>Total</b>	<b>39.2</b>	<b>80.6</b>	<b>72.8</b>	<b>24.9</b>
<b>KPIs</b>				
Drilling Services % of total segment profit	92.8%	70.9%	80.0%	34.2%
Products % of total segment profit	7.2%	29.1%	20.0%	65.8%
Drilling Services segment profit margin (%)	7.3%	10.7%	11.3%	1.9%
Products segment profit margin (%)	1.2%	9.9%	6.4%	8.1%

Source: the Group's annual reports, FTI Consulting analysis

I make the following comments in relation to the Group's historical segment profit margins:

- Margins increased in FY18 due to disciplined cost control in both variable and fixed SG&A;
- In FY18 in Drilling Services, the Group has focused on improving meters per shift, and non-billable hours and revenue per shift, while reducing variable and fixed costs to maintain a flat cost structure as a percentage of revenue;
- In FY18 in Products, the Group operated manufacturing facilities at lean levels, only producing what was required to meet market demand;
- Drilling Services' segment profit margins in FY20 were significantly lower due to COVID-19. The segment was not able to reduce costs proportionately to the decrease in revenues; and

- Products' segment profit margins in FY20 increased to 8.1% as volume decreases were offset by disciplined cost control across both variable/fixed SG&A (including COVID-19 related payroll cost reductions) and materials cost savings.

## Adjusted EBITDA

Summarised in Table 53 below is the Adjusted EBITDA reported by the Group in the audited statutory accounts for FY17 to FY20:

**Table 53: Adjusted EBITDA – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
<b>EBITDA</b>	<b>(36.6)</b>	<b>54.1</b>	<b>66.5</b>	<b>40.3</b>
Recapitalisation costs	50.5	-	-	-
Impairment				
PP&E	0.1	0.1	0.2	8.3
Intangible assets	-	-	9.0	0.5
Inventories	-	10.9	0.8	5.0
Employee and related costs	15.1	2.6	1.7	1.3
Legal provisions	-	-	2.6	-
Other restructuring expenses	12.2	12.9	6.2	4.7
Onerous expenses	1.8	-	0.3	-
<b>Total adjustments</b>	<b>79.7</b>	<b>26.5</b>	<b>20.8</b>	<b>19.8</b>
<b>Adjusted EBITDA</b>	<b>43.1</b>	<b>80.6</b>	<b>87.3</b>	<b>60.1</b>

Source: the Group's annual reports, FTI Consulting analysis

In relation to the Group's historical Adjusted EBITDA:

- In FY17 the Group reported a significant item of approximately \$77 million related to the recapitalisation and restructuring, of which \$50.5 million related to "recapitalisation costs include fees for legal, finance and other advisory services", \$15.1 related to "employee and related costs include separation costs, retention and other employee-related costs", and \$12.2 million related to "other restructuring costs include fees and other advisory costs for business and operational improvement initiatives";
- Between FY18 and FY20, the Group continued to reduce operating costs through a series of restructuring activities, which resulted in costs for employee separations, exiting leased facilities, impairments of plant and equipment and inventories, and professional fees related to resizing the business;
- In FY18 the Group impaired inventories for products that could not be utilised;
- In FY20 the Group recognised an impairment of \$6.8 million against PP&E and leased assets in its Latin American Drilling Services Cash Generating Unit.

Since the last restructure in 2017, the Group has focused on right-sizing the operational footprint, including 'cleaning up' balance sheet items associated with day to day trading activities (e.g. inventories).

## Historical financial position

Summarised in Table 54 below is the financial position of the Group as at 31 December 2017 (FY17), 31 December 2018 (FY18), 31 December 2019 (FY19), and 31 December 2020 (FY20), based on the Group's audited statutory accounts:



**Table 54: Statement of financial position – FY17 to FY20**

<b>\$ million</b>	<b>FY17A</b>	<b>FY18A</b>	<b>FY19A</b>	<b>FY20A</b>
Cash & equivalents	43.8	38.9	20.2	23.5
Trade and other receivables	131.9	119.6	113.7	109.6
Inventories	174.4	165.4	163.1	158.3
Current tax receivable	1.7	0.3	2.5	0.5
Prepaid expenses and other assets	13.7	12.8	13.6	10.1
Assets held for sale	0.5	0.5	-	0.4
<b>Total current assets</b>	<b>365.9</b>	<b>337.5</b>	<b>313.1</b>	<b>302.4</b>
Land and buildings	31.2	33.3	21.0	18.3
Plant and equipment	68.7	67.9	85.1	85.9
Right of use assets	-	-	35.6	31.9
Construction in progress	18.2	12.9	23.3	15.8
Goodwill	101.2	103.9	104.5	105.1
Other intangible assets				
Trademark	3.1	3.1	1.9	1.9
Patents	6.1	6.8	4.0	3.9
Customer relationships	5.9	4.7	3.7	2.7
Software	3.7	1.0	0.8	0.5
Development assets	15.4	22.1	17.1	22.5
Deferred tax assets	20.6	20.7	16.9	13.3
Non-current tax receivable	18.0	16.3	10.8	1.6
Other assets	15.1	7.0	4.0	3.8
<b>Total non-current assets</b>	<b>307.2</b>	<b>299.7</b>	<b>328.8</b>	<b>307.2</b>
<b>Total assets</b>	<b>673.1</b>	<b>637.2</b>	<b>642.0</b>	<b>609.6</b>
Trade and other payables	(138.2)	(105.0)	(111.1)	(98.0)
Provisions	(19.5)	(19.9)	(14.4)	(13.9)
Current tax payable	(99.6)	(8.7)	(5.4)	(8.3)
Loans and borrowings	(0.8)	(1.2)	(8.3)	(10.2)
<b>Total current liabilities</b>	<b>(258.1)</b>	<b>(134.8)</b>	<b>(139.3)</b>	<b>(130.4)</b>
Loans and borrowings	(641.9)	(720.3)	(793.4)	(868.3)
Deferred tax liabilities	(13.4)	(17.5)	(16.9)	(18.7)
Provisions	(18.7)	(79.5)	(74.5)	(61.6)
<b>Total non-current liabilities</b>	<b>(674.0)</b>	<b>(817.2)</b>	<b>(884.8)</b>	<b>(948.6)</b>
<b>Total liabilities</b>	<b>(932.1)</b>	<b>(952.0)</b>	<b>(1,024.1)</b>	<b>(1,079.0)</b>
<b>Net assets / (liabilities)</b>	<b>(259.0)</b>	<b>(314.9)</b>	<b>(382.2)</b>	<b>(469.4)</b>
Issued capital	1,468.8	1,468.8	1,468.8	1,469.4
Reserves	(101.1)	(116.2)	(117.8)	(117.6)
Other equity	(137.2)	(137.2)	(137.2)	(128.8)
Accumulated losses	(1,489.4)	(1,532.7)	(1,595.6)	(1,692.9)
Non-controlling interest	-	2.4	(0.4)	0.5
<b>Total equity</b>	<b>(259.0)</b>	<b>(314.9)</b>	<b>(382.2)</b>	<b>(469.4)</b>

Source: the Group's annual reports, FTI Consulting analysis

I make the following comments in relation to Table 54 above:

- The net liabilities of the Group increased by \$87.2 million to \$469.4 million in FY20, primarily due to an increase in the Group's non-current loans and borrowings as a result of the PIKing of interest as at 30 June 2020 and 31 December 2020 on some of the Group's Finance Facilities;
- The Group's total assets decreased by \$32.3 million in FY20 to \$609.6 million due to the impairment of PP&E, reductions in tax receivables, and a decrease in working capital balances, offset by increases in intangible assets and cash;
- The Group's inventories decreased by \$3.8 million in FY20, however, days inventories outstanding increased from 98.9 days to 104.8 days. This related to the impact of COVID-19 on demand levels from customers, as well as on supply chains (e.g. a change from airfreight to shipping);
- In FY20 the Group implemented a scrapping program which removed \$1.8 million of obsolete inventory. This is expected to reduce inventory carrying costs in future periods. The Group also re-evaluated several key assumptions in the calculation of their allowance for excess or obsolete inventory;
- PP&E as a percentage of revenue has increased from approximately 14.8% in FY18 to 23.1% in FY20. This is directly due to the Group's adoption of AASB 16 in FY19 (see Table 55 below);
- The Group relies on a combination of patents, trademarks, trade secrets and similar intellectual property rights to protect the proprietary technology and other intellectual property that are instrumental to the Products segment. As at February 2021, the Group had 400 issued patents, 130 pending patent applications, 447 registered trademarks, four published trademarks, and 11 pending trademark applications. The Group has stated that they do not consider the Products segment, or the Group as a whole, to be materially dependent upon any particular patent, trademark, trade secret or other intellectual property; and
- The Group has reported an increase in net debt from \$598.9 million as at FY17 to \$855.1 million as at FY20, primarily due to the recognition of lease liabilities related to AASB 16 and increases in accrued interest.

**Table 55: Property, plant, and equipment – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
Land and buildings	31.2	33.3	21.0	18.3
Plant and equipment	68.7	67.9	85.1	85.9
Right of use assets	n/a	n/a	35.6	31.9
Construction in progress	18.2	12.9	23.3	15.8
<b>Total PP&amp;E</b>	<b>118.1</b>	<b>114.1</b>	<b>165.0</b>	<b>152.0</b>

Source: the Group's annual reports, FTI Consulting analysis

## Historical cash flow statements

Summarised in Table 56 below is the cash flow statements of the Group for FY17 to FY20 based on the Group's audited statutory accounts:

**Table 56: Statement of cash flows – FY17 to FY20**

\$ million	FY17A	FY18A	FY19A	FY20A
Loss for the year	(150.0)	(43.5)	(56.6)	(98.8)
Adjustments provided by operating activities				
Income tax expense / (benefit) recognised in profit	6.9	(7.5)	8.5	5.3
Finance costs recognised in profit	57.2	69.5	75.4	92.9
Depreciation and amortisation	51.1	36.6	39.3	41.0
Interest income recognised in profit	(1.8)	(0.9)	(0.1)	(0.0)
Gain on sale or disposal of non-current assets	(4.4)	(7.8)	(3.2)	(2.0)
Other non-cash items	(15.2)	(17.1)	(6.6)	12.5
Shares issued	0.5	0.0	-	0.3
Shares issued to directors	2.2	11.5	-	0.3
Impairment of current and non-current assets	(4.2)	2.1	10.0	8.8
Non-cash foreign exchange (gain)/loss	2.5	-	(0.2)	1.6
Equity-settled share-based payments	2.2	-	-	-
Mvmt. in trade and other receivables	(19.0)	3.0	2.2	5.3
Mvmt. in inventories	12.7	4.0	6.4	(3.8)
Mvmt. in other assets	(2.7)	(1.0)	1.2	0.1
Mvmt. in trade and other payables	18.3	(18.9)	7.8	(9.0)
Mvmt. in provisions	3.4	(5.8)	(7.1)	3.1
<b>Cash provided by operations</b>	<b>(40.4)</b>	<b>24.1</b>	<b>77.0</b>	<b>57.6</b>
Interest paid	(7.4)	(6.1)	(30.8)	(7.6)
Interest received	1.8	0.9	0.1	0.0
Income taxes paid	(8.0)	(15.2)	(10.9)	(0.6)
<b>Net cash flows generated in operating activities</b>	<b>(54.0)</b>	<b>3.7</b>	<b>35.3</b>	<b>49.4</b>
Purchase of property, plant, and equipment	(25.5)	(37.1)	(47.1)	(25.1)
Proceeds from sale of property, plant, and equipment	13.8	13.7	5.8	5.2
Intangible costs paid	(2.9)	(2.0)	(3.6)	(7.0)
Investment in unaffiliated companies	(0.9)	-	-	-
<b>Net cash flows generated in investing activities</b>	<b>(15.4)</b>	<b>(25.4)</b>	<b>(44.9)</b>	<b>(26.9)</b>
Proceeds from issuance of shares	4.5	-	-	-
Payments for debt issuance costs	(2.6)	-	(1.4)	(0.2)
Proceeds from borrowings	96.1	17.0	31.4	62.5
Repayment of borrowings	(51.6)	(5.3)	(40.9)	(81.3)
<b>Net cash flows (used in) provided by financing activities</b>	<b>46.4</b>	<b>11.6</b>	<b>(11.0)</b>	<b>(18.9)</b>
Net decrease in cash and cash equivalents	(23.0)	(10.0)	(20.5)	3.5
Cash and cash equivalents at the beginning of the year	59.3	43.8	38.9	20.2
Effects of FX rate changes	7.5	5.2	1.8	(0.2)
<b>Cash and cash equivalents at the end of the year</b>	<b>43.8</b>	<b>38.9</b>	<b>20.2</b>	<b>23.5</b>

Source: the Group's annual reports, FTI Consulting analysis

I make the following comments in relation to the Group's historical cash flow statements:

- Cash flow from operating activities increased by \$14.1 million in FY20 to \$49.4 million due to the successful negotiation to convert the interest payments on the Group's senior secured notes from payment in cash to PIK. The Group also implemented a number of longer-term initiatives to improve its working capital cycle and received \$6.2 million in funds in connection with the Canada Employee Wage Subsidy program;
- In FY20 the Group invested \$32.1 million in capital equipment and research and development to support existing operations and prepare it for the impending increase in demand expected through FY21. The investment was lower than in previous periods due to the measures implemented by the Group to conserve cash while monitoring the impact of COVID-19 on the business. FY20 capital expenditures were partially offset by proceeds from the sale of property, plant, and equipment of \$5.2 million; and
- The increase in cash flows used in financing activities in FY20 was primarily due to higher repayment of borrowings and lease facilities (\$81.3 million).

## Capital structure and shareholders

### Shareholders

As at 31 March 2021 the Group had 88,511,800 ordinary shares on issue and 3,591 registered shareholders, with the top 10 shareholders accounting for approximately 76.6 million of the ordinary shares on issue:

**Table 57: Top 10 investors as at 31 March 2021**

Shareholder	No. of shares	% of issued shares
Centerbridge Credit Partners	47,189,770	53.3%
Ascribe Capital	18,308,703	20.7%
Paradice Investment Mgt	2,816,742	3.2%
Corre Partners	2,588,537	2.9%
Cranport	1,438,333	1.6%
Mr Zhong Wei Miao	1,204,700	1.4%
Mr Alfred Otte	1,081,735	1.2%
BLY Aus Plans Control	920,048	1.0%
Watford Re	559,037	0.6%
Mr Richard Wallman	534,203	0.6%
<b>Total top 10 shareholders</b>	<b>76,641,808</b>	<b>86.6%</b>

Source: Sharetrak

The top two shareholders, Centerbridge and Ascribe, held approximately 74.0% of the Group's issued shares as at 31 March 2021.

### Warrants

As at 31 March 2021 there were 2,012,403 quoted warrants expiring on 13 September 2024 held by 5,642 individual warrant holders that are publicly traded on the ASX. The quoted warrants do not carry rights to vote.

As at 31 March 2021 there were 282,779 unquoted warrants expiring at various dates held by nine individual warrant holders that are not publicly traded on the ASX. The unquoted warrants do not carry a right to vote.

### Options

As at 31 March 2021 there were 43,158 unquoted options expiring at various dates held by nine individual option holders that are not publicly traded on the ASX. The unquoted share options do not carry rights to vote.

## Debt

A summary of the Group's Finance Facilities as at 30 April 2021 is provided at Section 3.2. There were \$6.0 million of outstanding letters of credit issued by the PNC ABL as at 30 April 2021.

In addition to these amounts, the Group had \$40.7 million of outstanding lease liabilities as at 30 April 2021, split between \$29.3 million of operating leases, and \$11.3 million of finance leases. Of these amounts, \$22.2 million related to property leases, and \$9.5 million related to vehicle and transport equipment leases.

## Appendix L: Value adopted under Controlled Insolvency Scenario

Table 58: Summary of book values adopted under the Controlled Insolvency Scenario

		Net book value				Adj. book value		
		Scheme Co's (excl. BLA)	BLA	SSA Co's	Total	BLA	SSA Co's	Total
\$ million	Note							
Working capital								
Trade & other receivables	2.	(0.6)	25.4	113.9	138.7	22.8	101.4	124.2
Inventories	3.	-	23.4	146.0	169.3	23.3	138.8	162.1
Pre-paid expenses	4.	0.3	0.2	10.7	11.2	0.0	10.7	10.7
Other financial assets	5.	0.1	0.2	1.2	1.5	0.1	1.0	1.0
Other current assets	6.	0.0	0.0	0.2	0.3	0.0	0.2	0.2
Trade & other payables	7.	0.0	(4.3)	(42.7)	(46.9)	(0.2)	(42.7)	(42.8)
Accrued payroll & benefits	8.	(0.1)	(4.1)	(26.1)	(30.3)	(4.1)	(26.1)	(30.2)
Employee provisions	9.	(0.0)	(6.7)	(5.3)	(12.0)	(6.7)	(5.3)	(12.0)
Pension provisions	10.	-	-	(17.1)	(17.1)	-	(20.4)	(20.4)
Accrued liabilities	11.	0.3	(4.0)	(37.4)	(41.2)	(0.2)	(37.4)	(37.6)
Other provisions	12.	(0.5)	-	(8.8)	(9.3)	-	(8.8)	(8.8)
Total working capital		(0.5)	30.1	134.6	164.1	35.0	111.4	146.4
PP&E and intangibles								
Fixed assets	13.	-	22.5	97.9	120.3	20.8	86.4	107.2
Lease assets	14.	-	10.7	26.0	36.7	-	-	-
Patents & trademarks	15.	-	-	6.1	6.1	-	49.6	49.6
Other intangibles	16.	-	5.9	21.3	27.2	2.9	10.7	13.6
Other long-term assets	17.	-	1.8	2.3	4.1	1.5	1.8	3.3
Tax Provision	18.	-	(1.0)	(48.6)	(49.6)	(1.0)	(38.9)	(39.9)
Deferred tax liability	19.	(14.2)	-	(4.5)	(18.6)	-	(16.8)	(16.8)
Lease liabilities	20.	-	(10.5)	(30.2)	(40.7)	(10.5)	(30.2)	(40.7)
Total PP&E and intangibles		(14.2)	29.4	70.3	85.4	13.7	62.6	76.3
Goodwill	21.	0.7	-	105.0	105.8	-	105.0	105.0
Assets held for sale	1.	-	0.3	-	0.3	0.3	-	0.3
Other assets / (liabilities)								
Cash at bank	22.	0.1	1.7	27.6	29.5	-	-	-
Deferred tax asset	23.	10.0	-	2.9	12.9	-	-	-
Pension plan asset	24.	-	-	11.3	11.3	-	-	-
Loan liabilities	25.	(887.1)	-	(0.1)	(887.2)	-	-	-
Other liabilities	26.	0.0	(0.0)	0.0	0.0	-	-	-
Total other assets / (liabilities)		(877.0)	1.7	41.8	(833.5)	-	-	-
Net assets / (liabilities)		(891.0)	61.5	351.6	(477.9)	49.0	279.0	328.0

Source: the Group, FTI Consulting analysis

### Summary of assumptions

In making assumptions regarding a purchaser's allocation of TV (i.e. sales proceeds) in the Share Sale Companies and BLA, I have applied assumptions across the Share Sale Companies regardless of jurisdiction or status. In doing so, I note there will likely be 'overs' and 'unders' to a purchaser, and have used my transactional experience in Australia to reflect a blended rate. The Share Sale Companies contain entities that operate in jurisdictions where I do not profess to be an

expert in local insolvency law, or have experience in conducting sales processes. I have also not considered the impact of tax groups in the Controlled Insolvency Scenario.

In assigning the Group's assets and liabilities as being related to working capital or non-working capital (i.e. everything not classified as working capital), I had regard to two key considerations:

- The definition of working capital assets under the Group's facility documents, and
- The assets and liabilities that a purchaser would view as being related to funding the day-to-day operations of the business of the Group.

In some instances, I have made separate assumptions for the Share Sale Companies and BLA, generally reflecting the lower value of assets for an entity in liquidation and additional liabilities that may crystallise. Unless otherwise identified, the following assumptions apply across both the Share Sale Companies and BLA:

1. **Assets held for sale:** The 30 April 2021 balance sheet contained \$0.3 million of assets held for sale in BLA, consisting of three drill rigs. These were assigned 90% of book value in a Controlled Insolvency Scenario, as under AASB 5, these assets are already measured at the lower of their carrying amount and fair value less costs to sell. As such, this nominal discount simply reflects the liquidation status of BLA.
2. **Trade & other receivables:** The value of the net trade receivables (i.e. after deducting the provision for doubtful debts) in the Controlled Insolvency Scenario has been estimated at 90%. The balance of other receivables primarily consists of various tax receivables for which the value has been estimated at 80%.
3. **Inventories:** Inventory primarily comprises finished goods (\$137.5 million), inventory in transit (\$24.6 million), raw materials (\$20.1 million), work in progress (\$6.3 million), and an inventory reserve (negative \$22.8 million). For all finished goods (including inventory in transit), after deducting for the inventory reserve, I have assigned a value of 100%. This reflects the strong market demand for drilling equipment, that a significant portion of inventory is made to order, and representations from Management regarding the ability to continue to sell stock above cost price when the business is continuing to operate as a going concern scenario (as is contemplated in the Controlled Insolvency Scenario). For work in progress and raw materials, I have assigned a value of 80%, reflecting the less liquid market for these components of inventory as well as the unknown condition of these items.
4. **Pre-paid expenses:** Pre-paid expenses primarily consists of various prepayments by the Group to vendors, including for software costs and insurance. I have assumed that 100% of the value in these assets would be attributed under a Controlled Insolvency Scenario, as these entities continue to trade as a going concern, and could therefore utilise these prepayments as required. Conversely, I have assumed that only 10% of the value in BLA would be attributed by a purchaser, as the majority of the corresponding liabilities would not be transferred across to the new purchaser, and hence no value would be recovered from the prepayments.
5. **Other financial assets:** Other financial assets comprises various deposits made by the Group for PP&E, leases, legal matters, licenses, and fuel cards. The value of these items has been estimated at 80% in the Share Sale Companies, and 40% in BLA under a Controlled Insolvency Scenario. The lower valuation in BLA reflects that the suppliers holding these deposits would likely withhold these amounts due to having liabilities not being transferred, and thus would cash in the deposits to cover any unsecured claims.
6. **Other current assets:** The value of other current assets of the Group has been estimated at 80%. The balance primarily relates to tax and custom duties receivables, the majority of which I expect will be realisable by a purchaser of the Share Sale Companies, who will be continuing the business of the Group.
7. **Trade & other payables:** Other payables primarily consists of various income tax liabilities across the Group. I have assumed that a purchaser would assign 100% of the value of trade payables and other payables in the Share Sale Companies, as by transferring the shares of the Scheme Companies in these entities, they would be assuming the value, in full, of these entities' liabilities. I have assumed 5% value to these liabilities in BLA, reflecting the likelihood of some ransom creditor payments being required to be paid by the liquidator of BLA, with the remaining amounts not transferred under the ASA.
8. **Accrued payroll & benefits:** I have assumed that a purchaser would assign 100% of the value of accrued payroll and benefits in both the Share Sale Companies and BLA, as these employees would be transferred under both the SSAs and ASA, with the purchaser adopting any associated employee liabilities.
9. **Employee provisions:** The balance of employee provisions includes accrued leave, provisions for long-term incentive plans, and severance provisions. I have not assumed that a purchaser would make any additional

adjustments for redundancy costs, as the business of the Group will continue in its current state. As such, I have included these amounts under a Controlled Insolvency Scenario at 100% in both the Share Sale Companies and BLA, reflecting the transfer of these employees, and any associated liabilities, as detailed above.

- 10. Pension provisions:** A purchaser of the Share Sale Companies would assume the pension liabilities in these entities (representing the difference between the present value of the obligations and the fair value of the plan assets). I have excluded a surplus of \$3.3 million in Boart Longyear Limited (Ireland) as a purchaser would not be able to recover these amounts. I have assigned 100% of the value of the remaining liabilities in the Share Sale Companies, as a purchaser would be assuming the requirement to contribute to these plans, as and when required.
- 11. Accrued liabilities:** Accrued liabilities primarily consists of goods received not invoiced (\$19.1 million), and miscellaneous tax charges. I have assumed that a purchaser would assign 100% of the value of these amounts in the Share Sale Companies, as by transferring the shares of the Scheme Companies in these entities, they would be assuming the value, in full, of these entities' liabilities. I have assumed 5% value to these liabilities in BLA, reflecting the likelihood of some ransom creditor payments being required to be paid by the liquidator of BLA, with the remaining amounts not transferred under the ASA.
- 12. Other provisions:** Other provisions contains provisions related to restructuring (leases and professional fees), warranty liabilities, and legal fees. As with various other classes of liabilities above, I have also assumed that a purchaser would assign 100% of the value of these amounts in the Share Sale Companies, as by transferring the shares of the Scheme Companies in these entities, they would be assuming the value, in full, of these entities' liabilities. I have assumed nil value to these liabilities in BLA, as they will not be transferred under the ASA.

I note that, subsequent to the assignment of value to items of working capital, as detailed above, the remainder of TV is effectively assigned to non-working capital, regardless of the assumptions detailed below. However, I have continued to adjust balances within non-working capital and assign liabilities, where relevant, in order to allocate the TV amongst the Scheme Companies.

- 13. Fixed assets:** The net book value as at 30 April 2021 of the Group's fixed assets consisted of: \$10.1m of building and improvements; \$3.1m of computer software and hardware; \$0.7m of furniture and fixtures; \$6.0m of land and improvements; \$78.7m of plant, machinery and equipment; \$5.5m of transport equipment; and, \$13.9m of construction in progress.

- For the Group's buildings and improvements, I have included amounts related to buildings at 90% and amounts related to improvements at 60%. These reductions reflect representations from Management regarding the Group's relative lack of investment in recent years, and therefore a purchaser's expectations regarding the capital expenditure and investment required in these asset classes.
- For the Group's computer software and hardware, I have included amounts related to hardware and software at 40% and all other amounts in both the SSA Companies and BLA at nil. This reflects representations by Management regarding the investment required to update the Group's current ERP.
- For the Group's furniture and fixtures, I have included amounts related to furniture at 50% of net book value.
- For the Group's land and improvements, I have included amounts related to land at 100% of net book value, and amounts related to improvements at 50% of net book value. The Group has not had any independent valuation of its land assets conducted recently, so I have assumed that the net book value of land reflects its fair value. I have also assumed that a purchaser would only ascribe 50% of the value of improvements.
- The Group's plant, machinery, and equipment consists of: \$10.2m of ancillary equipment, \$50.3m of drill rigs, \$10.3m of capitalised refurbishment costs, \$1.4m of factory equipment, \$2.1m of warehouse equipment, and various other immaterial asset classes. Across these assets I have generally assumed a purchaser would ascribe a range of 80% to 100% of net book value, with the exception of spare parts, where I have assumed 60% of net book value. These assumptions reflect Management's representations that they are able to regularly realise fixed assets at above net book value, which would continue to be possible as a going concern under the Controlled Insolvency Scenario.
- For the Group's transport equipment, I have included amounts in a range of 80% to 100% of net book value. These assumptions reflect the strong second-hand vehicle market globally, as well as a shortage of trailers.
- For the Group's construction in progress, I have included amounts at 80%. This category is used for assets currently undergoing refurbishment, and a purchaser would likely consider these items (either pre or post refurbishment) as valued at a slight reduction to net book value.



- 14. Lease assets:** I have not attributed any value to right-of-use or other capitalised lease assets contained on the Group's balance sheet as at 30 April 2021. These amounts are predominantly accounting entries, and do not reflect any tangible or intangible asset that could be utilised by a purchaser. One exception to the above may be where there is residual equity value in the Group's finance leases, however, I note that including any value related to residual equity in finance leases would not have any impact on the allocation of TV to non-working capital assets as detailed above.
- 15. Patents & trademarks:** The only assets for which I did not adopt the book value, as per the Group's 30 April 2021 balance sheet, was for patents and trademarks, which had a book value of \$6.1m net of accumulated amortisation. The Group obtains regular third-party independent valuations of these assets, the latest of which was conducted as at February 2021, and calculated a total estimated fair value of patents at \$44.2m and trademarks at \$5.5m. I have adopted these values, allocated to entities on a proportional weighted basis based on the number of patents or trademarks each entity holds.
- 16. Other intangibles:** Other intangibles includes \$13.2m related to capitalised development costs, \$11.6m related to in-development projects (referred to as construction in progress), and \$2.4m of other intangibles. I have assumed that a purchaser would value these assets at 50% of net book value.
- 17. Other long-term assets:** Other long-term assets predominantly includes long-term tax receivables. These items were not allocated to working capital as they are not expected to be realisable in the next 12 months, and are not related to funding the day-to-day operations of the Group. Consistent with my other assumptions regarding the Group's tax receivables detailed above, the value of these items has been estimated at 80% in both the Share Sale Companies and BLA under a Controlled Insolvency Scenario.
- 18. Tax provision:** Tax provision predominantly contains amounts related to corporate income tax, including, amongst other items (predominantly tax disputes), \$36.3m in Boart Longyear Canada related to the ongoing dispute with the Canadian Revenue Authority. I have reduced this amount to 80% of book value to reflect a purchaser's expectations of being able to settle these liabilities at amounts below the full amount of the respective claims.
- 19. Deferred tax liability:** I have assumed that a purchaser would assign 100% of the value of the deferred tax liabilities in the Share Sale Companies, as by transferring the shares of these entities, the liabilities of these entities would also be transferred to the purchaser. I have also reallocated a \$12.3m deferred tax liability within the balance of the deferred tax asset line item relating to Boart Longyear Company (Utah).
- 20. Lease liabilities:** I have assumed that a purchaser would assign 100% of the value of the lease liabilities in both the SSA Companies and BLA. In the SSA Companies, by transferring the shares of the Scheme Companies in these entities, liabilities of these entities would also be transferred to the purchaser. In order to continue operating the business of the Group (including BLA), these liabilities would also be assumed in full in BLA, as a purchaser would have these contracts novated.
- 21. Goodwill:** Goodwill was assigned full value in the Share Sale Companies. I have not opined on a purchaser's expectation of the value of Goodwill, as in my allocation of TV, the value of Goodwill is assumed to represent any surplus after the relevant assumed assets and liabilities have been accounted for.

The remaining items of the Group's balance sheet as at 30 April 2021 were not assigned any value by a purchaser under the Controlled Insolvency Scenario for reasons as detailed below.

- 22. Cash at bank:** I have assigned nil value to the Group's cash as the SSAs and ASA are both contemplated to be completed on a cash-free, debt-free basis.
- 23. Deferred tax asset ("DTA"):** I have assigned nil value to the Group's DTAs. A purchaser would not view the Group's DTAs as cash-like for the purposes of calculating a purchase price allocation, and would not expect any value to be able to be realised from the Group's DTAs given the potential difficulties in passing the Same Business Test.
- 24. Pension plan asset:** These amounts represent surpluses of \$11.3 million in some of the Canadian pension plans, which I have excluded as a purchaser would not be able to recover these amounts.
- 25. Loan liabilities:** I have assigned nil value to the Group's loan liabilities as the SSAs and ASA are both contemplated to be completed on a cash-free, debt-free basis.
- 26. Other liabilities:** The balance of this account is immaterial and contains various accounting reconciliation adjustments performed by the Group (e.g. rounding).

## Appendix M: Value adopted under Uncontrolled Insolvency Scenario

Table 59: Summary of values adopted under the Uncontrolled Insolvency Scenario

		Net book value				Controlled Insolvency value			
		Obligor		Non-		Obligor		Non-	
\$ million	Note	Group	BLY IP	obligors	Total	Group	BLY IP	obligors	Total
Working capital									
Cash at bank	1.	10.5	-	19.0	29.5	10.5	-	17.4	27.9
Trade & other receivables	2.	86.1	-	52.6	138.7	57.0	-	21.3	78.2
Inventories	3.	93.5	-	75.8	169.3	75.4	-	31.4	106.9
Pre-paid expenses	4.	5.3	-	5.8	11.2	-	-	-	-
Other financial assets	5.	0.9	-	0.5	1.5	0.5	-	0.0	0.6
Other current assets	6.	0.0	-	0.2	0.3	0.0	-	0.0	0.1
Total working capital		196.4	-	154.0	350.4	143.5	-	70.2	213.7
Non-working capital									
Assets held for sale	7.	0.3	-	-	0.3	0.3	-	-	0.3
Fixed assets	8.	84.4	(0.0)	35.9	120.2	55.0	-	9.2	64.2
Lease assets	9.	33.9	-	2.8	36.7	-	-	-	-
Patents & trademarks	10.	4.7	1.1	0.4	6.1	6.5	3.3	0.2	9.9
Other intangibles	11.	16.2	3.6	7.3	27.2	-	-	-	-
Goodwill	12.	102.2	-	3.6	105.8	-	-	-	-
Deferred tax asset	13.	6.8	-	6.1	12.9	-	-	-	-
Pension plan asset	14.	11.3	-	-	11.3	-	-	-	-
Other long-term assets	15.	1.8	-	2.3	4.1	1.3	-	0.8	2.0
Total non-working capital		261.6	4.7	58.3	324.6	63.1	3.3	10.1	76.5
Total assets		458.0	4.7	212.3	675.0	206.6	3.3	80.3	290.1
Priority creditors									
Employee liabilities	16.	(31.5)	-	(10.9)	(42.4)	(47.2)	-	(16.3)	(63.5)
Secured creditors									
Secured external debt	17.	(593.8)	-	-	(593.8)	(602.0)	-	-	(602.0)
Lease liabilities	18.	(37.6)	-	(3.1)	(40.7)	-	-	-	-
Total secured creditors		(631.4)	-	(3.1)	(634.5)	(602.0)	-	-	(602.0)
Unsecured creditors									
Unsecured scheme creditors	19.	(293.4)	-	-	(293.4)	(301.7)	-	-	(301.7)
Lease liabilities	18.	-	-	-	-	(7.5)	-	(0.6)	(8.1)
Trade payables	20.	(20.9)	-	(21.7)	(42.6)	(20.9)	-	(21.7)	(42.6)
Other payables	21.	(48.5)	(0.1)	44.3	(4.3)	-	-	-	-
Accrued liabilities	22.	(17.2)	0.0	(24.0)	(41.2)	(17.2)	0.0	(24.0)	(41.2)
Other provisions	23.	(59.2)	-	(16.8)	(76.0)	(59.2)	-	(16.8)	(76.0)
Deferred tax liabilities	24.	(17.6)	-	(1.0)	(18.6)	(17.6)	-	(1.0)	(18.6)
Other liabilities	25.	0.0	0.0	0.0	0.0	-	-	-	-
Contra asset balances	26.	-	-	-	-	(14.6)	(0.0)	(12.7)	(27.2)
Total unsecured creditors		(456.7)	(0.1)	(19.2)	(476.0)	(438.6)	(0.0)	(76.8)	(515.4)
Total liabilities		(1,119.6)	(0.1)	(33.2)	(1,152.9)	(1,087.9)	(0.0)	(93.1)	(1,180.9)
Net assets / (liabilities)		(661.6)	4.6	179.1	(477.9)	(881.3)	3.3	(12.8)	(890.8)

Source: the Group, FTI Consulting analysis

## Summary of assumptions

In the Uncontrolled Insolvency Scenario, I reflect various assumptions under a 'Forced Sale' premise of value, reflecting a piecemeal, entity-by-entity and asset-by-asset realisation of assets approach, and creditors claiming in respective entities as applicable. Based on representations from Management, I understand that recoveries under this scenario, where each entity in the Group is effectively in its own, separate liquidation process, recoveries would differ greatly on a jurisdictional basis. Management view the Group's likely recoveries across their various operating jurisdictions as being dependent on which of the below levels the entity operates in, each reflecting relative difficulties in extracting value from the Group's assets:

1. **Level 1:** Australia, Canada, United States, and New Zealand;
2. **Level 2:** Chile, Europe, and Peru; and
3. **Level 3:** Other entities (e.g. located in Africa, South-East Asia, etc.).

For this reason, in the Uncontrolled Insolvency Scenario I have applied assumptions to the Group's realisations generally on a sliding scale between Level 1 and Level 3 operating jurisdictions as detailed below.

After categorising entities on an operating jurisdiction basis, I have applied assumptions on a line-by-line basis. These assumptions reflect my experience in formal insolvency roles with complex group structures. This includes assumptions for entities operating in jurisdictions where I do not profess to be an expert in local insolvency law, or have experience in conducting liquidations (or other applicable processes). In these situations, whilst I have endeavoured to reflect some of the fundamental principles underpinning insolvency processes in other key jurisdictions, I have generally applied assumptions consistent with local insolvency law and liquidation processes in Australia.

1. **Cash at bank:** The Group's bank accounts and petty cash are generally assumed to be realisable at between 100% and 80% (depending on the level) of book value. The lower end of the range reflects the potential for additional costs required to recover and sweep the cash, as well as the likelihood in some entities of bank accounts being frozen. I note these amounts may be subject to potential setoffs by various financial institutions with which there are offsetting creditor positions. As I have not made any adjustment to the liabilities of the Group for potential setoffs, there is no need for a corresponding downwards adjustment to the realisable balance of cash at bank.
2. **Trade & other receivables:** A range of between 70% and 30% has been applied to the value of the net trade receivables (i.e. after deducting the provision for doubtful debts) in the Uncontrolled Insolvency Scenario. Given that a large portion of the Group's revenues are contracted, these adjustments reflect the likelihood of damages claims for uncompleted works. The balance of other receivables primarily consists of various tax receivables for which the value has been estimated at between 60% and 20%, reflecting the difficulty in recovering amounts from tax bodies in a liquidation scenario. I have not made any adjustment for likely offsets by creditors as the Group does not have a material number of overlapping debtors and creditors.
3. **Inventories:** Inventories primarily contains finished goods (\$137.5 million), inventory in transit (\$24.6 million), raw materials (\$20.1 million), work in progress (\$6.3 million), and an inventory reserve (negative \$22.8 million). For finished goods, after deducting for the inventory reserve, and for raw materials, I have assumed a range of recoveries of between 80% and 20%. Given a portion of the Group's inventory is made to order, Management's view is that in Level 1 jurisdictions, inventory could be recovered for close to cost price. As such, this adjustment reflects a combination of costs of realisation, as well as potential holding costs related to an elongated sales period (in order to prevent flooding the market). In addition to these costs, recoveries would be further reduced in Level 2 and Level 3 operating jurisdictions, as realisations of inventory would be contingent upon identifying appropriate local purchasers. Given these entities would be in liquidation, these purchasers would likely be able to extract a significant discount. For work in progress I have assigned a marginally lower range, given the additional burden on a potential purchaser of assuming the requirement to complete manufacturing of these items. I have applied a lower range of between 50% and nil for inventory deployed in the field by Drilling Services.
4. **Pre-paid expenses:** Pre-paid expenses primarily consists of various prepayments by the Group to vendors, including for software costs and insurance. I have assumed nil value could be realised from these prepayments in an Uncontrolled Insolvency Scenario, as all of the Group's entities would cease trading.

- 5. Other financial assets:** Other financial assets comprises various deposits made by the Group for PP&E, leases, legal matters, licenses, and fuel cards. The value of these items has been estimated at between 60% and nil in an Uncontrolled Insolvency Scenario.
- 6. Other current assets:** The balance of other current assets primarily includes tax and custom duties receivables. I have applied the same assumptions as other receivables (i.e. between 60% and 20%) to these amounts.
- 7. Assets held for sale:** The 30 April 2021 balance sheet contained \$0.3 million of assets held for sale in BLA, consisting of three drill rigs. These were assigned 90% of book value in an Uncontrolled Insolvency Scenario (as was the case in the Controlled Insolvency Scenario), as under AASB 5, these assets are already measured at the lower of their carrying amount and fair value less costs to sell. As such, this nominal discount simply reflects the liquidation status of BLA.
- 8. Fixed assets:** The net book value as at 30 April 2021 of the Group's fixed assets consisted of: \$10.1 million of building and improvements; \$3.1 million of computer software and hardware; \$0.7 million of furniture and fixtures; \$6.0 million of land and improvements; \$78.7 million of plant, machinery and equipment; \$5.5 million of transport equipment; and, \$13.9 million of construction in progress.
  - For the Group's buildings and improvements, I have assumed that amounts related to buildings could be realised at between 50% and nil depending on the operating jurisdiction in a liquidation scenario, and nil realisable value for the Group's capitalised expenditure on improvements.
  - For the Group's computer software and hardware, I have included amounts related to hardware at between 10% and nil, and amounts related to software at nil, based on my experience in realising assets of these types.
  - For the Group's furniture and fixtures, I have included amounts related to furniture at 20% of net book value in Level 1 operating jurisdictions, and nil in both Level 2 and Level 3 operating jurisdictions.
  - For the Group's land and improvements, I have included amounts related to land at between 90% and 50% of net book value, and amounts related to improvements at nil. These discounts reflect a combination of costs of realisation, potential holding costs, as well as an implied discount for the sale of these assets whilst the Group is in liquidation.
  - The Group's plant, machinery, and equipment consists of: \$10.2 million of ancillary equipment, \$50.3 million of drill rigs, \$10.3 million of capitalised refurbishment costs, \$1.4 million of factory equipment, \$2.1 million of warehouse equipment, and various other immaterial asset classes. Assumptions for the Group's drill rigs and sonic heads generally reflect a similar situation as contemplated with inventories, however, I have adopted a slightly higher range of between 90% and 30% reflecting Management's representations that the Group's fixed assets are generally more undervalued than inventory on a net book value basis. For ancillary equipment, carriers, factory equipment, heavy machinery, instrumentation, spare parts, tooling, and warehouse equipment, I have applied a lower range of between 60% and 20%, reflecting both the less liquid market for these pieces of machinery and parts as well as their unknown condition. In the Uncontrolled Insolvency Scenario, I have applied nil recoverable value to the Group's capitalised expenses in plant, machinery, and equipment (including refurbishment costs).
  - For the Group's transport equipment, I have included amounts related to vehicles and trailers at between 90% and 50% of net book value. These assumptions reflect the strong second-hand vehicle and trailer market in Level 1 operating jurisdictions, as well as implied discounts related to difficulties in identifying appropriate local purchasers in Level 2 and Level 3 operating jurisdictions.
  - For the Group's construction in progress, I have included amounts at between 75% and 25% of net book value. This category is used for assets currently undergoing refurbishment, and liquidators in the various entities across the Group would likely be able to recover value from these items, albeit at a lower level than operational plant and equipment.
- 9. Lease assets:** I have not attributed any value to right-of-use or other capitalised lease assets contained on the Group's balance sheet as at 30 April 2021. These amounts are predominantly accounting entries, and do not reflect any tangible or intangible asset that could be realised by the various liquidators across the Group. One exception to the above may be where there is residual equity value in the Group's finance leases, however, I do not expect this would be material, given the relatively short tenure of the leases, as well as the relatively small proportion of finance leases in the Group's portfolio (approximately 20%).
- 10. Patents & trademarks:** As with the Controlled Insolvency Scenario, I have adopted the third-party independent assessment of the value of the Group's patents and trademarks as at February 2021, being \$44.2 million for patents,

and \$5.5 million for trademarks. However, in an Uncontrolled Insolvency Scenario, the royalty rate method used by the valuers (i.e. a measurement of license payments) would not be an appropriate proxy for the liquidation value of these assets. As such, I have assumed that only 20% of the third-party independent valuation of these assets would be recoverable in an Uncontrolled Insolvency Scenario. I note that this is still approximately 60% higher than the book value of these assets recorded by the Group.

- 11. Other intangibles:** Other intangibles includes \$13.2 million related to capitalised development costs, \$11.6 million related to in-development projects (referred to as construction in progress), and \$2.4 million of other intangibles. I have assumed that these would have nil realisable value in the conduct of a piecemeal entity-by-entity liquidation.
- 12. Goodwill:** I have assumed that there would be nil realisable value from the Group's net book value of goodwill in a piecemeal entity-by-entity liquidation.
- 13. Deferred tax asset:** I have assigned nil value to the Group's DTAs as each entity in the Group would cease operating.
- 14. Pension plan asset:** These amounts represent surpluses of \$11.3 million in some of the Canadian pension plans, which I have excluded as a liquidator would not likely be able to recover these amounts.
- 15. Other long-term assets:** Other long-term assets predominantly includes long-term tax receivables. Consistent with my other assumptions regarding the Group's tax receivables detailed above, the value of these items has been estimated at between 70% and 30% across the Group in an Uncontrolled Insolvency Scenario.
- 16. Employee liabilities:** The balance of the Group's employee liabilities includes both accrued payroll and benefits, as well as employee provisions. I have assumed that these amounts would be provable in full in the conduct of the various liquidations contemplated under the Uncontrolled Insolvency Scenario. I have increased this amount by 50% to reflect additional employee liabilities arising under a liquidation (e.g. redundancy). Based on my general experience in conducting formal insolvency roles in Australia, employee liabilities provable in a liquidation can be 3-4 times higher than the book value in a company.
- 17. Secured external debt:** I have assumed that the book value of these amounts as at 30 April 2021 would generally be provable in full by the Group's secured creditors. This includes: the principal on the PNC ABL; principal and accrued PIK on the Backstop ABL; principal on both the TLA and TLB; principal and accrued interest on the stub SSNs; and, the principal, accrued PIK, and accrued interest on the SSNs. To the extent that the Group's secured lenders have additional fees that would be provable under an Uncontrolled Insolvency Scenario, this would only further reduce the return to the secured creditors of the Group. I have also made various adjustments to the book value as detailed below:
  - Removing balances related to deferred borrowing costs, a contra liability account used for accounting purposes to amortise borrowing costs over the life of the facilities;
  - Assuming that the Group's letters of credit issued under the PNC ABL would be drawn in an Uncontrolled Insolvency Scenario, increasing the amount outstanding under the PNC ABL by \$6.0 million;
  - Excluding \$3.3 million related to an accounting adjustment recorded by the Group for accelerated interest under the SSNs, which would not be claimable in an Uncontrolled Insolvency Scenario; and
  - Adjusting the accrued interest/PIK for the SSNs to reflect the PIK of the June 2021 interest at 14.5% for the period to 30 April 2021, rather than a cash interest at 10.0% recorded on the 30 April 2021 balance sheet.I note that these amounts also have an unsecured claim against BLY IP as detailed in Table 32 of Section 8.4.3.
- 18. Lease Liabilities:** Under an Uncontrolled Insolvency Scenario, I have assumed that the liquidators appointed across the Group would disclaim the Group's leased equipment. As a result, unsecured claims would arise in the liquidations of these entities for the outstanding amounts on the leases, net of any recoveries able to be obtained by the lessors, e.g. from re-letting the equipment. I have assumed that these liabilities crystallise at approximately 20% of the outstanding book value liability of these leases as at 30 April 2021, noting that there will be 'overs' and 'unders' across entities and specific leases.
- 19. Unsecured scheme creditors:** I have assumed that the book value of these amounts as at 30 April 2021 would generally be provable in full by the Unsecured Scheme Creditors. This includes: the accrued PIK and accrued interest under the TLA and TLB; applicable premium under the stub SSNs and SSNs; and principal, accrued PIK, and accrued interest under the SSNs. I have adjusted the book value for:
  - Adjusting the applicable premium for the SSNs to reflect the higher accrued interest (as a result of PIK of the June 2021 cash interest payment) and higher applicable premium percentage as at 30 April 2021, noting that the balance sheet still applied the rate as at December 2020; and

- Adjusting the applicable premium for the stub SSNs to reflect the higher applicable premium percentage as at 30 April 2021, noting that the balance sheet still applied the rate as at December 2020.

I note that, with the exception of the SUNs, these amounts also have an unsecured claim against BLY IP as detailed in Table 32.

- 20. Trade payables:** I have adopted the balance of trade payables from the 30 April 2021 balance sheet in full. I have not assumed any of these amounts are compromised as I have assessed the returns to creditors in each and every entity of the Group. I have also not assumed any set offs as detailed above.
- 21. Other payables:** Other payables primarily consists of various income tax liabilities across the Group. Given the Group's various tax groups, assessing the liabilities on an entity-by-entity basis (where some entities have large payables or large receivables due to tax sharing agreements) would be inappropriate in the EPM model. As a result, I have excluded this liability in full from the likely unsecured claims in an Uncontrolled Insolvency Scenario, noting that Management have stated that these tax groups are generally in a net liability position. This is a conservative position to adopt as any unsecured claims in non-obligor entities in relation to the Group's tax groups may reduce the return to the Secured Scheme Creditors.
- 22. Accrued liabilities:** Accrued liabilities primarily consists of goods received not invoiced (\$19.1 million), and miscellaneous tax charges. As with the Group's trade payables, I have adopted the balance of accrued liabilities from the 30 April 2021 balance sheet in full.
- 23. Other provisions:** Other provisions includes pension provisions, tax provisions, and other provisions (which includes restructuring costs related to leases and professional fees, warranty liabilities, onerous contracts, and legal costs). I have assumed these amounts would be provable in full by creditors of the Group. This includes liabilities related to the Group's pension plans, reflecting the difference between the present value of the obligations and the fair value of the plan assets. As detailed in Section 8.6.4, based on my limited review, in a liquidation of the Group's entities, these amounts would generally be claimable in full by the fund administrators against the sponsor entities. I have excluded a surplus of \$3.3 million in Boart Longyear Limited (Ireland) as a liquidator would not be able to recover these amounts. I have not assumed any compromise on the Group's tax provision (predominantly related to the tax dispute outlined in Section 4.2.2), as a settlement would not be probable for entities in liquidation.
- 24. Deferred tax liabilities:** I have assumed that these amounts as at 30 April 2021 would be provable in full in each of the entities across the Group.
- 25. Other Liabilities:** The balance of this account is immaterial and contains various accounting reconciliation adjustments performed by the Group (e.g. rounding). I have therefore excluded these amounts under the Uncontrolled Insolvency Scenario.
- 26. Contra asset balances:** I have reallocated contra balances within asset accounts as being unsecured claims in each entity in liquidation. This predominantly includes a \$12.3 million deferred tax liability in Boart Longyear Company (Utah) recorded within the balance of deferred tax assets, and \$12.9 million of contra balances included within non-trade receivables across the Group. Continuing to treat these amounts as assets would understate the potential realisable value of the Group's assets, and conversely understate the potential provable amount of the Group's liabilities.



**Figure 11: The Group's organisation structure as at 31 December 2020**



- (1) Dormant entities and entities in liquidation have been excluded from the organisational structure
- (2) Boart Longyear Canada 0.5%, Boart Longyear Australia Pty Ltd 0.1%
- (3) Boart Longyear Investments Pty Ltd 27.88%, Votrant No. 1609 Pty Ltd 1.56%
- (4) Boart Longyear Vermögensverwaltung GmbH is the General Partner and Boart Longyear International AG is the sole shareholder
- (5) Common stock 100%, Preferred stock 100%

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**ASX ANNOUNCEMENT (ASX:BLY)**

**Appendix B – EGM Notice of Meeting**

**BOART LONGYEAR LIMITED**

**NOTICE OF EXTRAORDINARY GENERAL MEETING AND EXPLANATORY STATEMENT**

**ABN 49 123 052 728**

**NOTICE IS GIVEN OF AN EXTRAORDINARY GENERAL MEETING TO BE HELD ON 8 SEPTEMBER 2021 AT 10.00 AM (SYDNEY TIME) AT ASHURST, LEVEL 11, 5 MARTIN PLACE, SYDNEY NEW SOUTH WALES 2000 AND ONLINE**

**THE INDEPENDENT DIRECTORS OF BOART LONGYEAR LIMITED UNANIMOUSLY RECOMMEND THAT SHAREHOLDERS VOTE IN FAVOUR OF ALL THE RECAPITALISATION RESOLUTIONS IN THE ABSENCE OF A SUPERIOR PROPOSAL**

**THE INDEPENDENT EXPERT HAS CONCLUDED THE RECAPITALISATION IS FAIR AND REASONABLE TO NON-ASSOCIATED SHAREHOLDERS IN THE ABSENCE OF A SUPERIOR PROPOSAL**

This is an important document and requires your immediate attention.

You should read the whole of this document before you decide whether and how to vote on the resolutions in the Notice of Meeting. If you are in doubt as to what you should do, please consult your financial or other professional adviser.

## IMPORTANT NOTICES

This Explanatory Statement is intended to provide Shareholders with information to assess the merits of the proposed resolutions in the accompanying Notice of Meeting and is to be read in conjunction with the Notice of Meeting.

### Read this Document

This Explanatory Statement is an important document. You should read it in its entirety before deciding how to vote on the resolutions. If you have any doubt regarding what you should do, you should consult your investment, financial or other professional adviser.

### Defined Terms

Capitalised words and phrases used in this Explanatory Statement (including in the resolutions) have the meaning set out in the Glossary in Section 13 of this Explanatory Statement.

### Responsibility Statement

This Explanatory Statement (excluding the Independent Expert's Report, the Centerbridge Information and the Ad Hoc Group Information) has been prepared by the Company.

The Company, its related bodies corporate and their respective directors, officers and advisers do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report, the Centerbridge Information and the Ad Hoc Group Information.

The Independent Expert has provided and is responsible for the Independent Expert's Report contained in Annexure A of this Explanatory Statement. The Independent Expert's Report considers whether the Recapitalisation is fair and reasonable to Non-Associated Shareholders.

Centerbridge has provided and is responsible for the information contained in Section 8 of this Explanatory Statement, statements describing Centerbridge's present voting power in the Company and statements describing Centerbridge's intentions regarding the future of the Company (collectively the **Centerbridge Information**). Centerbridge does not assume any responsibility for the completeness or accuracy of any information prepared by the Company, the Ad Hoc Group or the Independent Expert.

Each member of the Ad Hoc Group has provided and is responsible for the information contained in Section 9 of this Explanatory Statement which relates to that member of the Ad Hoc Group, statements describing that Ad Hoc Group member's present voting power in the Company and statements describing that Ad Hoc Group member's intentions regarding the future of the Company (collectively, in respect of all members of the Ad Hoc Group, the **Ad Hoc Group Information**). No member of the Ad Hoc Group assumes any responsibility for the completeness or accuracy of any information prepared by the Company, Centerbridge, the Independent Expert or any other member of the Ad Hoc Group.

### Forward Looking Statements

Certain statements in this Explanatory Statement may constitute "forward looking statements" for the purposes of applicable securities laws. You should be aware that there are a number of risks (known and unknown), uncertainties and assumptions and other important factors that could cause the actual results, performance or achievements of the Company to be materially different from the future results, performance or achievements, expressed or implied, by such statements. Factors that could cause or contribute to such differences include the general trading and economic conditions affecting the Company or its subsidiaries. The past performance of the Company is not necessarily representative of future performance.

None of the Company, its related bodies corporate and their respective Directors, officers and advisers, or any other person gives any representation, assurance or guarantee that the occurrence of the events expressed or implied in any forward looking statements in this Explanatory Statement will actually occur. Shareholders are cautioned not to place undue reliance on these forward looking statements.

All subsequent written and oral forward looking statements attributable to the Company or its related bodies corporate or any person acting on their behalf are qualified by the above cautionary statement.

**Date**

This Explanatory Statement is dated 29 July 2021.

**Currency**

As the Company reports its results in US dollars, and the Recapitalisation has been negotiated in US dollar terms, all references to dollars in this Explanatory Statement are to US dollars, unless otherwise stated.

**Not an offer**

This Explanatory Statement and the Notice of Meeting do not constitute an offer to acquire or sell or a solicitation of an offer to sell or purchase any securities in any jurisdiction. In particular, this document does not constitute an offer, solicitation or sale to any U.S. person or in the United States or any state or jurisdiction in which such an offer, tender offer, solicitation or sale would be unlawful. The securities referred to herein have not been and will not be registered under the United States Securities Act of 1933, as amended (**U.S. Securities Act**), and neither such securities nor any interest or participation therein may be offered, or sold, pledged or otherwise transferred, directly or indirectly, in the United States or to any U.S. person absent registration or an available exemption from, or a transaction not subject to, registration under the U.S. Securities Act.

## Letter from the Chair

Dear Shareholder,

On behalf of the Directors of Boart Longyear, I am pleased to invite you to attend an extraordinary general meeting (**EGM**) of Boart Longyear Limited (the **Company** or **BLY**) to consider and vote on, among other things, the resolutions required to implement the proposed recapitalisation announced by the Company to the ASX on 13 May 2021.

### Background

BLY has entered into a binding Restructuring Support Agreement with an overwhelming majority of the Company's lenders including Ascribe, affiliates of Corre, FPA, Nut Tree, Ares (together, the **Ad Hoc Group**) and affiliates of Centerbridge (together, the Ad Hoc Group and Centerbridge being the **Supporting Creditors**) in relation to a proposed recapitalisation transaction (**Recapitalisation**). The Recapitalisation will convert approximately US\$795 million of the Company's debt and accrued interest costs into 98.5% of the Company's post-recapitalisation ordinary shares (before (1) the issue of any Shares under the Share Purchase Plan or the Creditor Share Purchase Option (2) the issue of any Shares on exercise of any New Warrants, Existing Warrants and Existing Options, (3) any buy back of Shares under the Selective Buy-Back, and (4) the issue of any Shares under any management incentive plan). If approved and implemented, the Recapitalisation will significantly reduce the Company's debt, strengthen the balance sheet, lower interest expenses and enhance liquidity to support the Company's operations and growth.

**Shareholders will have the opportunity to consider and approve the Recapitalisation. The proposed resolutions relating to the Recapitalisation are the primary business of the EGM that this Explanatory Statement invites you to consider. You are encouraged to vote to express your support for the Recapitalisation and the other matters presented for your approval, should you wish to do so.**

### Overview of the Recapitalisation

The Recapitalisation will primarily be implemented by two interdependent creditors' schemes of arrangement between the Company and its creditors under Part 5.1 of the Corporations Act.

### **Creditors' Schemes**

The Creditors' Schemes comprise the Secured Creditors' Scheme and the Unsecured Creditors' Scheme and will effect a release of all outstanding amounts under the Term Loan A, Term Loan B, SSN Indenture and SUN Indenture, in consideration for:

- the issuance to the TLA Purchasers, TLB Purchasers, SSN Noteholders and SUN Noteholders of Shares equal to in aggregate 98.5% of the Company's post-Recapitalisation ordinary shares (before (1) the issue of any Shares on the exercise of any New Warrants, Existing Warrants and Existing Options (2) the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option, (3) any buy-back of Shares under the Selective Buy-Back, and (4) the issue of any Shares under any management incentive plan) (the **New Common Equity**);
- the issuance of the New Warrants to SUN Noteholders in accordance with the terms of the Unsecured Creditors' Scheme with a strike price per Warrant Share of A\$2.79 (the **New Warrants Issuance**); and
- the offer, first to SUN Noteholders, then to TLA Purchasers, TLB Purchasers and SSN Noteholders, of the opportunity to purchase Shares at a price of A\$2.48 per Share (calculated on a post-Share Consolidation basis), up to an aggregate cap of US\$2.5 million plus any unsubscribed amount under the Share Purchase Plan (the **Creditor Share Purchase Option**).

### Other elements of the Recapitalisation

In addition, the Company also proposes to:

- undertake a 20 for 1 share consolidation to reduce the number of Shares on issue which will be effected prior to the issue of any new Shares under the Creditors' Schemes, Share Purchase Plan and Creditor Share Purchase Option and the completion of the Selective Buy-Back (**Share Consolidation**);
- offer Eligible SPP Shareholders the opportunity to subscribe for up to A\$30,000 of Shares at a price of A\$2.48 per Share (calculated on a post-Share Consolidation basis) under a share purchase plan, to raise up to a maximum of US\$2.5 million (**Share Purchase Plan**); and
- refinance the Working Capital Facilities pursuant to the Exit Financing Facility.

Under the terms of the Restructuring Support Agreement the Company has also agreed to give:

- Centerbridge certain rights to nominate directors for appointment to the BLY Board if the Recapitalisation is implemented, having regard to the significant equity interests Centerbridge will hold following implementation of the Recapitalisation; and
- the Ad Hoc Group certain rights to nominate directors for appointment to the BLY Board if the Recapitalisation is implemented, having regard to the significant equity interests the Ad Hoc Group will hold following implementation of the Recapitalisation.

### Conditions to the Recapitalisation

Implementation of the Recapitalisation is subject to the satisfaction of a number of conditions, including the following:

- Shareholders of the Company approving the Recapitalisation Resolutions by the requisite majorities;
- creditors of the Company approving the Creditors' Schemes by the requisite majorities;
- Court approval of the Creditors' Schemes;
- the Exit Financing Facility being duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility being satisfied or waived, other than any conditions relating to:
  - the Creditors' Schemes becoming effective;
  - no amendments, waivers or modifications to the RSA, RID or the Creditors' Schemes having been made since 8:00 am on the Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);
  - each Implementation Step in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) and 8(b) (*Step 2 (Releases)*) of the RID having been completed in accordance with their terms; and
  - any conditions which the Exit Financier has agreed to waive or defer;
- each relevant Supporting Creditor obtaining a no objection notification from the Treasurer under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) in relation to the proposed



acquisition by the Supporting Creditor of Shares and New Warrants (as applicable) under the relevant Recapitalisation Transactions;

- the issue of Shares and New Warrants under the Recapitalisation Transactions, where relevant, being exempt from registration under the U.S. Securities Act; and
- the Company obtaining all other relevant regulatory approvals, confirmations, consents or waivers.

A condition may be waived, modified or amended by the party with authority to waive such a condition giving notice in writing to the other parties to the Restructuring Support Agreement.

#### Impact of the Recapitalisation

**If the Recapitalisation is implemented, existing Non-Associated Shareholders will be significantly diluted. The Recapitalisation will convert approximately US\$795 million of the Company's debt and accrued interest costs into 98.5% of the Company's post Recapitalisation ordinary shares (before (1) the issue of any Shares on the exercise of any New Warrants, Existing Warrants or Existing Options, (2) the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option, (3) any buy-back of Shares under the Selective Buy-Back, and (4) the issue of any Shares under any management incentive plan).**

#### Additional transactions to be undertaken in conjunction with the Recapitalisation

##### **Re-domiciliation**

The Company also proposes to pursue a re-domiciliation to Canada (**Re-domiciliation**). The Re-domiciliation will be effected by way of a scheme of arrangement between the Company and its Shareholders (**Re-domiciliation Scheme**). Subject to satisfaction of all conditions to the Re-domiciliation Scheme including approval by Shareholders at a meeting to be held on the same date as the EGM, and Court approval, it is proposed that the Re-domiciliation will be implemented shortly after implementation of the Recapitalisation. The Re-domiciliation is also subject to the Creditors' Schemes becoming effective.

The explanatory statement and notice of meeting for the Re-domiciliation Scheme to effect the Re-domiciliation will be dispatched to Shareholders on or about the date of this Explanatory Statement.

##### **Selective Buy-Back**

In conjunction with the Re-domiciliation and subject to Shareholder approval of the Re-domiciliation Scheme, the Company proposes that Eligible SBB Shareholders who hold small parcels of Shares valued at less than A\$3,000 (calculated by reference to the closing price of Shares on ASX on the SBB Record Date) will have the opportunity, subject to certain conditions, to offer to sell their Shares to the Company at a price of A\$2.48 per Share (calculated on a post-Share Consolidation basis, being the same price as the implied issue price of the Shares issued under the Creditors' Schemes) under a selective buy-back (**Selective Buy-Back**). The Company may in its absolute discretion determine whether to accept (in whole or in part) or reject an offer to sell Shares received by the Company. The maximum aggregate amount that BLY will spend to buy back Shares under the Selective Buy-Back will be US\$500,000. The Selective Buy-Back will be subject to certain conditions including Shareholders approving the Re-domiciliation at the Re-domiciliation Scheme Meeting and the Selective Buy-Back at the EGM, and the Creditors' Schemes becoming Effective.

The Selective Buy-Back is intended to give Eligible SBB Shareholders who hold small parcels of Shares the opportunity to exercise a cash-out option in lieu of retaining their existing Shares, noting that existing Shareholders will be significantly diluted following implementation of the

Recapitalisation and may not wish to hold CDIs in the re-domiciled Canadian company if the Re-domiciliation proceeds. The Selective Buy-Back will provide Eligible SBB Shareholders with the opportunity to sell their Shares without incurring brokerage fees and other expenses.

#### Incremental Finance Facility

On 11 May 2021, BLY Issuer entered into a binding commitment letter with various lenders affiliated with each of Corre, FPA and Nut Tree regarding the provision of debt financing in an aggregate maximum amount of US\$50,000,000 (**Incremental Finance Facility**).

Pursuant to the Incremental Finance Commitment Letter, BLY Issuer and BLY, amongst other members of the BLY Group, and the relevant affiliates of each of Corre, FPA and Nut Tree, amongst others, entered into a term loan securities agreement (**Incremental Finance Facility Agreement**) and related finance documents on 1 June 2021.

The Incremental Finance Facility was established to provide additional working capital to support the BLY Group whilst the Recapitalisation is being implemented.

#### Restatement of and amendments to the Existing PNC ABL

On 12 May 2021, BLY Issuer and PNC Bank, National Association, as lender and agent, entered into the Seventh Amendment to the Amended and Restated Revolving Credit and Security Agreement to amend the Existing PNC ABL (**2021 Existing PNC ABL Amendment**).

The 2021 Existing PNC ABL Amendment resulted in US\$15,000,000 of additional liquidity, an extension of the term to 24 July 2022 and the ability to enter into the Incremental Finance Facility.

Each of the Existing Backstop ABL, Term Loan A, Term Loan B, SSN Indenture and SUN Indenture have also been amended, and consents have been obtained by the relevant finance parties for the intercreditor agreement in relation to the Existing PNC ABL, the Existing Backstop ABL, the Term Loan A and the Term Loan B to:

- permit the BLY Group to incur indebtedness under the Incremental Finance Facility;
- provide the finance parties under the Incremental Finance Facility with security interests in the relevant collateral; and
- place the finance parties under the Incremental Finance Facility in the relevant position in the BLY Group's intercreditor and collateral waterfall arrangements to reflect the commercial intention reached by the BLY Group and its creditors.

#### **Recommendation of the Independent Directors**

All the Independent Directors (being all the Directors other than Conor Tochilin and Rubin McDougal) unanimously recommend that Shareholders vote in favour of the Recapitalisation Resolutions, as each of the Independent Directors believes that the Recapitalisation Resolutions are in the best interests of the Company and its Shareholders. The Independent Directors intend to vote any Shares they own or control in favour of the Recapitalisation Resolutions on which they are entitled to vote. The recommendation of the Independent Directors is subject to no Superior Proposal emerging.

In coming to their recommendation to endorse the Recapitalisation, the Independent Directors have considered the following factors:

- the Independent Directors believe the Recapitalisation is the best and only executable option to maximise long term value for the Company and its stakeholders;
- the Company's current capital structure is not sustainable and the Company requires a significant reduction in its overall debt in order to de-lever and to fund growth;

- a comprehensive strategic review was undertaken to evaluate and consider options available to the Company, with the Independent Directors considering that the other options considered by the Company are not currently executable or provide less favourable outcomes for Shareholders and other stakeholders (largely because of the rights held by current debt holders); and
- while existing Non-Associated Shareholders will be significantly diluted, the Recapitalisation will give those Shareholders the best feasible opportunity to extract value from their shareholding when measured against the alternatives.

A detailed list of reasons why you may consider voting for or against the Recapitalisation Resolutions is contained in Sections 6.2 and 6.3. However, it should be noted that a failure to pass the Recapitalisation Resolutions will mean that the Recapitalisation will not proceed and, as a result, the Company may not be able to meet its debt repayment obligations absent a refinancing (which is considered unlikely given the Company's current financial position). If this occurs, there is a significant and present risk that the Company would be placed in external administration in which event Shareholders will likely receive little or no return on their shareholding.

The Directors also unanimously recommend that Shareholders vote in favour of the Selective Buy-Back Resolution.

The Independent Expert, KPMG, has prepared an Independent Expert's Report in relation to the Recapitalisation. **The Independent Expert has concluded that the Recapitalisation is fair and reasonable to Non-Associated Shareholders in the absence of a superior proposal.** The Independent Expert's Report is set out in Annexure A, and I encourage you to review it in its entirety.

This Explanatory Statement includes the Notice of Meeting and the Independent Expert's Report. A Proxy Form accompanies this Explanatory Statement. I encourage you to read this Explanatory Statement carefully and in full, as it contains important information to assist you in making an informed decision.

This Explanatory Statement is also available on the Company's website, <http://www.boartlongyear.com/company/investors/announcements/>. The Company's website will also allow you to access other materials that may be relevant to your consideration of the Recapitalisation, such as the Company's ASX announcement regarding the Recapitalisation dated 13 May 2021.

If you intend to attend the EGM:

- in person, please bring your Proxy Form with you to assist us in the efficient processing of your registration;
- online, please refer to the Virtual Meeting Online Guide at Annexure B to the Explanatory Statement, which outlines how to access the platform.

The EGM will commence at 10.00 am (Sydney time). If you are unable to attend the EGM, you may appoint a proxy to vote for you at the EGM, either in person or online, by completing the Proxy Form that accompanies this Explanatory Statement. If you intend to appoint a proxy, please return the completed Proxy Form in accordance with the directions on the form by 10.00 am on 6 September 2021 (Sydney time).

Shareholders who are unable to, or do not wish to, attend the EGM in person may attend online through an online platform by accessing the following link: <https://agmlive.link/BLYEGM21> Shareholders using the online platform will be able to view the meeting live, lodge a direct vote in real time and ask questions online.

More detailed instructions on how to participate at the EGM via the online platform are set out in the Virtual Meeting Online Guide set out at Annexure B to the Explanatory Statement.

If you do not plan to attend the EGM in person, I encourage you to appoint a proxy to attend and vote on your behalf by lodging your completed proxy form in any of the following ways:

Online	At <a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a>
By post:	Boart Longyear Limited c/ - Link Market Services Limited Locked Bag A14 Sydney South NSW 1235 Australia
Facsimile:	In Australia (02) 9287 0309  From outside Australia +61 2 9287 0309
By delivery:	Link Market Services Limited Level 12, 680 George Street Sydney NSW 2000 Australia

Proxy forms and online proxy appointments must be received no later than 10.00 am on 6 September 2021 (Sydney time).

Your Directors look forward to seeing you at the EGM.

Yours sincerely



Kevin McArthur

**Chair**

## NOTICE OF EXTRAORDINARY GENERAL MEETING

**Boart Longyear Limited ABN 49 123 052 728**

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Notice is given that the Extraordinary General Meeting of Shareholders of Boart Longyear Limited (the **Company**) will be held at Ashurst, Level 11, 5 Martin Place, Sydney NSW 2000 and online on 8 September 2021 commencing at 10.00 am (Sydney time).

Shareholders who are unable to, or do not wish to, attend the EGM in person may attend online through an online platform by accessing the following link: <https://agmlive.link/BLYEGM21>

More detailed instructions on how to participate at the EGM via the online platform are set out in the Virtual Meeting Online Guide set out at Annexure B.

For the health and safety of all attendees, the Company will be observing social distancing and any other government requirements that apply at the time of the EGM. The Company will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the EGM will be held or conducted, information will be provided on the Company's website at [www.boartlongyear.com](http://www.boartlongyear.com) and lodged with ASX.

### **BUSINESS: RESOLUTIONS RELATED TO THE RECAPITALISATION**

#### **RESOLUTIONS 1 – 6 MUST ALL BE PASSED FOR THE RECAPITALISATION TO BE APPROVED AND IMPLEMENTED**

#### **ITEMS FOR APPROVAL**

##### **Resolution 1 – Approval for the issue of Shares to, and acquisition of Shares by, Centerbridge**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*"That, subject to the passing of Resolutions 2, 3, 4, 5 and 6, for the purposes of item 7 of section 611 of the Corporations Act, Chapter 2E of the Corporations Act, and for all other purposes, approval is given for the issue to, and the acquisition by, the CBP Creditors or their nominees who are Affiliates of Centerbridge, of:*

- (a) *up to 110,681,146 Shares under the Secured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option);*
- (b) *up to 21,462,841 Shares under the Unsecured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option); and*
- (c) *up to 2,604,166 Shares under the Creditor Share Purchase Option,*

*on the terms and conditions described in the Explanatory Statement."*

##### **Voting exclusion applicable to Resolution 1**

In accordance with the Corporations Act, a vote on Resolution 1 must not be cast by or on behalf of:

- the CBP Creditors, their nominees who are Affiliates of Centerbridge, or any of their associates; or

- the persons (if any) from whom the acquisition is to be made or any of their associates.

However, this does not apply to a vote cast on Resolution 1 if:

- it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on Resolution 1; and
- it is not cast on behalf of the CBP Creditors, their nominees who are Affiliates of Centerbridge, or any of their associates.

## **Resolution 2 – Approval for the issue of Shares to, and acquisition of Shares by, the Ad Hoc Group**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*"That, subject to the passing of Resolutions 1, 3, 4, 5 and 6, for the purposes of item 7 of section 611 of the Corporations Act, and for all other purposes, approval is given for:*

- (a) *the issue to, and the acquisition by, the AHG Members or their nominees that are Affiliates of the AHG Members, of:*
  - (i) *up to 141,789,575 Shares under the Secured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option);*
  - (ii) *up to 15,431,407 Shares under the Unsecured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option);*
  - (iii) *the maximum number of Shares that are to be issued on the exercise of up to 30,810,489 New Warrants issued to the AHG Members under the Unsecured Creditors' Scheme; and*
  - (iv) *up to 2,604,166 Shares under the Creditors' Share Purchase Option,*  
*(Relevant AHG Securities) on the terms and conditions described in the Explanatory Statement; and*
- (b) *the acquisition by any AHG Member (or any Affiliate of any such person) of Relevant AHG Securities or any Shares held by an AHG Member (or any Affiliate of any such person) as at the date this resolution is passed from any AHG Member (or any Affiliate of any such person) at any time during the period of 5 years after the date this resolution is passed."*

## **Voting exclusion applicable to Resolution 2**

In accordance with the Corporations Act, a vote on Resolution 2 must not be cast by or on behalf of:

- any of the AHG Members, or their nominees that are Affiliates of the AHG Members, or any of their associates; or
- the persons (if any) from whom the acquisition is to be made or any of their associates.

However, this does not apply to a vote cast on Resolution 2 if:

- it is cast by a person as a proxy appointed by writing that specifies how the proxy is to vote on Resolution 2; and
- it is not cast on behalf of the AHG Members, or their nominees that are Affiliates of the AHG Members, or any of their associates.

### **Resolution 3 – Approval for the issue of Shares and New Warrants under the Creditors' Schemes for the purposes of ASX Listing Rule 7.1**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*"That, subject to the passing of Resolutions 1, 2, 4, 5 and 6, for the purposes of ASX Listing Rule 7.1 and for all other purposes, approval is given for the issue of:*

- (a) up to 253,046,838 Shares under the Secured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option);*
  - (b) up to 37,566,905 Shares under the Unsecured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option); and*
  - (c) up to 32,782,148 New Warrants under the Unsecured Creditors' Scheme,*
- on the terms and conditions in the Explanatory Statement."*

### **Voting exclusion applicable to Resolution 3**

In accordance with ASX Listing Rule 7.3, the Company will disregard any votes cast in favour of Resolution 3 by or on behalf of:

- a person who is expected to participate in or who will obtain a material benefit as a result of the proposed issue, except a benefit solely by reason of being a holder of Shares; or
- an associate of any of those persons.

However, this does not apply to a vote cast in favour of Resolution 3 by:

- a person as proxy or attorney for a person who is entitled to vote on Resolution 3, in accordance with directions given to the proxy or attorney to vote on Resolution 3 in that way; or
- the chair of the meeting as proxy or attorney for a person who is entitled to vote on Resolution 3, in accordance with a direction given to the chair to vote on Resolution 3 as their chair decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting on Resolution 3; and
  - the holder votes on Resolution 3 in accordance with the directions given by the beneficiary to the holder to vote in that way.

### **Resolution 4 – Approval for the consolidation of Shares**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*"That, subject to the passing of Resolutions 1, 2, 3, 5 and 6, for the purpose of section 254H(1) of the Corporations Act, and for all other purposes, the Shares of the Company be consolidated through the conversion of every 20 Shares held by a Shareholder into (1) Share and, where this Share Consolidation results in a fraction of a Share being held, the Company be authorised to round that fraction up to the nearest whole Share, with the Share Consolidation to take effect on the date of approval by*

*the Court of the Creditors' Schemes and on the terms and conditions described in the Explanatory Statement."*

#### **Resolution 5 – Approval for the issue of Shares under the Share Purchase Plan**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*"That, subject to the passing of Resolutions 1, 2, 3, 4 and 6 that, for the purposes of ASX Listing Rule 7.1 and ASX Listing Rule 10.11 and for all other purposes, approval is given for the issue of up to 1,302,083 Shares to Eligible SPP Shareholders under the Share Purchase Plan, on the terms and conditions described in the Explanatory Statement."*

#### **Voting exclusion applicable to Resolution 5**

The Company has been granted a waiver by ASX to permit the Company not to include the voting exclusion statement required under Listing Rule 7.3.9 for this Resolution 5.

#### **Resolution 6 – Approval for the issue of Shares under the Creditor Share Purchase Option**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*"That, subject to the passing of Resolutions 1, 2, 3, 4 and 5, for the purposes of ASX Listing Rule 7.1 and for all other purposes, approval is given for the issue of Shares, the number of which is to be determined as 2,604,166 Shares less the number of Shares taken up by Eligible SPP Shareholders under the Share Purchase Plan, under the Creditor Share Purchase Option, on the terms and conditions in the Explanatory Statement."*

#### **Voting exclusion applicable to Resolution 6**

In accordance with ASX Listing Rule 7.3, the Company will disregard any votes cast in favour of Resolution 6 by or on behalf of:

- a person who may participate in the proposed issue or who will obtain a material benefit as a result of the proposed issue of Shares under the Creditor Share Purchase Option, except a benefit solely by reason of being a holder of Shares; or
- an associate of any of those persons.

However, this does not apply to a vote cast in favour of Resolution 6 by:

- a person as proxy or attorney for a person who is entitled to vote on Resolution 6, in accordance with directions given to the proxy or attorney to vote on Resolution 6 in that way; or
- the chair of the meeting as proxy or attorney for a person who is entitled to vote on Resolution 6, in accordance with a direction given to the chair to vote on Resolution 6 as their chair decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting on Resolution 6; and
  - the holder votes on Resolution 6 in accordance with the directions given by the beneficiary to the holder to vote in that way.



**Resolution 7 – Approval of Selective Buy Back**

To consider and, if thought fit, to pass the following resolution as a special resolution of the Company:

*"That, subject to the passing of Resolutions 1, 2, 3, 4, 5 and 6 and the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting, for the purpose of section 257D of the Corporations Act, approval is given for the Company to selectively buy-back up to 260,416 of the Company's Shares at a price of A\$2.48 per Share and cancellation of those Shares, on the terms and conditions in the Explanatory Statement.*

**Voting exclusion applicable to Resolution 7**

Votes must not be cast in favour of Resolution 7 by, and the Company will disregard any votes cast in favour of Resolution 7 by, any person whose Shares are proposed to be bought back under the Selective Buy-Back (being a person who has submitted a SBB Tender Form to sell their Shares to the Company under the Selective Buy-Back) or any of their associates.

**The Chair of the Meeting intends to vote all available undirected proxies in favour of Resolutions 1-7.**

By order of the Board of Directors



**Nora Pincus**  
**Company Secretary**

29 July 2021

## NOTES

### Entitlement to Attend and Vote

In accordance with Reg 7.11.37 of the *Corporations Regulations 2001*, the BLY Board has determined that persons who are registered holders of Shares as at 7.00 pm (Sydney time) on 6 September 2021 will be entitled to attend and vote at the EGM as a Shareholder. Accordingly, transactions registered after that time will be disregarded for determining which Shareholders are entitled to attend and vote at the EGM.

### Attending and participating in the EGM

As a result of the potential health risks and the government's restrictions in response to the COVID-19 pandemic from time to time, the Company encourages Shareholders to attend the EGM online or lodge a proxy in advance of the EGM, rather than attending the meeting in person.

For the health and safety of all attendees, the Company will be observing social distancing and any other government requirements that apply at the time of the EGM. The Company will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the EGM will be held or conducted, information will be provided on BLY's website at <https://www.boartlongyear.com> and lodged with ASX.

### Attending physically

If you or your proxies, attorneys or corporate representative(s) plan to attend the EGM in person, please arrive at the venue at least 30 minutes before the scheduled time for commencement of the meeting, so that your shareholding can be checked against the BLY Share Register, any power of attorney or certificate of appointment of body corporate representative verified, and your attendance noted.

### Attending online

Shareholders and their proxies, attorneys or corporate representatives who are unable to attend the EGM physically will be able to participate online from their computer or mobile device by:

- (a) entering the following URL into their browser: <https://agmlive.link/BLYEGM21>; and
- (b) following the steps set out in the Virtual Meeting Online Guide at Annexure B.

Participating in the EGM via the online platform will allow Shareholders, their proxies, attorneys or corporate representatives to listen to the EGM live, view slides, ask questions during the EGM and vote in real time at appropriate times during the EGM.

To participate and vote online, Shareholders (or their attorney or corporate representative, as applicable) will need the following information:

- (a) your full name;
- (b) mobile number;
- (c) email address;
- (d) company name (if applicable); and
- (e) if you are an individual or joint securityholder:
  - (i) your securityholder number; and

- (ii) postcode; or
- (f) if you are an appointed proxy, the proxy number issued to you by the Share Registry.

A proxy number will be emailed to all proxyholders 24 hours before the start of the EGM.

Further information about the online platform can be found in the Virtual Meeting Online Guide at Annexure B.

Even if you plan to attend the EGM online, we encourage you to submit a directed proxy vote as early as possible by completing and returning the proxy form Shareholders will receive either electronically or in hard copy, or lodging your proxy form online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

Registration will open 30 minutes prior to the start of the EGM. We recommend logging on to the online platform at least 15 minutes prior to the scheduled start time for the EGM. If you experience technical difficulties, please call 1800 990 363.

### How to Vote

Voting will be conducted by a poll.

If you are a Shareholder entitled to vote at the EGM, you may vote by:

- (a) attending and voting in person or via BLY's online meeting platform;
- (b) appointing one or two proxies to attend the EGM and vote on your behalf, by lodging your Proxy Form;
- (c) appointing an attorney to attend the EGM and vote on your behalf, using a power of attorney; or
- (d) in the case of a body corporate, appointing a body corporate representative to attend the EGM and vote on your behalf, using a certificate of appointment of body corporate representative.

A proxy may be an individual or a body corporate.

Please see below for additional instructions specific to each voting method.

#### Voting by Proxy

A shareholder entitled to attend and vote at the EGM may appoint an individual or a body corporate as a proxy. If a body corporate is appointed as a proxy, that body corporate must ensure that it appoints a corporate representative in accordance with section 250D of the *Corporations Act 2001* (Cth) (**Corporations Act**) to exercise its powers as proxy at the EGM.

A proxy need not be a Shareholder.

A Shareholder may appoint up to two proxies and specify the proportion or number of votes each proxy may exercise. If the Shareholder does not specify the proportion or number of votes to be exercised, each proxy may exercise half of the Shareholder's votes.

Even if you plan to attend the EGM online, we encourage you to submit a directed proxy vote as early as possible by completing and returning the proxy form Shareholders will receive either electronically or in hard copy, or lodging your proxy form online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

Details for completion and lodgement of proxies are on the reverse side of the Proxy Form. To be effective, the proxy must be received at the Share Registry no later than 10:00 am on 6 September 2021. Proxies must be received before that time by one of the following methods:

Online	At <a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a>
By post:	Boart Longyear Limited c/ - Link Market Services Limited Locked Bag A14 Sydney South NSW 1235 Australia
Facsimile:	In Australia (02) 9287 0309  From outside Australia +61 2 9287 0309
By delivery:	Link Market Services Limited Level 12, 680 George Street Sydney NSW 2000 Australia

#### Voting by Attorney

If voting by attorney, the power of attorney appointing the attorney must be duly signed by the Shareholder and specify the name of each of the Shareholder, the Company and the attorney, and also specify the meetings at which the appointment may be used.

The power of attorney, or a certified copy of the power of attorney must be received by the Share Registry by 10:00 am (Sydney time) on 6 September 2021 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- (a) by post in the provided reply-paid envelope to the Share Registry at the following address:  
  
Boart Longyear Limited  
c/ - Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia
- (b) by delivery to the following address:  
  
Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia
- (c) by fax to Link Market Services on:  
  
In Australia (02) 9287 0309  
  
From outside Australia +61 2 9287 0309

Please note that the power of attorney or a certified copy of the power of attorney cannot be lodged online or by a mobile device.

If attending:

- **in person**, attorneys of eligible Shareholders will be admitted to the EGM and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, (as previously provided to the Registry in accordance with the requirements set out above), their name and address, and the name of their appointors;
- **online**, by logging into the virtual meeting platform at <https://agmlive.link/BLYEGM21>, register to view the meeting by entering your name and contact details, to register as a shareholder and vote, click the “get a Voting Card” option on the screen. You will be required to enter your Securityholder Reference Number (SRN) or Holder Identifier Number (HIN) and postcode or country to proceed. Once you have your voting card, it may be submitted at any time during the meeting.

For further information, please refer to the Virtual Meeting Online Guide at Annexure B to the Explanatory Statement.

Your appointment of an attorney does not preclude you from attending in person and voting at the meeting.

### Corporate Representatives

A body corporate that is a Shareholder, or that has been appointed as a proxy, is entitled to appoint any person to act as its representative at the EGM. The appointment of the representative must comply with the requirements under section 250D of the Corporations Act, meaning that BLY will require a certificate of appointment of body corporate representative to be executed by you in accordance with the Corporations Act. An appointment form may be obtained from the Share Registry by calling +61 1800 781 633 (within and outside Australia) Monday to Friday between 9.00am to 5.00pm (AEST). The certificate of appointment may set out restrictions on the representative's powers.

The appointment form must be received by the Registry before 10:00 am (Sydney time) on 6 September 2021 (or, if the EGM is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- by post in the provided reply-paid envelope to the Registry at the following address:  
Boart Longyear Limited  
c/ - Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia
- by delivery to the following address:  
Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia
- by fax to the Registry on:  
In Australia (02) 9287 0309  
From outside Australia +61 2 9287 0309

Please note that an appointment form for appointing body corporate representative cannot be lodged online or by a mobile device.

If an appointment form is completed by an individual or corporation under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of

attorney or other authority, must accompany the completed appointment form unless the power of attorney or other authority has previously been noted by the Registry.

If attending:

- **in person**, corporate representatives of eligible Shareholders will be admitted to the EGM and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, their name and address and the name of their appointors; or
- **online**, by logging into the virtual meeting platform at <https://agmlive.link/BLYEGM21>, register to view the meeting by entering your name and contact details, to register as a shareholder and vote, click the "get a Voting Card" option on the screen. You will be required to enter your Securityholder Reference Number (SRN) or Holder Identifier Number (HIN) and postcode or country to proceed. Once you have your voting card, it may be submitted at any time during the meeting.

For further information, please refer to the Virtual Meeting Online Guide.

### **How to ask questions**

Shareholders who would like to ask questions are encouraged to do so in writing by submitting your questions to the Share Registry by 5.00pm on Wednesday 1 September 2021. You can also submit your questions online at [www.linkmarketservices.com](http://www.linkmarketservices.com) by 10.00am on Monday, 6 September 2021.

Alternatively, Shareholders can submit questions when attending the EGM either in person or, if attending online, live via the online platform (at <https://agmlive.link/BLYEGM21>). More information regarding how to participate in the EGM online (including how to ask questions online during the meeting) is available in the Virtual Meeting Online Guide which is set out in Annexure B.

### **Technical difficulties**

Technical difficulties may arise during the course of the EGM. The Chair of the Meeting has discretion as to whether and how the EGM should proceed in the event that a technical difficulty arises. In exercising their discretion, the Chair of the Meeting will have regard to the number of Shareholders impacted and the extent to which participation in the business of the EGM is affected. In these circumstances, where the Chair of the Meeting considers it appropriate, the chair may continue to hold the EGM and transact business, including conducting a poll and voting in accordance with valid proxy instructions. For this reason, Shareholders are encouraged to lodge a proxy by 10.00 am (Sydney time) on 6 September 2021 even if they plan to attend the EGM online.

### **Further Information**

If you have any additional questions in relation to this Notice of Meeting, Explanatory Statement or the Recapitalisation, please call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) on Business Days from 9.00 am to 5.00 pm (Sydney time) Monday to Friday (excluding public holidays).

Alternatively, you should consult your financial, legal, taxation or other independent and appropriately licensed and authorised professional adviser.

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## EXPLANATORY STATEMENT

This Explanatory Statement has been prepared for Shareholders in relation to the business to be conducted at the Company's Extraordinary General Meeting and forms part of the Notice of Meeting.

The purpose of this Explanatory Statement is to provide Shareholders with information they may reasonably require to decide how to vote upon the Resolutions. The Directors recommend that Shareholders read this Explanatory Statement before determining whether or not to support a resolution.

Each of the Recapitalisation Resolutions are ordinary resolutions. An ordinary resolution requires a simple majority of votes cast by Shareholders entitled to vote on the resolution.

The Selective Buy-Back Resolution is a special resolution. A special resolution requires a 75% majority of votes cast by Shareholders entitled to vote on the resolution.

### 1. THE RECAPITALISATION

#### 1.1 Background to the Recapitalisation

On 13 May 2021, the Company announced that it had entered into the Restructuring Support Agreement with the Supporting Creditors in relation to the Recapitalisation. On 11 May 2021, in conjunction with the execution of the Restructuring Support Agreement, BLY Issuer entered into a binding commitment letter with various lenders affiliated with each of Corre, FPA and Nut Tree regarding the provision of the Incremental Finance Facility (the **Incremental Finance Commitment Letter**).

Pursuant to the Incremental Finance Commitment Letter, BLY Issuer and BLY, amongst other members of the BLY Group, and the relevant affiliates of each of Corre, FPA and Nut Tree, amongst others, entered into the Incremental Finance Facility Agreement and related finance documents on 1 June 2021.

The Recapitalisation is the outcome of the process that the Company commenced in August 2020 to evaluate BLY's strategic options (**Strategic Review**) in light of significant debt maturities falling due in 2022. The BLY Board established a Restructuring Committee (the **Restructuring Committee**) comprised of a majority of independent non-executive Directors and led by the Company's Executive Chairman, Kevin McArthur, to oversee the Strategic Review.

The primary objective of the Strategic Review was to identify options available to the Company to reduce the Company's high levels of debt and improve the Company's tight liquidity position, providing it with a more sustainable capital structure, and improving its underlying financial performance, while achieving the best possible outcome for Shareholders.

The Recapitalisation achieves the Company's objectives and is critical to providing the Company with a more appropriate balance sheet for its current circumstances and to improve prospects for future growth. The Independent Directors believe the Recapitalisation is presently the best available and only executable option to maximise long term value for the Company and its stakeholders. Further details of the potential advantages and disadvantages of the Recapitalisation are set out in Sections 6.2 and 6.3, respectively.

## 1.2 Background to the Strategic Review

### (a) Debt capital structure

The following table summarises the Company's debt capital structure as at the RSA Date:

Description (including holding)	%	Total amount outstanding (principal and interest)	Principal (not including accreted principal) / total commitment	Accrued/ Accreted interest	Interest rate	Maturity
Term Loan A (100% Centerbridge)		US\$160.3m	\$85.0m	\$75.3m	8% payable in kind <b>(PIK)</b> from 1 January 2019	31 December 2022
Term Loan B (100% Centerbridge)		US\$193.3m	\$105.0m	\$88.3m	8% PIK from 1 January 2019	31 December 2022
SSN Indenture Notes (8.5% Centerbridge, 91.1% Ad Hoc Group, 0.4% Other) (1)		US\$348.5m	\$217.0m	\$131.5m	10% in cash from 1 January 2021 (2)	31 December 2022
Asset Backed Loan (PNC Bank)		US\$43.5m	\$43.5m	\$0.0m	Variable	The earlier of 90 days before the maturity of the Term Loan A, the Term Loan B, the SSN Indenture Notes Incremental Financing Facility, the Exit Financing Facility (or any indebtedness refinancing the Exit Financing Facility), 24 July 2022 or if extended, 12 May 2025

Description (including holding)	%	Total amount outstanding (principal and interest)	Principal (not including accreted principal) / total commitment	Accrued/ Accreted interest	Interest rate	Maturity
SUN Indenture Notes (48.5% Corre, 45.5% Ascribe, 6% Other)		US\$93.9m	\$88.9m	\$5.1m	1.5% PIK at the Company's election until maturity	31 December 2022
Existing Backstop ABL (28.4% Centerbridge, 61.6% Corre and 10% FPA)		US\$61.5m	\$45.0m	\$16.5m	10% in cash or 11% capitalised and added to the principal outstanding	90 days following the ABL Maturity Date or 22 October 2022
Incremental Finance Facility (3)		US\$50.0m	\$50.0m	\$0.0m	10% in cash or 11% capitalised and added to the principal outstanding	31 December 2021

(1) Includes SSN applicable premium.

(2) Pursuant to the sixth supplemental indenture dated 1 June 2021, interest up to 30 June 2021 is paid in kind.

(3) The Company entered into the Incremental Finance Facility Agreement on 1 June 2021 following execution of the RSA on 12 May 2021; the commitment amount is shown for illustrative purposes only

**(b) Equity capital structure**

The following table summarises the voting power in the Company of the substantial shareholders in the Company as at the date of this Explanatory Statement (to one decimal place):

Party	Voting power
Centerbridge	53.3%
Ad Hoc Group	23.6%
Other shareholders	23.1%
<b>TOTAL</b>	<b>100%</b>

Note: The AHG Members consider that they may be deemed to be associates of each other in relation to the Company by virtue of section 12(2)(b) or 12(2)(c) of the Corporations Act on the basis that the Restructuring Support Agreement contemplates that they will have a collective right to nominate a specified number of individuals for appointment to the BLY Board from time to time on and from the Creditors' Schemes Implementation Date. Consequently, each of the AHG Members has disclosed that it has voting power equal to the aggregate of the total number of votes attaching to voting shares in which any of the AHG Members hold a relevant interest.

### 1.3 What is the Recapitalisation?

The Recapitalisation will primarily be implemented by two interdependent creditors' schemes of arrangement under Part 5.1 of the Corporations Act and a number of other transactions summarised in the table below:

Mechanism	What Recapitalisation Transaction does it effect?	Where do you find more information?	What are Shareholders being asked to approve?
Secured Creditors' Scheme	<ul style="list-style-type: none"> <li>Secured Debt Release</li> <li>Issue of Shares under the Creditor Share Purchase Option</li> </ul>	Section 2	Issue of Shares under the Secured Creditors' Scheme and under the Creditor Share Purchase Option including to Centerbridge and the Ad Hoc Group (see Resolutions 1, 2, 3 and 6)
Unsecured Creditors' Scheme	<ul style="list-style-type: none"> <li>Unsecured TLA, TLB, SSN Release</li> <li>Unsecured SUN Debt Release</li> <li>New Warrants Issuance</li> <li>Issue of Shares under the Creditor Share Purchase Option</li> </ul>	Section 3	Issue of Shares under the Unsecured Creditors' Scheme and Creditor Share Purchase Option and New Warrants issued under the Unsecured Creditors' Scheme, including to Centerbridge and the Ad Hoc Group (see

<b>Mechanism</b>	<b>What Recapitalisation Transaction does it effect?</b>	<b>Where do you find more information?</b>	<b>What are Shareholders being asked to approve?</b>
			Resolutions 1, 2, 3 and 6)
Share Consolidation	<ul style="list-style-type: none"> <li>Consolidation of Shares on issue</li> </ul>	Section 4.1	Consolidation of Shares on issue (See Resolution 4)
Share Purchase Plan	<ul style="list-style-type: none"> <li>Issue of Shares to Eligible SPP Shareholders</li> </ul>	Section 4.2	Issue of Shares under the Share Purchase Plan (see Resolution 5)
Exit Financing Facility	<ul style="list-style-type: none"> <li>Replacement of the Working Capital Facilities through the refinance of the Incremental Finance Facility and the Existing Backstop ABL</li> </ul>	Section 4.3	N/A

Each of the Recapitalisation Transactions is inter-conditional, such that if either or both of the Creditors' Schemes is not approved by the requisite majority of relevant creditors or any of the Recapitalisation Resolutions are not approved by the requisite majority of Shareholders or any other condition to the Recapitalisation is not satisfied or waived (as applicable) (Section 12.1), the other Recapitalisation Transactions will not proceed. Each Recapitalisation Resolution should therefore be considered in the context of the overall benefits of the Recapitalisation.

Resolution 7 (the Selective Buy-Back Resolution) is not a Recapitalisation Resolution, so implementation of the Recapitalisation does not depend on the outcome of that resolution.

The Recapitalisation is not conditional on the passing of the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting.

The Creditors' Scheme Meetings to consider the Creditors' Schemes are expected to be held on 31 August 2021. If either or both of the Creditors' Schemes are not approved by the requisite majorities, then the Recapitalisation will not proceed.

#### 1.4 **What are the key dates and times?**

All dates and times referred to in this Explanatory Statement are to times in Sydney, Australia, except where otherwise stated. The dates set out in the below table are indicative only and may be subject to change. The Company reserves the right to vary the times and dates set out below, subject to the Corporations Act and the approval of any variations by the Court or ASIC where required.

Event	Indicative time/date
<b>Date of this Explanatory Statement</b>	29 July 2021
<b>Time and date of the Creditors' Scheme Meetings</b> Secured Creditors' Scheme Meeting  Unsecured Creditors' Scheme Meeting  <small>Note: The Creditors' Scheme Meetings are being held for the Secured Scheme Creditors to vote on the Secured Creditors' Scheme and for Unsecured Scheme Creditors to vote on the Unsecured Creditors' Scheme, and is not a meeting of Shareholders.</small>	10.30 am (Sydney time) on 31 August 2021  11.30 am (Sydney time) on 31 August 2021
<b>Proxy Form cut-off time for EGM</b> Latest time and date by which completed Proxy Forms must be received by the Share Registry	10.00 am (Sydney time) on 6 September 2021
<b>Voting entitlement record date for EGM</b> Time and date for determining eligibility to vote at the EGM	7.00 pm (Sydney time) on 6 September 2021
<b>Offer period for SPP and Selective Buy-Back closes</b> Latest time and date by which completed SBB Tender Forms and SPP Application Forms must be received by the Share Registry	7.00 pm (Sydney time) on 6 September 2021
<b>Time and date of the EGM</b> To be held at Ashurst, Level 11, 5 Martin Place, Sydney NSW 2000 and online	10.00 am (Sydney time) on 8 September 2021
<b>Time and date of the Re-domiciliation Scheme Meeting</b> To be held at Ashurst, Level 11, 5 Martin Place, Sydney NSW 2000 and online	10.30 am (Sydney time) on 8 September 2021
<b>Second Court Hearing for Creditors' Schemes</b>	16 September 2021
<b>Creditors' Schemes Effective Date</b> (if Creditors' Schemes are approved by Scheme Creditors and the Court and all other conditions precedent to the Creditors Schemes are satisfied or waived)	17 September 2021
<b>Share Consolidation Record Date</b>	21 September 2021
<b>BLY Share Register updated for Share Consolidation</b>	22 September 2021

Event	Indicative time/date
<b>Creditors' Schemes Implementation Date</b> Shares issued pursuant to the Creditors' Schemes (including under the Creditor Share Purchase Option). Shares issued pursuant to the SPP. New Warrants issued pursuant to the Unsecured Creditors' Scheme. Buy-Back Date under the Selective Buy-Back. Any Shares bought back by BLY will be cancelled on this date.	23 September 2021
<b>Second Court Hearing for the Re-domiciliation Scheme</b> Date of the Second Court Hearing for approval of the Re-domiciliation Scheme	28 September 2021
<b>Re-domiciliation Scheme Effective Date</b> (if Re-domiciliation Scheme is approved by Shareholders and the Court and all other conditions precedent to the Re-domiciliation Scheme are satisfied or waived)	29 September 2021
<b>Re-domiciliation Scheme Implementation Date</b>	5 October 2021

This timetable is indicative only and, among other things, is subject to all necessary Court and regulatory approvals. BLY has the right to vary any or all of these dates and times, subject to the approval of the variation by ASX, ASIC, or the Court, where required. Any variation to the timetable set out above will be announced to ASX and notified on BLY's website (<https://www.boartlongyear.com>).

## 1.5 Incremental Finance Facility

On 11 May 2021, BLY Issuer entered into a binding commitment letter with various lenders affiliated with each of Corre, FPA and Nut Tree regarding the provision of debt financing in an aggregate maximum amount of US\$50,000,000. BLY announced that it had entered into the binding commitment letter to the ASX on 13 May 2021. Each of Corre, FPA and Nut Tree is a member of the Ad Hoc Group.

On 1 June 2021, BLY Issuer and BLY, amongst other members of the BLY Group, and affiliates of each of Corre, FPA, Nut Tree, amongst others, entered into a Term Loan Securities Agreement (**Incremental Finance Facility Agreement**) and related finance documents as contemplated by the binding commitment letter.

The purpose of the Incremental Finance Facility is to provide working capital and other general corporate purposes which will support the BLY Group whilst the Recapitalisation Transactions are being pursued and then implemented. As at the date of this Explanatory Statement, US\$30,000,000 had been drawn under the Incremental Finance Facility Agreement.

The material terms of the Incremental Finance Facility are as follows:

- (a) **(commitment)** a commitment of US\$50,000,000 in aggregate principal amount (noting that US\$30,000,000 of that amount has already been drawn under the facility);
- (b) **(collateral)** the obligations under the Incremental Finance Facility are guaranteed by the same obligors as the Existing Backstop ABL and is secured by the same collateral as the Existing Backstop ABL;
- (c) **(priority)** the Incremental Finance Facility is:
  - (i) regarding working capital assets, second ranking (pari passu with the Existing Backstop ABL); and
  - (ii) regarding non-working capital assets, first ranking (pari passu with the small number of SSN Noteholders that did not consent to the Incremental Finance Facility being entered into);
- (d) **(maturity date)** 31 December 2021;
- (e) **(interest rate)**
  - (i) interest will accrue on drawings under the Incremental Finance Facility at the rate of either:
    - (A) to the extent BLY Issuer elects to pay in cash, 10% per annum payable monthly in arrears; or
    - (B) otherwise, 11% per annum with such amounts being capitalised and added to the principal monthly in arrears; and
- (f) **(commitment fee)** an undrawn commitment fee accrues on the undrawn amount of the Incremental Finance Facility at the rate of 1.50% per annum and is either:
  - (i) to the extent BLY Issuer elects to pay in cash, payable monthly in arrears; or
  - (ii) otherwise, will be capitalised and added to the principal monthly in arrears; and
- (g) **(other terms and conditions)** the Incremental Finance Facility includes other customary terms and conditions, including customary covenants and events of default that are substantially the same as those in the Existing Backstop ABL.

## 1.6 Restatement of and amendments to the Existing PNC ABL

On 12 May 2021, BLY Issuer and PNC Bank, National Association, as lender and agent, entered into the Seventh Amendment to the Amended and Restated Revolving Credit and Security Agreement to amend the Existing PNC ABL<sup>1</sup> (**2021 Existing PNC ABL Amendment**).

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<sup>1</sup> The Existing PNC ABL is an asset-based revolving bank credit facility agreement that was originally entered into in 2015 between, amongst others, BLY Issuer as borrower, other members of the BLY Group and PNC Bank, National Association (as lender and agent) and which has been amended from time to time.



The 2021 Existing PNC ABL Amendment came into effect on 12 May 2021, which amended the Existing PNC ABL to:

- (a) **(liquidity)** (i) allow full access to the US\$75,000,000 revolver and release the US\$10,000,000 block to the current revolver limit and (ii) increase borrowing base (a) unbilled accounts receivable sub-limit from US\$10,000,000 to US\$15,000,000, (b) accounts receivable advance rate from 85% to 90% until the earliest of implementation under the RSA, completion of an Exit Financing Facility or 30 September 2021 and (c) cap on advance rate on inventory to 65%;
- (b) **(maturity)** subject to certain conditions including that an Exit Financing Facility has been made available to the BLY Group on or before 30 September 2021, extend the term to 12 May 2025; and
- (c) **(Incremental Finance Facility Agreement)** make necessary amendments to permit the BLY Group to incur indebtedness under the Incremental Finance Facility Agreement and to incur indebtedness under an Exit Financing Facility.

## 1.7 Selective Buy-Back

In conjunction with the Recapitalisation and the Re-domiciliation, the Company is proposing to offer Eligible SBB Shareholders the opportunity to offer to sell their Shares to the Company as part of a selective buy-back (the **Selective Buy-Back**), subject to:

- (a) Shareholders approving the Re-domiciliation Scheme at the Re-domiciliation Scheme Meeting;
- (b) Shareholders approving the Selective Buy-Back at the EGM; and
- (c) the Creditors' Schemes becoming effective under clause 411(10) of the Corporations Act.

Under the Selective Buy-Back, Eligible SBB Shareholders will be entitled to offer to sell their Shares to the Company at a sale price of A\$2.48 per Share (calculated on a post-Share Consolidation basis) (the **Buy-Back Price**).

The Buy-Back Price is the same as:

- (a) the implied price of the Shares that will be issued to Scheme Creditors pursuant to the Creditors' Schemes; and
- (b) the price of the Shares issued under the Share Purchase Plan and the Creditor Share Purchase Option.

The Selective Buy-Back is intended to provide Eligible SBB Shareholders who do not elect to take up further Shares under the Share Purchase Plan an opportunity to sell their small parcel of Shares without incurring brokerage fees and other expenses, which Shares may otherwise become difficult to divest in the future. Any Shares bought back by the Company pursuant to the Selective Buy-Back will be cancelled by the Company in accordance with the Corporations Act.

An "**Eligible SBB Shareholder**" is a person who:

- (a) is the registered holder of Shares as at 7.00 pm (Sydney time) on 28 July 2021 (the **SBB Record Date**) which have an aggregate value equal to less than

A\$3,000 (calculated by reference to the closing price of Shares on the ASX on the SBB Record Date);

- (b) is a Non-Associated Shareholder; and
- (c) is not an Excluded Foreign Person.

The Selective Buy-Back will be conducted through a tender process in which Eligible SBB Shareholders can offer to sell their Shares back to BLY at the Buy-Back Price. BLY may, in its absolute discretion, determine whether to accept (in whole or in part) or reject an offer to sell Shares received by BLY from Eligible SBB Shareholders. The maximum amount that BLY will spend to buy-back Shares under the Selective Buy-Back will be US\$500,000.

The purchase of any Shares under the Selective Buy-Back will occur after the Share Consolidation has been effected. Consequently, the number of Shares held by an Eligible SBB Shareholder which will be bought back will be equal to the number of Shares held by the Eligible SBB Shareholder at the SBB Record Date as reduced by the Share Consolidation (subject to BLY's absolute discretion to determine whether to accept (in whole or in part) or reject an offer to sell Shares received by BLY from Eligible SBB Shareholders).

Any Shares bought back by BLY under the Selective Buy-Back will be acquired by BLY on the same date as the implementation date of the Creditors' Schemes, which will be announced by BLY to the ASX.

A booklet containing additional information about the Selective Buy-Back including details on how Eligible SBB Shareholders can participate and offer their Shares for sale to BLY as part of the Selective Buy-Back (the **SBB Booklet**) will be dispatched to Shareholders with a registered address in Australia or New Zealand together with this Explanatory Statement and Notice of Meeting. The SBB Booklet sets out the key terms of the SBB, which include that:

- (a) (**opening date**) the opening date for Eligible SBB Shareholders to elect to participate in the Selective Buy-Back is 29 July 2021;
- (b) (**closing date**) the closing date for Eligible SBB Shareholders to elect to participate in the Selective Buy-Back is 7.00 pm (Sydney time) on 6 September 2021;
- (c) (**Buy-Back Price**) the Buy-Back Price is A\$2.48 for each Share (calculated on a post Share Consolidation basis);
- (d) (**Buy-Back Date**) the Buy-Back Date for Shares disposed of under the SBB is the Creditors' Schemes Implementation Date;
- (e) (**SBB Payment Date**) the SBB Payment Date for Shares disposed of under the SBB is currently expected to be 23 September 2021;
- (f) (**conditionality**) the Selective Buy-Back is conditional upon:
  - (i) approval by Shareholders of the Selective Buy-Back at the EGM;
  - (ii) approval by Shareholders of the Re-domiciliation Scheme; and
  - (iii) the Creditors' Schemes becoming effective under clause 411(10) of the Corporations Act.

A tender form, pursuant to which Eligible SBB Shareholders can make an offer to the Company to sell their Shares under the Selective Buy-Back is provided with the SBB Booklet (**SBB Tender Form**). If you would like to make the Company an offer to buy back your Shares, please complete and return the SBB Tender Form to the address nominated on the SBB Tender Form by 7.00 pm (Sydney time) on 6 September 2021 in accordance with the instructions in the SBB Booklet.

## 1.8 Governance matters

In light of the significant equity interests held by the Supporting Creditors following the Recapitalisation, the Company has agreed to grant the Supporting Creditors certain director nomination rights pursuant to the BLY Director Nomination Agreements.

Subject to the Recapitalisation Resolutions being passed, under the BLY Director Nomination Agreements:

- whilst the BLY Board is comprised of nine directors, Centerbridge are entitled to nominate up to five persons for appointment to the BLY Board. This will supersede and replace Centerbridge's existing director nomination rights under the director nomination agreement dated 5 May 2017, as amended from time to time, between CCP II Dutch Acquisition – ND2 B.V. and CCP Credit SC II Dutch Acquisition – ND B.V and BLY; and
- the Ad Hoc Group are entitled to nominate up to three persons for appointment to the BLY Board. This will supersede and replace any director nomination rights given to:
  - Ares, under the director nomination agreement dated 8 May 2017, as amended from time to time, between Ares and BLY; and
  - Ascribe, under the Ascribe Director Nomination Agreement.

A summary of Centerbridge's rights to nominate directors under the CBP Director Nomination Agreement where the BLY Board comprises nine directors, and the Ad Hoc Group's rights to nominate directors under the Ad Hoc Group Director Nomination Agreements, is set out in the following table.

	Centerbridge	Ad Hoc Group
Percentage shareholding in Retained Shares in BLY or New BLY Parent (as applicable)	Number of directors who can be nominated under CBP Director Nomination Agreement	Number of directors who can be nominated by the Ad Hoc Group under the Ad Hoc Group Director Nomination Agreements
40% or more	5	3
35.00% or more but less than 40.00%	4	3
30% or more but less than 35.00%	3	3
20% or more but less than 30.00%	2	2

	Centerbridge	Ad Hoc Group
10% or more but less than 20.00%	1	1
Less than 10%	0	0

In the event that the BLY Board increases in size from nine to ten directors at any time (excluding alternate directors) pursuant to the Company's constitution, and provided that increase was not caused by an act of the Centerbridge Board Nominees, Centerbridge or an associate of Centerbridge, so long as Centerbridge holds, in aggregate, Retained Shares which represent 40% or more of the issued Shares in the Company, Centerbridge will have the right to nominate six directors for appointment to the BLY Board.

The nomination rights afforded to Centerbridge under the CBP Director Nomination Agreement and to the Ad Hoc Group under the Ad Hoc Group Director Nomination Agreements mean that the ongoing composition of the BLY Board will not comply with Recommendation 2.1 of the ASX Corporate Governance Council's recommendations in relation to board independence. Under Recommendation 2.1, ASX considers that the board of a listed entity should maintain a nomination committee which has at least three members, with a majority of whom are independent directors and is chaired by an independent director. The operation of the director nomination rights under the CBP Director Nomination Agreement and the Ad Hoc Group Director Nomination Agreements will negate the need for BLY to maintain such a nomination committee. However, the BLY Board will continue to be governed by the Board Charter dated as at 26 November 2019.

All existing Directors, other than Mr Olsen, the Chief Executive Officer, intend to resign from the BLY Board with effect from implementation of the Recapitalisation when the Centerbridge nominee directors are appointed to the BLY Board and Ad Hoc Group nominee directors are appointed to the BLY Board in accordance with the BLY Director Nomination Agreements.

#### 1.9 **Re-domiciliation**

Pursuant to the Restructuring Support Agreement, the Company has also agreed to pursue the Re-domiciliation. The Re-domiciliation involves BLY taking steps to re-domicile its corporate and tax domicile to Canada. Canada was chosen after a review of the benefits and disadvantages as against remaining incorporated in Australia and re-domiciling to the United States.

The Re-domiciliation will be effected by way of a members' scheme of arrangement between the Company and its Shareholders under Part 5.1 of the Corporations Act. Subject to satisfaction of all conditions to the Re-domiciliation Scheme, including approval by Shareholders at a meeting to be held on the same date as the EGM, and Court approval, it is proposed that the Re-domiciliation will be implemented shortly after implementation of the Recapitalisation.

The Re-domiciliation is subject to, amongst other things:

- (a) the Creditors' Schemes becoming effective under clause 411(10) of the Corporations Act;

- (b) approval of the Re-domiciliation Scheme Resolution by:
  - (i) greater than 50% in number of Shareholders present and voting at the Re-domiciliation Scheme Meeting (in person, by proxy, by attorney or by a corporate representative); and
  - (ii) at least 75% of the total number of votes cast on the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting; and
- (c) approval by the Court of the Re-domiciliation Scheme.

#### 1.10 **North American Dual Listing**

Subject to the implementation of the Re-domiciliation, BLY will remain listed on the ASX through New BLY Parent and also expects that New BLY Parent will pursue a dual listing of its shares in North America at a later date.

For more information about the Re-domiciliation, refer to the explanatory memorandum included in the notice of the Re-domiciliation Scheme Meeting, which was dispatched to Shareholders on or about the date of this Notice of Meeting, a copy of which is available on the Company's website at "<http://www.boartlongyear.com/company/investors/announcements/>".

## 2. SECURED CREDITORS' SCHEME

### 2.1 Secured Debt Release

The Secured Creditors' Scheme will effect a release by the Secured Scheme Creditors of all of the outstanding Secured Debt in consideration for the issue to the Secured Scheme Creditors of their relevant proportions of New Common Equity in accordance with the terms of the Secured Creditors' Scheme (the **Secured Debt Release**).

To facilitate the implementation of the Secured Creditors' Scheme, the Secured Creditors' Scheme provides for the execution of the Restructuring Implementation Deed by the Secured Scheme Administrators as agent and attorney on behalf of the Secured Scheme Creditors shortly after the Secured Creditors' Scheme becomes effective.

Pursuant to the terms of the Restructuring Implementation Deed, the Secured Debt Release will occur on the Creditors' Schemes Implementation Date.

### 2.2 Creditor Share Purchase Option

In addition to the Secured Debt Release, as part of each of the Secured Creditors' Scheme and the Unsecured Creditors' Scheme, the Company proposes to offer SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders, in each case who are Secured Scheme Creditors or Unsecured Scheme Creditors, the opportunity to subscribe for Shares at an issue price of A\$2.48 per Share (**CSPO Issue Price**) under the Creditor Share Purchase Option. The Creditor Share Purchase Option is intended to raise an amount up to a cap of US\$2.5 million plus any unsubscribed amount under the SPP (the **CSPO Cap Amount**).

Shares under the Creditor Share Purchase Option will be allocated by the Company in accordance with the principles set out below (subject to rounding) (**CSPO Allocation Principles**).

- (a) **(Firstly, allocations to Participating SUN Noteholders):** Shares will first be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on the following basis:
  - (i) *(Initial pro rata allocation to Participating SUN Noteholders)* the Shares available under the CSPO Cap Amount will initially be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Participating SUN Noteholder as at the Creditors' Schemes Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Participating SUN Noteholders as at the Creditors' Schemes Voting Entitlement Record Date, provided that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
  - (ii) *(Allocation of undersubscriptions to other Participating SUN Noteholders)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the initial pro rata allocation to Participating SUN Noteholders (or their Permitted CSPO

Nominee) under paragraph (a)(i) above, the remaining available Shares will be allocated to the Participating SUN Noteholders (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (a)(i) above (**Oversubscribing Participating SUN Noteholders**) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Oversubscribing SUN Noteholder as at the Creditors' Schemes Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Oversubscribing Participating SUN Noteholders as at the Creditors' Schemes Voting Entitlement Record Date, provided always that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:

- (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
  - (B) each Participating SUN Noteholder (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
- (b) (**Secondly, allocations to Other CSPO Participants**): If the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocation of Shares to Participating SUN Noteholders (or their Permitted CSPO Nominees) under the paragraph (a) above, then the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on the following basis:
- (i) (*Initial pro rata allocation to Other CSPO Participants*) the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Other CSPO Participant under the Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Other CSPO Participants under the Creditors' Schemes (not including Shares under the Creditor Share Purchase Option), provided that the maximum number of Shares that will be allocated to Other CSPO Participants (or their Permitted CSPO Nominees) pursuant to the Creditor Share Purchase Option will be the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter; and
  - (ii) (*Allocation of undersubscriptions to Other CSPO Participants*) if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocations under paragraphs (a) and (b)(i) above, the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (b)(i) above (**Oversubscribing Other CSPO Participants**) on a pro rata basis in the same proportions as

the number of the Shares allocated to each particular Oversubscribing Other CSPO Participant under the Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Oversubscribing Other CSPO Participants under the Creditors' Schemes (not including Shares under the Creditor Share Purchase Option), provided always that the maximum number of Shares that will be allocated to an Other CSPO Participant (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:

- (A) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
- (B) each Other CSPO Participant (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter.

In each case, a Participating SUN Noteholder and Other CSPO Participants may only participate in the Creditor Share Purchase Option if they are not an Ineligible Person or, if they are an Ineligible Person, if they nominate a Permitted CSPO Nominee.

Participating SUN Noteholders and Other CSPO Participants may nominate another person to take up their allocation of Shares under the Creditor Share Purchase Option provided that:

- (a) the nominee is a party to the Restructuring Support Agreement, or accedes to the Restructuring Support Agreement; and
- (b) the Participating SUN Noteholder or Other CSPO Participant specifies the nominee's name and details in the relevant section of their TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable),

(a **Permitted CSPO Nominee**).

The Shares issued under the Creditor Share Purchase Option will be issued on the Creditors' Schemes Implementation Date (which is after completion of the Share Consolidation). The CSPO Issue Price is the same price as:

- (a) the implied price of the Shares that will be issued to Scheme Creditors pursuant to the Creditors' Schemes; and
- (b) the price of the Shares issued to Eligible SPP Shareholders pursuant to the Share Purchase Plan.

The maximum number of Shares that will be issued under the Creditor Share Purchase Option will be:



- (a) 1,302,083 Shares, if all of the Shares offered under the SPP are subscribed for by Eligible SPP Shareholders (calculated as the CSPO Cap Amount in those circumstances of US\$2.5 million, divided by the CSPO Issue Price);<sup>2</sup> and
- (b) 2,604,166 Shares, if no Shares are subscribed for under the SPP (calculated as the CSPO Cap Amount in those circumstances of US\$5 million, divided by the CSPO Issue Price).<sup>3</sup>

Proceeds received by the Company from the Creditor Share Purchase Option will be applied to pay down the outstanding balance under the Existing PNC ABL.

The Creditors' Schemes Explanatory Booklet and each of the TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter and SUN Account Holder Letter set out the key terms of the Creditor Share Purchase Option, which include that:

- (a) **(opening date)** the opening date for SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders to elect to participate in the Creditor Share Purchase Option is 3 August 2021;
- (b) **(closing date)** the closing date for SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders to return the SUN Account Holder Letter, TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter to elect to participate in the Creditor Share Purchase Option is 4.00 pm (New York time) on 25 August 2021;
- (c) **(CSPO Issue Price)** the CSPO Issue Price for each Share purchased under the Creditor Share Purchase Option is A\$2.48;
- (d) **(ranking)** the Shares issued under the Creditor Share Purchase Option will rank equally with BLY's existing fully paid ordinary Shares on issue as at the date that the Shares are issued under the CSPO;
- (e) **(issue date)** the Shares will be issued under the Creditor Share Purchase Option on the Creditors' Schemes Implementation Date; and
- (f) **(conditionality)** the offer under the Creditor Share Purchase Option is conditional upon:
  - (i) approval by Shareholders of the issue of Shares under the Creditors Share Purchase Option at the EGM; and
  - (ii) the Creditors' Schemes becoming effective under clause 411(10) of the Corporations Act.

### 2.3 Detailed disclosure relating to the Secured Creditors' Scheme

Further information relating to the Secured Creditors' Scheme is set out in the Creditors' Schemes Explanatory Booklet and report of the independent expert, FTI Consulting (the **FTI Consulting Report**) for the Secured Creditors' Scheme, released

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<sup>2</sup> For the purpose of preparing this calculation, the US\$2.5 million aggregate cap for the Creditor Share Purchase Option has been converted to Australian Dollars at the average May 2021 USD/AUD exchange rate of \$1.29 (source: CapIQ).

<sup>3</sup> For the purpose of preparing this calculation, the US\$2.5 million aggregate cap for the Creditor Share Purchase Option and the US\$2.5 million aggregate cap for the Share Purchase Plan have been converted to Australian Dollars at the average May 2021 USD/AUD exchange rate of \$1.29 (source: CapIQ).

to the ASX on or about the date of this Notice of Meeting, a copy of which is available at "<http://www.boartlongyear.com/company/investors/announcements/>".

The FTI Consulting Report has been prepared for the purpose of opining on the solvency of the BLY Group following implementation of the Creditors' Schemes and the likely outcome for the BLY Group if the Creditors' Schemes are not implemented.

The FTI Consulting Report includes an enterprise value of the Company which differs from the enterprise value of the Company included in the Independent Expert's Report, prepared by KPMG.

KPMG's enterprise valuation of US\$455.0 to US\$510.0 million adopts a through-the-cycle approach by looking at the historical 3 year (US\$76.0m), 5 year (US\$60.6m) and 7 year (US\$47.8m) average EBITDA having considered adjusted EBITDA and statutory EBITDA ending December 2020 and the 3 year (US\$78.3m), 5 year (US\$71.7m) and 7 year (US\$55.8m) average EBITDA having considered adjusted EBITDA and statutory EBITDA ending December 2021. Based on this analysis KPMG selected a maintainable EBITDA range of US\$65.0 million to US\$85.0 million. An EBITDA multiple of 7.0 to 6.0 times EBITDA (inclusive of a control premium) has then been applied to derive an enterprise value for the Company utilising through-the-cycle multiples observed for comparable companies.

FTI Consulting's enterprise valuation of US\$394.2 to US\$417.4 million is derived using the capitalisation of earnings method as their primary method, based on an estimated maintainable earnings figure calculated by reference to FTI's FY21 forecast of adjusted EBITDA (assuming that the BLY Creditor Schemes are approved) of US\$115.9 million. In determining this value, FTI Consulting adjusted BLY's 2021 forecast adjusted EBITDA to account for AASB16 'Leases' (where relevant), gains on sale of assets and the removal of VAT write offs. An EBITDA multiple of 3.4 to 3.6 times EBITDA (not inclusive of a control premium) was then applied to derive an enterprise value for the Group.

FTI Consulting cross-checked the above method using a discounted cash flow method and derived an enterprise valuation of US\$376.5 million to US\$444.9 million. FTI Consulting state that this supports their valuation under the primary capitalisation of earnings method.

While FTI Consulting and KPMG have both adopted a capitalisation of earnings approach, the differences in enterprise value result from the different basis of earnings and capitalisation rates applied by each and KPMG preparing a valuation on a control basis and FTI Consulting preparing a valuation not on a control basis.

### 3. UNSECURED CREDITORS' SCHEME

#### 3.1 Unsecured Debt Release

The Unsecured Creditors' Scheme will effect:

- (a) a release by the Unsecured Scheme Creditors of all of the outstanding Unsecured TLA, TLB, SSN Debt in consideration for the issue to the Unsecured Scheme Creditors of their relevant proportions of New Common Equity (the **Unsecured TLA, TLB, SSN Release**);
- (b) a release by the SUN Noteholders of all of the outstanding SUN Debt in consideration for the issue to the SUN Noteholders of:
  - (i) their relevant proportions of New Common Equity (the **Unsecured SUN Debt Release**, together with the Unsecured TLA, TLB, SSN Release the **Unsecured Debt Release**); and
  - (ii) the issue of the New Warrants with a strike price per Warrant Share of A\$2.79 (the **New Warrants Issuance**), as described in Section 3.2 below,

in each case in accordance with the terms of the Unsecured Creditors' Scheme.

To facilitate the implementation of the Unsecured Creditors' Scheme, the Unsecured Creditors' Scheme provides for the execution of the Restructuring Implementation Deed by the Unsecured Scheme Administrators as agent and attorney on behalf of the Unsecured Scheme Creditors shortly after the Unsecured Creditors' Scheme becomes effective.

Pursuant to the terms of the Restructuring Implementation Deed, the Unsecured Debt Release and New Warrants Issuance will occur on the Creditors' Schemes Implementation Date.

#### 3.2 New Warrants Issuance

In addition to the Unsecured Debt Release, pursuant to the Unsecured Creditors' Scheme and the Restructuring Implementation Deed, SUN Noteholders will be issued such number of New Warrants which, in aggregate, confer the right to call for the issue of such number of shares (in BLY or the New BLY Parent, depending on whether the Re-domiciliation Scheme is approved) that would result in SUN Noteholders, assuming all New Warrants were exercised, holding 10% of the total post-recapitalisation Shares on issue (with the total number of Shares on issue for the purpose of this calculation determined (1) including the new Shares that would be issued on exercise of the New Warrants, (2) before the issue of any Shares on the exercise of any Existing Warrants and Existing Options, (3) before the issue of any Shares under the Share Purchase Plan and the Creditor Share Purchase Option, (4) before any buy-back of Shares under the Selective Buy-Back and (5) before the issue of any Shares under any management incentive plan).

The terms of the New Warrants are set out in the New Warrant Deed Poll at Schedule 11 to the Unsecured Creditors' Scheme, which is at Annexure B to the Creditors' Scheme Explanatory Booklet. Information on how Shareholders can access that information is found in Section 3.4, but the key terms are summarised as follows:

<b>Subscription Right</b>	<p>Each New Warrant will confer on its holder the right (but not the obligation) to subscribe for one Warrant Share, subject to any adjustment (set out below).</p> <p>A New Warrant will not confer any rights to dividends or to participate in any new issue of shares without exercising the New Warrant.</p> <p>Warrant Shares allotted and issued on the exercise of a New Warrant will rank <i>pari passu</i> in all respects (including as to dividends the entitlement to which is determined after allotment) with the then-issued shares and are subject to the Constitution.</p>
<b>Exercise Price</b>	<p>A\$2.79 (as adjusted in accordance with clause 6 of the New Warrant Deed Poll)</p>
<b>Method of Exercise</b>	<p>Each New Warrant may be exercised at any time in the period after its issue to 5.00 pm Sydney time on the date which is the 6th anniversary of the date of its issue (<b>Exercise Period</b>).</p> <p>Each New Warrant may be exercised at any time during the Exercise Period by delivering a duly completed Exercise Notice (accompanied, if New Warrant Certificates have been issued, by the New Warrant Certificate(s) for the New Warrants exercised), and if the New Warrant is exercised for cash, a Representation Letter, to the Company.</p>
<b>Adjustments</b>	<p>The terms of the New Warrants will be adjusted in the following circumstances (excluding any of the following circumstances which are triggered by the Implementation Steps set out in the Restructuring Implementation Deed):</p> <ul style="list-style-type: none"> <li>• <b>(pro-rata issues)</b> the Exercise Price will be reduced in accordance with the formula in the ASX Listing Rules;</li> <li>• <b>(bonus issues)</b> the number of Warrant Shares over which New Warrants will be exercisable will be increased by the number of Warrant Shares the holder would have received if the New Warrant had been exercised before the record date of the bonus issue;</li> <li>• <b>(reorganisation of capital)</b> the rights of the holder of the Warrant (and the Exercise Price) will be changed to the extent necessary to comply with the ASX Listing Rules applying to a reorganisation of capital;</li> <li>• <b>(distributions when the Company is not listed on the ASX)</b> if, at any time during the Exercise Period when the Company is not listed on the ASX, the Company fixes a record date for the payment of a distribution of any evidences of indebtedness,</li> </ul>

	<p>Shares or any other property of any nature whatsoever (including cash) or any options, warrants or other rights to subscribe for such property, to the holders of Shares (other than a dividend, a pro rata issue of Shares, a bonus issue of Shares or a corporate action which is a re-organisation of capital), the Exercise Price will be adjusted in accordance with a formula set out in the New Warrant Deed Poll;</p> <ul style="list-style-type: none"> <li>• <b>(change in capital)</b> on a Change in Capital, the rights of the holder of the New Warrant will be changed to reflect what the holder would have received if the New Warrant had been exercised prior to the record date for that Change in Capital.</li> </ul>
<b>Change of Control</b>	<p>On a Change of Control transaction (which includes a sale of all or substantially all of the assets of the Company but excludes a public stock merger), the Company will cancel the New Warrants and pay the holder the warrant value (determined in accordance with a Black-Scholes model) in cash.</p> <p>Where the Change of Control transaction is a public stock merger, the Company shall procure that the acquirer or successor entity shall assume the obligations of the Company and the warrant will become exercisable into the public stock except where the market capitalisation is less than US\$500 million where the New Warrant will be cancelled and the holder will be paid the warrant value in cash unless it elects for the New Warrant to remain on foot and become exercisable over the public stock.</p>
<b>Re-domiciliation</b>	<p>If the Company re-domiciles, the New Warrants will confer the right (but not the obligation) to acquire the securities or other property received in place of a Warrant Share as a result of the re-domiciling.</p>
<b>Transfer</b>	<p>Subject to certain restrictions on transfer to U.S. Persons, the New Warrants may only be transferred in lots of not less than 100,000 New Warrants (except where the transfer is to effect a transfer by a New Warrant holder of all New Warrants held by that New Warrant holder, at the Company's discretion).</p> <p>Subject to compliance with the terms of the New Warrant Deed Poll, the New Warrants are transferrable without the prior written consent of the Company.</p>

### 3.3 Creditor Share Purchase Option

In addition to the Unsecured Debt Release and the New Warrants Issuance, as part of the Secured Creditors' Scheme and the Unsecured Creditors' Scheme, the Company proposes to offer SUN Noteholders, TLA Purchasers, TLB Purchasers and

SSN Noteholders, in each case who are Secured Scheme Creditors or Unsecured Scheme Creditors the opportunity to participate in the Creditor Share Purchase Option.

For further information about the Creditor Share Purchase Option, please refer to Section 2.2.

### 3.4 **Detailed disclosure relating to the Unsecured Creditors' Scheme**

Further information relating to the Unsecured Creditors' Scheme is set out in the Creditors' Schemes Explanatory Booklet and FTI Consulting Report for the Unsecured Creditors' Scheme, which was disclosed to ASX on or about 29 July 2021, a copy of which is available at "<http://www.boartlongyear.com/company/investors/announcements/>".

For further information regarding the differences in enterprise value of the Company as set out in the FTI Consulting Report and the Independent Expert's Report, please refer to Section 2.3.

## 4. OTHER RECAPITALISATION TRANSACTIONS

### 4.1 Share Consolidation

A significant number of the new Shares in BLY will be issued pursuant to:

- (a) the Secured Debt Release; and
- (b) the Unsecured Debt Release.

However, the number of Shareholders who hold a significant proportion of those Shares will be small.

Accordingly, as part of the Recapitalisation, the Company is proposing that prior to the issue of Shares under the Creditors' Schemes, the Share Purchase Plan and the Creditor Share Purchase Option (and completion of the purchase by the Company of any Shares under the Selective Buy-Back), the Shares be consolidated through the consolidation of every 20 fully paid ordinary Shares into 1 fully paid ordinary Share.

The Share Consolidation is proposed to occur prior (rather than subsequent) to implementation of the Creditors' Schemes so that all securities issued under the Recapitalisation Transactions are issued on a post-Share Consolidation basis. The Share Consolidation will only occur if all of the Recapitalisation Resolutions are passed by the requisite majorities of Shareholders at the EGM. The effective date of the Share Consolidation will be the date of approval by the Court of the Creditors' Schemes (**Share Consolidation Effective Date**).

Where the Share Consolidation results in a Shareholder having an entitlement to a fraction of a Share, that fraction will be rounded up to the nearest whole number of Shares.

The Share Consolidation will:

- (a) reduce the number of Shares on issue prior to the issue of Shares under the Creditors' Schemes, Share Purchase Plan and the Creditor Share Purchase Option and buy-back of Shares under the Selective Buy-Back from 88,511,800 to 4,425,590 (subject to rounding);
- (b) simplify and provide a more efficient capital structure for BLY; and
- (c) create a share price that is more appealing to a wider range of investors.

As the Share Consolidation will apply equally to all Shareholders, individual shareholdings will be reduced in the same ratio as the total number of Shares (subject to rounding). Accordingly, the Share Consolidation itself will have no effect on the percentage equity interest each Shareholder has in BLY (subject to the impacts of the rounding).

In addition, the Share Consolidation will result in the following impacts on the Existing Options or the Existing Warrants:

- (a) in accordance with clause 3(b)(ii) of the 2014, 2015 and 2016 Option Plans, and ASX Listing Rule 7.22.1, the number of Existing Options will be consolidated so that every 20 Existing Options are converted to 1 Existing Option post-Share Consolidation and the exercise price of each Existing Option is multiplied by 20, so that:

- (i) the exercise price for each of the consolidated 2014 Options becomes A\$1,152 per option; and
  - (ii) the exercise price for each of the consolidated 2015 Options and the consolidated 2016 Options becomes A\$1,920 per option; and
- (b) in accordance with clause 6.3(a) of the Ordinary Warrant Deed Poll, the Class A 7% Warrant Deed Poll and the Class B 7% Warrant Deed Poll, the number of Existing Warrants will be consolidated so that every 20 Existing Warrants is converted into 1 Existing Warrant post-Share Consolidation and the exercise price of each Existing Warrant is multiplied by 20, so that:
  - (i) the exercise price of each consolidated Ordinary Warrant will be A\$126;
  - (ii) the exercise price of each consolidated Class A 7% Warrant will be US\$36; and
  - (iii) the exercise price of each consolidated Class B 7% Warrant will be US\$60.

Where the Share Consolidation results in a holder of an Existing Warrant or an Existing Option having an entitlement to a fraction of an Existing Option or an Existing Warrant, that fraction will be rounded up to the nearest whole number of Existing Warrants or Existing Options (as applicable).

An indicative timetable for the Share Consolidation (assuming each of the Recapitalisation Resolutions is approved by Shareholders) is set out below. The Company reserves the right to vary the times and dates set out below, subject to the Corporations Act and the approval of any variations by the Court or ASIC where required.

Event	Indicative time/date
Time and date of the EGM	10.00 am (Sydney time) on 8 September 2021
Share Consolidation Effective Date	16 September 2021
Last day for trading in Shares on a pre-Share Consolidation basis	17 September 2021
Post-Share Consolidation trading starts on a deferred settlement basis	20 September 2021
Record date for the Share Consolidation – last day to register transfers on a pre-Share Consolidation basis	21 September 2021
BLY Share Register updated, and holding statements dispatched to Shareholders	22 September 2021
Deferred settlement trading ends	22 September 2021
Normal settlement trading starts	23 September 2021



## 4.2 Share Purchase Plan

The Company also proposes to offer Eligible SPP Shareholders the opportunity to participate in a share purchase plan (the **Share Purchase Plan** or **SPP**).

Pursuant to the Share Purchase Plan, Eligible SPP Shareholders will be entitled to subscribe for up to A\$30,000 worth of Shares at an issue price of A\$2.48 per Share (calculated on a post-Share Consolidation basis) (the **SPP Issue Price**) without incurring brokerage or other transaction costs. The total amount to be raised by the Company under the SPP is capped at US\$2.5 million.

The issue of Shares pursuant to the Share Purchase Plan is subject to:

- (a) Shareholders approving the issue of the Shares under the Share Purchase Plan at the EGM; and
- (b) the Creditors' Schemes becoming effective under section 411(10) of the Corporations Act 2001 (Cth) (Corporations Act).

Shares issued under the Share Purchase Plan will be issued on the Creditors' Schemes Implementation Date (which is after completion of the Share Consolidation).

The SPP Issue Price is the same as:

- (a) the implied price of the Shares that will be issued to Scheme Creditors pursuant to the Creditors' Schemes; and
- (b) the price of the Shares issued to Scheme Creditors pursuant to the Creditor Share Purchase Option.

The table set out below provides an overview of the share price for each of (a) the Share Purchase Plan and the Selective Buy-Back (being options available to Shareholders); and (b) the CSPO and the New Warrants (being options available to Scheme Creditors).

Shareholder transactions	Pricing (on a post-Share Consolidation basis)
Buy back of existing shares under Selective Buy-Back (as summarised in Section 1.7)	A\$2.48 per share
Issue of new shares under Share Purchase Plan	A\$2.48 per share
Scheme Creditor transactions	Pricing (on a post-Share Consolidation basis)
Issue of new shares under Creditor Share Purchase Option (as summarised in Section 2.2)	A\$2.48 per share

The maximum number of Shares that will be issued under the Share Purchase Plan (which Shares will be issued following the Share Consolidation), calculated as the US\$2.5 million aggregate cap divided by the SPP Issue Price, will be 1,302,083 (based on the average May 2021 US\$/A\$ exchange rate of \$1.29 (source: CapIQ)).

An "**Eligible SPP Shareholder**" is a person who:

- (a) is registered as a Shareholder on the BLY Share Register as at 7.00 pm (Sydney time) on 28 July 2021 (the **SPP Record Date**) with a registered address in Australia or New Zealand;
- (b) is not in the United States and not acting for the account or benefit of a person in the United States; and
- (c) is eligible under all applicable securities laws to receive an offer under and participate in the Share Purchase Plan.

Eligible SPP Shareholders' right to participate in the Share Purchase Plan will not be transferrable to any other person.

The Share Purchase Plan will enable Eligible SPP Shareholders, whose shareholding will be diluted under the Creditors' Schemes, the opportunity to maintain a more meaningful equity interest in the Company following completion of the Recapitalisation.

To the extent that the Share Purchase Plan is oversubscribed (that is, where Eligible SPP Shareholders subscribe for an aggregate amount of Shares that exceeds the US\$2.5 million aggregate cap), participating Eligible SPP Shareholders' subscriptions will be scaled back (such that they will acquire a pro-rata percentage of the US\$2.5 million cap, calculated by reference to the amount that the participating Eligible SPP Shareholder elected to take up under the Share Purchase Plan).

The Share Purchase Plan is not underwritten. However to the extent that the Share Purchase Plan is undersubscribed (ie where Eligible SPP Shareholders do not subscribe for an aggregate amount of Shares that equals or exceeds the US\$2.5 million aggregate cap), the number of Shares not subscribed for under the Share Purchase Plan will be offered to SUN Noteholders, TLA Purchasers, TLB Purchasers, and SSN Noteholders under, and in accordance with the terms of, the Creditor Share Purchase Option (described further at Section 2.2 above).

Proceeds received by the Company under the Share Purchase Plan will be applied to pay down the outstanding balance under the Existing PNC ABL.

Further information regarding the Share Purchase Plan is set out in the SPP Booklet dispatched to Eligible SPP Shareholders together with this Notice of Meeting (**SPP Booklet**). The SPP Booklet sets out the key terms of the SPP, which include that:

- (a) (**opening date**) the opening date for Eligible SPP Shareholders to elect to participate in the SPP is 29 July 2021;
- (b) (**closing date**) the closing date for Eligible SPP Shareholders to elect to participate in the SPP is 7.00 pm (Sydney time) on 6 September 2021;
- (c) (**SPP Issue Price**) the SPP Issue Price for each Share purchased under the Share Purchase Plan is A\$2.48 (calculated on a post Share Consolidation basis);
- (d) (**ranking**) the Shares purchased under the Share Purchase Plan will rank equally with BLY's existing fully paid ordinary Shares on issue as at the date that the Shares are issued under the SPP;

- (e) **(issue date)** the Shares will be issued to successful applicants on the Creditors' Scheme Implementation Date which is currently expected to be 23 September 2021;
- (f) **(scale-back)** if the total value of applications exceeds the US\$2.5 million cap, BLY will scale back the number of Shares that a Shareholder will be allocated under the SPP. If a scale-back occurs, the difference between the value of the Shares allocated under the SPP (calculated at the SPP Issue Price) and the application monies received will be refunded to the Shareholder without interest; and
- (g) **(conditionality)** the offer under the SPP is conditional upon:
  - (i) approval by Shareholders of the issue of Shares under the Share Purchase Plan at the EGM; and
  - (ii) the Creditors' Schemes becoming effective under clause 411(10) of the Corporations Act.

An application form, pursuant to which Eligible SPP Shareholders can apply to subscribe for Shares under Share Purchase Plan is provided with the SPP Booklet (**SPP Application Form**). If you would like to subscribe for Shares under the Share Purchase Plan, please complete and return the SPP Application Form to the address nominated on the SPP Application Form by 7.00 pm (Sydney time) on 6 September 2021 in accordance with the instructions in the SPP Booklet.

#### 4.3 **Exit Financing Facility**

Prior to settlement of the other Recapitalisation Transactions, the BLY Group expects to secure a long term new money investment to fully refinance the Existing Backstop ABL and the Incremental Finance Facility, in the form of the Exit Financing Facility (the **Exit Financing Facility**).

In this regard, on 19 July 2021 (Salt Lake City) BLY entered into a binding commitment letter in relation to the Exit Financing Facility (**Exit Financing Commitment Letter**).

As at the date of this Explanatory Statement, it is proposed that BLY US Holdings Inc. (or another BLY Group member) as borrower, and other BLY Group members as guarantors, will enter into the Exit Financing Facility to fully refinance the Working Capital Facilities. The Exit Financing Facility will take the form of a five year term loan facility with a total commitment of US\$115,000,000.

The Exit Financing Facility will be drawn to refinance the Existing Backstop ABL and the Incremental Finance Facility on the Creditors' Scheme Implementation Date.

It is a condition precedent to both BLY Creditor Schemes that as at 8.00 am on the Second Court Date, the credit agreement for the Exit Financing Facility has been duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility have been satisfied, other than any conditions relating to:

- (a) the Secured Creditors' Scheme and the Unsecured Creditors' Scheme becoming Effective;
- (b) no amendments, waivers or modifications to the RSA, RID, the Secured Creditors' Scheme or the Unsecured Creditors' Scheme having been made

since 8:00 am on the Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);

- (c) each Implementation Step in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) and 8(b) (*Step 2 (Releases)*) of the RID having been completed in accordance with their terms; and
- (d) any conditions which the Exit Financier has agreed to waive or defer.

## **5. IMPACT OF THE RECAPITALISATION**

### **5.1 Further S&P review**

On 20 May 2021, following announcement of the Recapitalisation, S&P Global undertook a further review of the Company's credit ratings and took the following actions:

- (a) the corporate credit rating was lowered to "D";
- (b) the rating outlook was removed from "CreditWatch Negative";
- (c) the rating on the SSN Indenture Notes was lowered to "D";
- (d) the rating on the SUN Indenture Notes remained at "D";
- (e) the recovery rating on the SSN Indenture Notes was lowered to "4" and
- (f) the recovery rating on the SUN Indenture Notes remains unchanged at "6".

### **5.2 Further Moody's review**

On 4 June 2021, following announcement of the Recapitalisation, Moody's Investor Services undertook a further review of the Company's credit ratings and took the following actions:

- (a) the corporate family rating was lowered to "Ca";
- (b) the rating outlook was downgraded to "Negative";
- (c) the rating on the SSN Indenture Notes was lowered to "Ca";
- (d) the rating on the SUN Indenture Notes was lowered to "C"; and
- (e) the speculative grade liquidity rating was lowered to "SGL-4".

### **5.3 Effect of Recapitalisation Transactions – Sources and Uses, pro forma debt and financial ratios**

The tables below show the change in the Company's debt levels, gross leverage, net leverage and interest coverage as a result of the Recapitalisation Transactions.

**Table 1: Sources and uses of funds raised from Recapitalisation Transactions**

Sources	US\$ million
Share Purchase Plan (1)	\$2.5
Creditor Share Purchase Option (1)	\$2.5
Exit Financing Facility (2)	\$115.0
<b>Total Sources</b>	<b>\$120.0</b>

Uses	US\$ million
Refinance Existing Backstop ABL (3)	\$62.4
Refinance Incremental Finance Facility (4)	\$50.3
Repayment of portion of the Existing PNC ABL (1)	\$5.0
Partial payment of transaction costs and interest costs (5)	\$2.3
<b>Total Uses</b>	<b>\$120.0</b>

(1) Assumes that the SPP and the Creditor Share Purchase Option are fully subscribed. If less than \$5 million is raised by the Company from the SPP and CSPO, the amount of the Existing PNC ABL that is repaid will lower.

(2) The Company entered into the Exit Financing Commitment Letter on 19 July 2021; the commitment amount is shown for illustrative purposes only.

(3) Includes accrued interest as at 30 June 2021.

(4) Represents commitment amount for illustrative purposes and actual accrued interest as at 30 June 2021.

(5) Remaining available balance under the Exit Financing Facility to be applied to pay any further accrued interest on the Existing Backstop ABL, the Incremental Finance Facility and some transaction costs.

**Table 2: Pro-forma Debt**

US\$ million	30 June 2021 Pre- Recapitalisation	Transaction Adjustments	Post- Recapitalisation
Existing PNC ABL (1) (5) (7)	\$6.0	(\$5.0)	\$1.0 (6)
Existing Backstop ABL (1) (7)	\$62.4	(\$62.4)	-
Incremental Finance Facility (2)	\$50.3	(\$50.3)	-
Exit Financing Facility (4)	-	\$115.0	\$115.0
Term Loan - Tranche A (1) (7)	\$162.1	(\$162.1)	-
Term Loan - Tranche B (1) (7)	\$195.4	(\$195.4)	-
SSN Indenture Notes (3) (7)	\$354.9	(\$354.9)	-
SUN Indenture Notes (1) (7)	\$94.1	(\$94.1)	-
Lease liability (IFRS-16)	\$39.3	-	\$39.3
<b>Total Debt</b>	<b>\$964.5</b>	<b>(\$809.2)</b>	<b>\$155.3</b>

(1) Includes accrued interest as at 30 June 2021.

(2) Represents commitment amount for illustrative purposes and actual accrued interest as at 30 June 2021.

(3) Includes accrued interest and SSN applicable premium as at 30 June 2021.

(4) The Company entered into the Exit Financing Commitment Letter on 19 July 2021; the commitment amount is shown for illustrative purposes only.

(5) Assumes that the SPP and the Creditor Share Purchase Option are fully subscribed. If less than \$5 million is raised by the Company from the SPP and CSPO, the amount of the Existing PNC ABL that is repaid will lower.

(6) This demonstrates the adjusted balance of the Existing PNC ABL as at 30 June 2021 for illustrative purposes only, and will vary.

(7) The debt balances shown in the table above represent the amounts owing to the relevant lenders as at 30 June 2021, as advised to the Company by the relevant lenders. The debt balances for the same debt facility may be reported slightly differently in the Company's balance sheet as a consequence of the debt balances being reported in accordance with AASB accounting standards.

The impact of the Recapitalisation Transactions on certain financial ratios of the Company is set out below.

US\$ million	Pre-Recapitalisation	Post-Recapitalisation
Total Long-Term Debt (1)	\$964.5	\$155.3
FY 2020 Adjusted EBITDA	\$60.1	\$60.1
<b>Total Gross Leverage Ratio</b>	<b>16.1x</b>	<b>2.6x</b>
Net Long-Term Debt (2)	\$931.8	\$122.6
FY 2020 Adjusted EBITDA	\$60.1	\$60.1
<b>Total Net Leverage Ratio</b>	<b>15.50x</b>	<b>2.04x</b>
FY 2020 Adjusted EBITDA	\$60.1	\$60.1
Annualised Cash Interest (3)	\$21.6 (4)	\$16.4 (5)
Annualised PIK Interest	\$60.8(4)	\$0.0 (5)
<b>Cash Interest Coverage Ratio</b>	<b>2.78x</b>	<b>3.66x</b>
<b>Interest Coverage Ratio (6)</b>	<b>0.73x</b>	<b>3.66x</b>

Source: Company financial statements and disclosures

(1) Represents long-term debt as at 30 June 2021.

(2) Represents long-term debt and cash as at 30 June 2021.

(3) Does not include interest under the Term Loan A, Term Loan B, Existing Backstop ABL, SSN Indenture, SUN Indenture or Incremental Finance Facility, which is paid in kind (PIK) interest.

- (4) Annualised interest calculated by reference to pre-recapitalisation debt.
- (5) Annualised interest calculated by reference to post-recapitalisation debt.
- (6) Includes both PIK and cash interest.

#### 5.4 **Potential voting power in the Company of Centerbridge and the Ad Hoc Group following the Recapitalisation**

The voting power of Centerbridge and the Ad Hoc Group in the Company following implementation of the Recapitalisation will depend on a number of factors, including:

- (a) the number of Shares issued to Non-Associated Shareholders under the SPP;
- (b) the number of Shares issued to SUN Noteholders under the Creditor Share Purchase Option and the extent to which any Shares are issued to Other CSPO Participants under the Creditor Share Purchase Option as a result of undersubscriptions by SUN Noteholders under the Creditor Share Purchase Option;
- (c) the number of New Warrants exercised and converted into Shares by SUN Noteholders; and
- (d) the number of Shares (if any) purchased and cancelled by the Company under the Selective Buy-Back.

The tables below set out the potential voting power of Centerbridge and the Ad Hoc Group following implementation of the Recapitalisation under various different scenarios.

Each table is prepared having regard to the following assumptions:

- (a) the debt holdings of the Supporting Creditors is based on information known to the Company as at 9 July 2021; and
- (b) the number of Shares in the column under current voting power are listed on a pre-consolidation basis and when included in the column under voting power on implementation of the restructuring this is on a post 20 for 1 consolidation basis (calculated without regard to separate share parcels and associated rounding adjustments) (see Section 4.1);
- (c) the foreign exchange conversion price used assumes a conversion price based on the average May 2021 USD/AUD exchange rate of \$1.29 (source: CapIQ); and
- (d) none of the Existing Warrants and Existing Options are exercised. The current exercise prices of the Existing Warrants and Existing Options will be adjusted as a result of the Share Consolidation by multiplying the exercise prices by 20 (see Section 4.1). Following that adjustment to the relevant exercise prices, the Existing Warrants and Existing Options will be significantly out of the money. It is therefore assumed for these purposes that the Existing Warrants and Existing Options will not be exercised. The tables below do not show the current holdings of the parties of the Existing Warrants and Existing Options.



**Table 1: The SPP and Creditor Share Purchase Option are fully subscribed, New Warrants are not exercised**

Party	Current voting power as at the date of this Explanatory Statement (including %)	Voting power on implementation of the Recapitalisation (including %)	
		Shares	New Warrants
Centerbridge	47,189,771 (53.3%)	134,503,475 (45.2%)	0
AHG Members	20,897,240 (23.6%)	159,489,615 (53.6%)  (This includes 1,233,770 Shares issued to AHG Members pursuant to the CSPO)	30,810,489
Other persons	20,424,789 (23.1%)	3,650,408 (1.2%)  (This includes 78,313 Shares issued under the CSPO and 1,302,083 issued under the SPP)	1,971,659
<b>Total</b>	<b>88,511,800 (100.0%)</b>	<b>297,643,499 (100.0%)</b>	<b>32,782,148</b>

**Assumptions:**

- (a) All Shares offered under the SPP are taken up by Non-Associated Shareholders.
- (b) All Shares offered under the Creditor Share Purchase Option are taken up by all of the SUN Noteholders (and the Shares are issued pro rata to the total amount of SUN Debt held by all SUN Noteholders as at the RSA Date).
- (c) None of the New Warrants are exercised.
- (d) None of the Existing Warrants and Existing Options are exercised. The current exercise prices of the Existing Warrants and Existing Options will be adjusted as a result of the Share Consolidation by multiplying the exercise prices by 20 (see Section 4.1). Following that adjustment to the relevant exercise prices, the Existing Warrants and Existing Options will be significantly out of the money. It is therefore assumed for these purposes that the Existing Warrants and Existing Options will not be exercised.
- (e) No Shares are purchased by the Company under the Selective Buy-Back.

**Table 2: The SPP and Creditor Share Purchase Option are fully subscribed, New Warrants are exercised**

Party	Current voting power as at the date of this Explanatory Statement (including %)	Voting power on implementation of the Recapitalisation and before exercise of the New Warrants (including %)		Voting power post exercise of New Warrants issued under the Recapitalisation (including %)
		Shares	New Warrants	Shares
Centerbridge	47,189,771 (53.3%)	134,503,475 (45.2%)	0	134,503,475 (40.7%)

Party	Current voting power as at the date of this Explanatory Statement (including %)	Voting power on implementation of the Recapitalisation and before exercise of the New Warrants (including %)		Voting power post exercise of New Warrants issued under the Recapitalisation (including %)
	Shares	Shares	New Warrants	Shares
<b>AHG Members</b>	20,897,240 (23.6%)	159,489,615 (53.6%)  (This includes 1,233,770 Shares issued to AHG Members pursuant to the CSPO)	30,810,489	190,300,104 (57.6%)
<b>Other persons</b>	20,424,789 (23.1%)	3,650,409 (1.2%)  (This includes 78,313 Shares issued under the CSPO and 1,302,083 issued under the SPP)	1,971,659	5,622,067 (1.7%)
<b>Total</b>	88,511,800 (100.0%)	297,643,499 (100.0%)	32,782,148	330,425,647 (100.0%)

**Assumptions:**

- (a) All Shares offered under the SPP are taken up by Non-Associated Shareholders.
- (b) All Shares offered under the Creditor Share Purchase Option are taken up by all of SUN Noteholders (and the Shares are issued pro rata to the total amount of SUN Debt held by all SUN Noteholders as at the RSA Date).
- (c) All of the New Warrants are exercised.
- (d) None of the Existing Warrants and Existing Options are exercised. The current exercise prices of the Existing Warrants and Existing Options will be adjusted as a result of the Share Consolidation by multiplying the exercise prices by 20 (see Section 4.1). Following that adjustment to the relevant exercise prices, the Existing Warrants and Existing Options will be significantly out of the money. It is therefore assumed for these purposes that the Existing Warrants and Existing Options will not be exercised.
- (e) No Shares are purchased by the Company under the Selective Buy-Back.

**Table 3: No shares are subscribed for under the SPP, the Creditor Share Purchase Option is fully subscribed, New Warrants are exercised**

Party	Current voting power as at the date of this Explanatory Statement (including %)	Voting power on implementation of the Recapitalisation and before exercise of the New Warrants (including %)		Voting power post exercise of New Warrants issued under the Recapitalisation (including %)
	Shares	Shares	New Warrants	Shares
<b>Centerbridge</b>	47,189,771 (53.3%)	134,503,475 (45.2%)	0	134,503,475 (40.7%)
<b>AHG Members</b>	20,897,240 (23.6%)	160,713,386 (54.0%)  (This includes 2,447,540 Shares issued to AHG)	30,810,489	191,523,875 (58.0%)

Party	Current voting power as at the date of this Explanatory Statement (including %)	Voting power on implementation of the Recapitalisation and before exercise of the New Warrants (including %)		Voting power post exercise of New Warrants issued under the Recapitalisation (including %)
		Shares	New Warrants	
		Members pursuant to the CSPO)		
<b>Other persons</b>	20,424,789 (23.1%)	2,426,639 (0.8%)  (This include 156,626 Shares issued under the CSPO)	1,971,659	4,398,298 (1.3%)
<b>Total</b>	88,511,800 (100.0%)	297,643,499 (100.0%)	32,782,148	330,425,647 (100.0%)

**Assumptions:**

- (a) None of the Shares offered under the SPP are taken up.
- (b) All Shares offered under the Creditors Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by all of the SUN Noteholders (and the Shares are issued pro rata to the total amount of SUN Debt held by all SUN Noteholders as at the RSA Date).
- (c) All of the New Warrants are exercised.
- (d) None of the Existing Warrants and Existing Options are exercised. The current exercise prices of the Existing Warrants and Existing Options will be adjusted as a result of the Share Consolidation by multiplying the exercise prices by 20 (see Section 4.1). Following that adjustment to the relevant exercise prices, the Existing Warrants and Existing Options will be significantly out of the money. It is therefore assumed for these purposes that the Existing Warrants and Existing Options will not be exercised.
- (e) No Shares are purchased by the Company under the Selective Buy-Back.

**Table 4: No Shares are subscribed for under the SPP, all Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by Centerbridge, none of the New Warrants are exercised**

Party	Current voting power as at the date of this Explanatory Statement (including %)	Voting power on implementation of the Recapitalisation (including %)	
		Shares	New Warrants
<b>Centerbridge</b>	47,189,771 (53.3%)	137,107,641 (46.1%)  (This includes 2,604,166 Shares issued to Centerbridge pursuant to the CSPO)	0
<b>AHG Members</b>	20,897,240 (23.6%)	158,265,845 (53.2%)	30,810,489
<b>Other persons</b>	20,424,789 (23.1%)	2,009,597 (0.7%)	1,971,659
<b>Total</b>	88,511,800 (100.0%)	297,383,083 (100.0%)	32,782,148

**Assumptions:**

- (a) No Shares are taken under the SPP, but those Shares are instead taken up by Centerbridge under the Creditor Share Purchase Option.
- (b) All Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by Centerbridge. This maximum number of Shares is calculated assuming no Shares were taken up under the SPP and the CBP Creditors (or their nominees who are Affiliates of Centerbridge) acquire all of the available Shares under the Creditor Share Purchase Option because all participants in the Creditor Share Purchase Option transferred their entitlements under the Creditor Share Purchase Option to the CBP Creditors (or their nominees who are Affiliates of Centerbridge).
- (c) None of the New Warrants are exercised.
- (d) None of the Existing Warrants and Existing Options are exercised. The current exercise prices of the Existing Warrants and Existing Options will be adjusted as a result of the Share Consolidation by multiplying the exercise prices by 20 (see Section 4.1). Following that adjustment to the relevant exercise prices, the Existing Warrants and Existing Options will be significantly out of the money. It is therefore assumed for these purposes that the Existing Warrants and Existing Options will not be exercised.
- (e) The Company buys back the maximum amount of Shares (260,416) under the Selective Buy-Back.

**Table 5: No Shares are subscribed for under the SPP, all Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by the AHG Members, all of the New Warrants held by the AHG Members are exercised, no other New Warrants are exercised**

Party	Current voting power as at the date of this Explanatory Statement (including %)	Voting power on implementation of the Recapitalisation (including %) and exercise of New Warrants by AHG Members	
		Shares	New Warrants
Centerbridge	47,189,771 (53.3%)	134,503,475 (41.0%)	0
AHG Members	20,897,240 (23.6%)	191,680,500 (58.4%) (This includes 2,604,166 Shares issued to the AHG Members pursuant to the CSPO)	Assumed exercised
Other persons	20,424,789 (23.1%)	2,009,597 (0.6%)	1,971,659
<b>Total</b>	<b>88,511,800 (100.0%)</b>	<b>328,193,572 (100.0%)</b>	<b>1,971,659</b>

**Assumptions:**

- (a) No Shares are taken under the SPP, but those Shares are instead taken up by AHG Members under the Creditor Share Purchase Option.
- (b) All Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by the AHG Members. This maximum number of Shares is calculated assuming no Shares were taken up under the SPP and the AHG Members acquire all of the available Shares under the Creditor Share Purchase Option because all participants in the Creditor Share Purchase Option transferred their entitlements under the Creditor Share Purchase Option to the AHG Members.
- (c) All of the New Warrants held by the AHG Members are exercised, no other New Warrants are exercised.
- (d) None of the Existing Warrants and Existing Options are exercised by any of the holders of these warrants and options. The current exercise prices of the Existing Warrants and Existing Options will be adjusted as a result of the Share Consolidation by multiplying the exercise prices by 20 (see Section 4.1). Following that adjustment to the relevant exercise prices, the Existing Warrants and Existing Options will be significantly out of the money. It is therefore assumed for these purposes that the Existing Warrants and Existing Options will not be exercised.
- (e) The Company buys back the maximum amount of Shares (260,416) under the Selective Buy-Back.

**Note 1:** Shareholder approval is being sought for each of Centerbridge and the AHG Members to acquire the maximum number of Shares that can be issued pursuant to the Recapitalisation Transactions, being the maximum voting power that each of Centerbridge and the AHG Members may acquire pursuant to the terms of the Creditors' Schemes and the Creditor Share Purchase Option.

**Note 2:** The New Warrants do not confer voting rights.

## **6. ADVANTAGES AND RISKS OF THE RECAPITALISATION**

### **6.1 Rationale for Recapitalisation**

The Independent Directors believe that the Recapitalisation provides a comprehensive recapitalisation solution that is the best available option to maximise long-term Shareholder value, with other options considered as part of the Strategic Review either not providing a comprehensive solution or leaving existing Shareholders and other stakeholders with an inferior outcome. The Independent Directors believe that the Recapitalisation will improve the Company's capital structure and provide significantly improved financial flexibility to better position the Company to sustain operations through current and expected market conditions and also to provide resources to allow the Company to make tactical investments in incremental, customer-focused product and service enhancements.

### **6.2 Reasons Shareholders may vote FOR the Recapitalisation Resolutions**

- (a) The Recapitalisation is the result of the comprehensive Strategic Review in which a range of potential recapitalisation and restructuring options were evaluated.
- (b) The Company's current capital structure is unsustainable in the medium term. The Company has been operating under high debt levels and constrained liquidity conditions which became more severe as a result of the COVID-19 pandemic, given the high costs to service existing debt and the lack of available options to obtain incremental capital to fund business operations.
- (c) The Company believes that the announced Recapitalisation represents the best and only executable option for the Company to create a more sustainable capital structure and secure needed liquidity.
- (d) The Recapitalisation will provide the best feasible opportunity for future value recovery for Shareholders and other stakeholders, when measured against the alternatives.
- (e) A failure to pass the Recapitalisation Resolutions will mean that the Recapitalisation will not proceed and, as a result, the Company may not be able to meet its debt repayment obligations absent a refinancing (which is considered unlikely given the Company's current financial position). The Directors consider it unlikely that a superior proposal could be agreed with the Company's lenders, or that any alternative proposal would result in a better return for creditors and shareholders than the announced Recapitalisation. There is a significant and present risk that the Company would be placed in external administration if Shareholders fail to pass the Recapitalisation Resolutions. In this event, Shareholders would likely receive little or no return on their shareholding.
- (f) The Directors are of the opinion that if the Company is unable to implement the Recapitalisation, the Company's secured creditors may appoint a receiver over certain assets.
- (g) The Recapitalisation provides an opportunity for Eligible SPP Shareholders to participate in the issue of further Shares under the Share Purchase Plan.
- (h) If the Re-domiciliation Scheme Resolution is passed at the Re-domiciliation Scheme Meeting and the Selective Buy-Back Resolution is passed at the

EGM, Eligible SBB Shareholders with small parcels of Shares will have an opportunity to cash out their shareholding in the Company without incurring brokerage fees and other expenses, subject to the Company's absolute discretion to determine whether to accept or reject an offer to sell Shares to the Company under the Selective Buy-Back (see Section 1.7).

- (i) The Recapitalisation will have the effect of significantly reducing the Company's debt levels, reducing financial pressure on the Company and thus allowing Directors and management to focus their attentions on further stabilising the Company's business.

### 6.3 **Reasons Shareholders may vote AGAINST the Recapitalisation Resolutions**

- (a) The aggregate percentage holding of Non-Associated Shareholders will be significantly diluted by the issue of Shares under the Recapitalisation. The Recapitalisation will convert approximately US\$795 million of the Company's debt and accrued interest costs into 98.5% of the Company's post Recapitalisation ordinary shares (before (1) the issue of any Shares on the exercise of any New Warrants, Existing Warrants or Existing Options, (2) the issue of Shares under the Share Purchase Plan and the Creditor Share Purchase Option, (3) any buy-back of Shares under the Selective Buy-Back, and (4) the issue of any Shares under any management incentive plan).
- (b) Following implementation of the Recapitalisation, the BLY Board will be comprised of nine Directors:
  - (i) five of whom will be nominees of Centerbridge;
  - (ii) three of whom will be nominees of the Ad Hoc Group; and
  - (iii) with the remaining director being Jeff Olsen, the Chief Executive Officer (Section 1.8).

This will mean that, following implementation of the Recapitalisation, the Company will not adhere to some of the non-binding ASX Corporate Governance Council Principles and Recommendations, including Recommendation 2.4 (being that a majority of the board of a listed entity should be independent directors).

- (c) Shareholders may disagree with the recommendation of the Independent Directors and/or the findings of the Independent Expert and be of the opinion that the Recapitalisation is not in the best interests of the Company and its Shareholders.
- (d) Potential Australian tax risk from implementation of the Creditors' Schemes

The exchange of debt for Shares is expected to give rise to a "commercial debt forgiveness" (CDF) under the Australian tax legislation. The CDF rules do not create immediate taxable income for BLY, but give rise to a "net forgiven amount" broadly equal to the difference between the amount of the outstanding debt being exchanged and the value of the Shares issued. This CDF net forgiven amount is applied to reduce available tax losses and other tax attributes of BLY. The amount of the possible CDF net forgiven amount is dependent on the value of the Shares as of the effective date of the exchange, which is not known at this time. While BLY anticipates that some of its carry forward losses will be available to offset the CDF net forgiven amount, BLY

may not have sufficient loss carry forwards available to fully offset any CDF net forgiven amount from the exchange. In this situation, the net forgiven amount would then reduce tax basis in other assets. The reduction in tax basis of short-term assets could result in a near-term cash tax liability in the event those assets are disposed of by BLY for amounts in excess of their reduced tax basis.

Australian tax law may limit the ability to use prior year losses to offset future income should BLY fail the "continuity of ownership test" (**COT**) under the Australian tax legislation (a **COT Failure**). If a COT Failure occurs prior to the end of the income tax year of BLY in which the CDF occurs, it will increase the risk that the CDF net forgiven amount (as discussed above) will not be fully offset by BLY's carry forward losses and will instead reduce the tax basis of BLY's assets, which could result in a near-term cash tax liability.

Broadly, the COT requires the Company to have maintained more than 50% of the same ultimate beneficial owners from the start of each loss year and at each applicable test time until the end of the income year in which the loss is sought to be recouped (certain concessions are available for listed companies that reduce the number of applicable testing points and limit the extent of tracing required through to ultimate beneficial owners). Due to significant overlap between the creditors who are being issued Shares under the Creditors' Schemes and BLY's current Shareholders, the implementation of the Creditors' Schemes is not expected to result in an "ownership change" of the Australia Tax Group for the purposes of COT calculation. However, the issuance of new equity to the debtholders may affect the Company's ability to satisfy the COT into the future and equity holders who exit their positions after the implementation of the Creditors' Schemes may put at risk the continued ownership requirement.

BLY is separately preparing for a re-domiciliation of the Company to North America which may increase the risk of a COT Failure.

However, in Australia there is a secondary same business test or (depending on the applicable loss year) alternately a similar business test (together known as the "continuity of business test") which, if BLY qualifies, may offer relief if a COT Failure occurs.

(e) ASX Spread Requirements

The value and number of registered shareholdings in the Company will be affected by certain of the Recapitalisation Transactions including the Selective Buy-Back, if it proceeds. Some of those transactions may increase the value of a registered shareholding, such as participation in the Share Purchase Plan. Other transactions may reduce the value or the number of registered shareholdings, such as the issue of shares under the Creditors' Schemes or participation by a holder in the Selective Buy-Back.

If in the view of ASX, including as a consequence of those transactions, there is not an orderly and liquid market in Shares then ASX may require the Company to obtain sufficient 'spread' so that an orderly and liquid market does exist, or take other action such as to suspend the quotation on ASX of the Shares. To the extent the Company has a discretion, for example in the allocation of Shares under the Share Purchase Plan, the Company intends, to the extent necessary, to exercise that discretion so as to help achieve an orderly and liquid market in the Shares.



Despite the reasons set out immediately above, the Independent Directors believe that the advantages outlined in Section 6.2 outweigh these considerations.

## 7. INDEPENDENT EXPERT'S REPORT AND INDEPENDENT DIRECTORS' RECOMMENDATION

### 7.1 Independent Expert's Report

The Company appointed KPMG to prepare the Independent Expert's Report in relation to the Recapitalisation. The Independent Expert's Report contains a detailed assessment of the Recapitalisation and sets out information to enable Non-Associated Shareholders to assess the merits of, and decide whether to approve, the Recapitalisation Resolutions.

The Independent Expert has concluded that the Recapitalisation is fair and reasonable to Non-Associated Shareholders in the absence of a superior proposal.

### 7.2 Independent Directors' Recommendation

Mr Tochilin and Mr McDougal consider themselves to be conflicted owing to their relationships with Centerbridge and therefore have abstained from making a recommendation in respect of the Recapitalisation Resolutions.

The Directors other than Mr Tochilin and Mr McDougal (the **Independent Directors**) consider that the Recapitalisation addresses the Company's critical financial needs and meets the primary objectives of the Strategic Review. Each of the Independent Directors believes that the Recapitalisation creates a more sustainable capital structure and increases the Company's financial flexibility, enabling the Company to better manage through a difficult operating environment and an uncertain period so as to enable a recovery in the Company's core markets and to better support strategies to restore earnings growth.

Subject to no Superior Proposal emerging, the Independent Directors unanimously recommend that Shareholders vote **IN FAVOUR** of the Recapitalisation Resolutions, and intend to vote any Shares that they own or control in favour of the Recapitalisation Resolutions. The rationale, risks and other factors relevant to whether Shareholders should vote for or against the Recapitalisation Resolutions are set out in detail in Section 6.

In making their recommendation, the Independent Directors have considered:

- (a) the advantages of the Recapitalisation being implemented, together with other factors relevant to a Shareholder's decision whether to vote for or against the Recapitalisation summarised in Section 6.2;
- (b) the risks associated with the Recapitalisation, as summarised in Section 6.3; and
- (c) the opinion of the Independent Expert, as contained in the Independent Expert's Report set out in Annexure A to this Explanatory Statement.

The Independent Directors consider that the rationale for undertaking the Recapitalisation clearly outweighs the risks of the Recapitalisation. Shareholders may wish to note that in providing their recommendation, the Independent Directors individually each hold in excess of 20,000 Shares in the Company, and therefore remain strongly aligned to the interests of Non-Associated Shareholders.

It is important for Shareholders to note that the Recapitalisation is subject to (among other things) the Recapitalisation Resolutions being passed by the required majority

of Shareholders. If Shareholders do not approve all of the Recapitalisation Resolutions, then the Recapitalisation will not occur.

### 7.3 **Advantages and risks of the Recapitalisation**

For information about the advantages and risks of the Recapitalisation, refer to Section 6.

## 8. CENTERBRIDGE

### 8.1 Overview of Centerbridge

#### Overview

Centerbridge is a private investment firm with approximately US\$31 billion in capital under management. Centerbridge focuses on private equity and credit investments and is dedicated to partnering with world-class management teams across industry sectors to help companies achieve their operating and financial objectives. Limited partners (investors) in the funds managed by Centerbridge include university endowments, state and corporate pension funds, sovereign wealth funds and family offices.

Centerbridge was established in 2005 and as at July 2021 currently has 100 investment professionals across its headquarters in New York and its office in London.

Centerbridge's recapitalisation investments in Australian publicly listed companies of note include:

- recapitalisation of Speedcast International Limited, an Australian satellite communications provider, in 2021;
- recapitalisations of the Company in 2015 and 2017;
- recapitalisation of Billabong International Limited, the ASX-listed global action sports apparel manufacturer and retailer, in 2013;
- restructuring of Centro Properties Group, an Australian shopping centre owner and operator, in 2011; and
- restructuring of Alinta Energy Group, an Australian natural gas utility, in 2010.

In each of these transactions, Centerbridge worked alongside management, shareholders and other stakeholders (including employees) to implement and support the respective companies' turnaround plans and create meaningful value for stakeholders.

#### Directors

Centerbridge currently has two nominee Directors appointed to the BLY Board. The details of the current Centerbridge nominee Directors are set out below.

#### **Rob Smith**

Mr Smith is a Partner of McGrathNicol. He joined the firm in May 2009 after spending nearly ten years with Ernst & Young's Transactions and Assurance divisions in Melbourne and Sydney. Since joining McGrathNicol, Rob has specialised in Advisory, Restructuring and Insolvency.

Mr Smith is a Member of the Institute of Chartered Accountants in Australia, Registered Liquidator and Member of the Australian Restructuring, Insolvency and Turnaround Association. He also holds a Bachelor of Commerce (University of Melbourne) and a Graduate Diploma of Applied Finance and Investment.

Mr Smith has led numerous complex trading insolvency engagements, restructurings, independent business reviews, strategy implementations and a range of performance improvement assignments.

Mr Smith's experience covers a variety of industries including manufacturing, automotive, mining and mining services, power and utilities, agribusiness, retail, media, biotechnology, information technology and financial services.

### **Conor Tochilin**

Conor Tochilin was appointed a Director of the Company on 20 January 2017. Mr Tochilin is a Principal at Centerbridge Partners, L.P., a major shareholder in the Company. Centerbridge manages approximately \$29 billion of assets with a focus on credit, special situations, and private equity. Prior to joining Centerbridge Partners, L.P., Mr Tochilin was an Associate at TPG-Axon Capital Management in New York and London and a Business Analyst in McKinsey's Corporate Finance Practice in New York.

Mr Tochilin holds an A.B. in Economics and Philosophy, magna cum laude, from Harvard College, where he was elected to Phi Beta Kappa, a J.D. from Harvard Law School, and an M.B.A. from Harvard Business School.

## **8.2 Acquisition**

Section 606 of the Corporations Act prohibits a person from acquiring a relevant interest in an entity if the acquisition would result in that person's voting power in the entity increasing from a starting point that is above 20% and below 90%, unless the acquisition falls within one of the exceptions in section 611, such as security holder approval under item 7 of section 611 of the Corporations Act.

### **(a) Identity of acquirer and associates**

Centerbridge will acquire a relevant interest in Shares under the Secured Debt Release, the Unsecured TLA, TLB, SSN Release and the Creditor Share Purchase Option. For more information in relation to Centerbridge, see Section 8.1.

Centerbridge presently intends to nominate one or a combination of the following entities (each of which is an Affiliate of Centerbridge) to acquire and be issued up to 132,143,987 Shares under the Creditors' Schemes (excluding any Shares taken up under the Creditor Share Purchase Option):

- CCP II (Cayman) Holdings A, L.P.
- Credit SC II Holdings E (Cayman), L.P.
- CCP II Dutch Acquisition – E2 B.V
- CCP Credit SC II Dutch Acquisition – E, B.V.

In addition to the entities listed above, Centerbridge's associates are CB Dutch Holdings Cooperatieve, U.A., Centerbridge Capital Partners SBS II (Cayman), L.P., Centerbridge Capital Partners II (Cayman), L.P., Centerbridge Associates II (Cayman) L.P., Centerbridge Special Credit Partners II AIV IV (Cayman), L.P., Centerbridge Special Credit Partners General Partner II (Cayman) L.P., Centerbridge Credit Partners Master, L.P., Centerbridge Credit Partners

Offshore General Partner, L.P., Centerbridge Credit Partners, L.P., Centerbridge Credit Partners TE, L.P., Centerbridge Credit Partners Offshore Ltd., Centerbridge Credit Partners General Partners, L.P. and Centerbridge Partners, L.P..

(b) **Maximum extent of increase in Centerbridge and their associates' voting power in the Company**

As at the date of this Explanatory Statement, the CBP Registered Holders currently have combined voting power in the Company of 53.3%.

The voting power of Centerbridge in the Company following implementation of the Recapitalisation will depend on various factors including (among other things) the number of Shares issued under the SPP and Creditor Share Purchase Option, and the number of shares purchased under the Selective Buy-Back.

If the Recapitalisation Transactions are approved, following the Secured Debt Release and Unsecured Debt Release, and if (a) no Shares are subscribed for under the SPP, (b) all Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by Centerbridge (c) none of the New Warrants are exercised (d) the Company buys back the maximum amount of Shares under the Selective Buy-Back, the voting power of Centerbridge and their Affiliates would be 46.1% (see Section 5.4). This represents a decrease in the voting power of Centerbridge and their Affiliates, however Shareholder approval under item 7 of section 611 of the Corporations Act is being sought from Shareholders in case (due to the timing of the issue of the Shares to the different parties under the Creditors' Schemes, SPP, and Creditor Share Purchase Option) at any point in time Centerbridge's voting power in the Company did increase above 53.3% for a period of time.

(c) **Voting power that Centerbridge and its associates would have as a result of the Recapitalisation Transactions**

If the Recapitalisation Transactions are approved, following the Secured Debt Release and the Unsecured Debt Release and if (a) no Shares are subscribed for under the SPP, (b) all Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by Centerbridge (c) none of the New Warrants are exercised (d) the Company buys back the maximum amount of Shares under the Selective Buy-Back, the maximum voting power that Centerbridge and their Affiliates would have on a combined basis as a result of the Recapitalisation is 46.1% (see Section 5.4).

### 8.3 **Future intentions**

This section sets out the intentions of Centerbridge regarding the future of the Company if Shareholders approve the Recapitalisation Resolutions.

(a) **Qualifications**

The statements of intention in this section must be read subject to the following:

- the statements are based on the information concerning the Company and the circumstances affecting the business of the Company that are

known to Centerbridge at the date of this Explanatory Statement, including pursuant to a disclosure and confidentiality agreement dated October 2014 entered into in conjunction with the 2015 restructuring of the Company;

- Centerbridge is not aware of all of the material information, facts and circumstances that are necessary to assess the financial, operational, commercial, taxation and other implications of the intentions set out below – accordingly, the statements reflect current intentions only and are subject to change as new information becomes available or as circumstances change;
- if the Recapitalisation Transactions are implemented, then pursuant to the CBP Director Nomination Agreement, Centerbridge will be entitled to nominate five persons to be appointed to the BLY Board;
- any directors nominated by Centerbridge to the BLY Board will have a duty to act in good faith in the best interests of the Company for a proper purpose, and in doing so will need to have regard to the interests of all Shareholders. They will also have a duty to avoid conflicts of interest; and
- laws regarding related party transactions (particularly under the Corporations Act and ASX Listing Rules) may place restrictions on the ability of the Company to enter into certain transactions with Centerbridge or its associates.

**(b) Nature and conduct of business**

Centerbridge will have influence over the nature and conduct of the business of the Company. Centerbridge does not have a present intention to make any changes to the Company other than where this would be consistent with the turnaround strategy of the BLY Board.

**(c) Injection of further capital**

Centerbridge has no present intention to provide further additional capital to the Company in the near term.

**(d) Future employment of employees**

Centerbridge does not presently intend to make any changes to the workforce other than where this would be consistent with the turnaround strategy of the BLY Board.

**(e) Transfer of assets**

Centerbridge does not presently intend to propose any transfer of assets between the Company and the CBP Creditors or any of the CBP Creditors' associates. The Company has however granted security over certain of its assets in favour of lenders affiliated with Centerbridge and its associates to secure the Company's obligations under existing loan facilities.

**(f) Redeployment of fixed assets**

Centerbridge has no current intention to redeploy any of the assets of the Company.

(g) **Financial or dividend policies**

Centerbridge intends to support the continuation of the Company's efforts to build a healthy balance sheet, the maintenance of appropriate levels of debt capital, and dividend levels commensurate with the health and cash flow generation of the Company (and any necessary changes to the Company's financial and dividend policies to give effect to these things).

(h) **Re-domiciliation and Re-listing**

In the RSA the Company agreed at the request of the Supporting Creditors to take all requisite steps to re-domicile its business in Canada or such other jurisdiction as to which all the Initial Supporting Creditors agree. It is the current intention of Centerbridge to support the Company's re-domiciliation (see Section 1.9). In conjunction with any re-domiciliation that the Company may undertake, Centerbridge is considering a potential dual listing on a stock exchange other than the ASX.



## 9. AD HOC GROUP

### 9.1 Overview of the Ad Hoc Group

The Ad Hoc Group comprises of a number of lenders affiliated with global investment managers.

Ares is a publicly traded, leading global alternative investment manager operating complementary, integrated investment groups that invest across the credit, private equity and real estate markets. Founded in 1997 and with approximately US\$207 billion of assets under management as of 31 March 2021, Ares' distinct but complementary investment groups collaborate to aim to deliver innovative investment solutions and consistent and attractive investment returns for fund investors throughout market cycles. Ares has over 25 offices around the world.

Ascribe is a New York based institutional investment manager with approximately US\$3 billion in assets under management. Ascribe invests in securities of companies that may be stressed or undergoing operational, financial, or other challenges, and in securities trading at a discount to intrinsic value. Founded in 2006, Ascribe aims to act as a true partner to management teams and other investors seeking non-traditional capital solutions to complex strategic and operational objectives.

Corre is a New York based institutional investment manager with approximately US\$1 billion in assets under management. Corre was founded in 2009 to invest in turnarounds and special situations in the middle market space utilizing a tactical ability to invest across the capital structure. Corre's investment philosophy emphasizes primary research and analysis, a willingness to look at complex and often under-covered situations, and a sponsor approach to assist companies in their portfolio in meeting operational, commercial, and strategic challenges to drive value.

FPA is a Los Angeles based investment management firm with an emphasis on value investing, prudently seeking superior long-term returns while maintaining a focus on capital preservation. As of 31 March 2021, FPA managed approximately US\$28 billion across its multiple strategies – Absolute Fixed Income, Contrarian Value, Contrarian Value Equity, Small-Cap Value, Core Equity, Large-Cap Value, Multi-Advisor, and Direct Lending Strategy.

Nut Tree is a New York based institutional investment manager which seeks to generate attractive risk-adjusted returns primarily by investing in stressed and distressed corporate debt, deep value and special situation equities and low loan-to-value high yield debt. Formed in June 2015, Nut Tree had approximately US\$2.6 billion in assets under management as of 1 May 2021.

### 9.2 Acquisition

Section 606 of the Corporations Act prohibits a person from acquiring a relevant interest in an entity if the acquisition would result in that person's voting power in the entity increasing from a starting point that is above 20% and below 90%, unless the acquisition falls within one of the exceptions in section 611, such as security holder approval under item 7 of section 611 of the Corporations Act.

#### (a) Identity of acquirer and associates

The identity of the AHG Members are set out in Section 9.1.

The AHG Members consider that they may be deemed to be associates of each other in relation to the Company by virtue of section 12(2)(b) or 12(2)(c) of the Corporations Act on the basis that the Restructuring Support Agreement contemplates that they will have a collective right to nominate a specified number of individuals for appointment to the BLY Board from time to time on and from the Creditors' Schemes Implementation Date. That right will arise under the Ad Hoc Group Director Nomination Agreements.

Consequently, each of the AHG Members has disclosed that it has voting power equal to the aggregate of the total number of votes attaching to voting shares in which any of the AHG Members hold a relevant interest.

**(b) Maximum extent of increase in Ad Hoc Group and their associates' voting power in the Company**

As set out in Section 5.4, the Ad Hoc Group currently have a combined voting power in the Company of 23.6%.

As further set out in Section 5.4, upon implementation of the Recapitalisation, following the Secured Debt Release, the Unsecured Debt Release and if (a) no Shares are subscribed for under the SPP, (b) all Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by the AHG Members, (b) all of the New Warrants held by the AHG Members are exercised (c) no other New Warrants are exercised and (d) the Company buys back the maximum amount of Shares under the Selective Buy-Back, the maximum extent of the increase in the voting power of the Ad Hoc Group or their nominees would be 34.8%.

**(c) Voting power that the Ad Hoc Group and their associates would have as a result of the Recapitalisation Transactions**

As set out in Section 5.4, if the Recapitalisation Transactions are approved, following the Secured Debt Release, the Unsecured Debt Release and if (a) no Shares are subscribed for under the SPP, (b) all Shares offered under the Creditor Share Purchase Option (including the US\$2.5 million unsubscribed amount from the SPP) are taken up by the AHG Members, (b) all of the New Warrants held by the AHG Members are exercised (c) no other New Warrants are exercised and (d) the Company buys back the maximum amount of Shares under the Selective Buy-Back, the maximum voting power that the Ad Hoc Group or their nominees would have on a combined basis as a result of the Recapitalisation would be 58.4%.

### 9.3 Future intentions

The statements of intention in this section must be read subject to the following:

- the statements are based on the information concerning the Company and the circumstances affecting the business of the Company that are known to the Ad Hoc Group at the date of this Explanatory Statement;
- the Ad Hoc Group is not aware of all of the material information, facts and circumstances that are necessary to assess the financial, operational, commercial, taxation and other implications of the intentions set out below – accordingly, the statements reflect current intentions only and are subject to change as new information becomes available or as circumstances change;

- the Ad Hoc Group expects to be supportive of the continued turnaround strategy for the Company and the steps that are involved in executing it, and is ready to assist the Company in formulating and implementing this strategy in the shortest possible timeframe; and
- if the Recapitalisation Transactions are implemented, pursuant to the Ad Hoc Group Director Nomination Agreements, the Ad Hoc Group will be entitled to nominate three persons to be appointed to the BLY Board. Any directors nominated by the Ad Hoc Group to the BLY Board will not represent a majority of the BLY Board and therefore will not be able to determine decisions of the BLY Board;
- any directors nominated by the Ad Hoc Group to the BLY Board will have a duty to act in good faith in the best interests of the Company for a proper purpose, and in doing so will need to have regard to the interests of all Shareholders. They will also have a duty to avoid conflicts of interests; and
- laws regarding related party transactions (particularly under the Corporations Act and ASX Listing Rules) may place restrictions on the ability of the Company to enter into certain transactions with the Ad Hoc Group or its associates.

(a) **Nature and conduct of business**

It is the current intention of the Ad Hoc Group that the Company will continue to operate its business in substantially the same manner as it is currently being conducted.

The Company is expected to continue to review all aspects of its assets and operations to identify ways to maximise value for all Shareholders. The Ad Hoc Group does not have a current intention to support a divestment or redeployment of assets, and will await the Company's review of its assets and operations before considering options to maximise value.

(b) **Injection of further capital**

Other than as contemplated by the Recapitalisation Transactions, the Ad Hoc Group does not have a current intention to inject or provide further capital to the Company.

(c) **Future employment of employees**

The Ad Hoc Group does not presently intend to make any changes to the workforce other than where this would be consistent with the turnaround strategy of the BLY Board.

(d) **Transfer of assets**

The Ad Hoc Group does not presently intend to propose any transfer of assets between the Company and the Ad Hoc Group or any of the Ad Hoc Group's Associates.

(e) **Redeployment of fixed assets**

The Ad Hoc Group has no current intention to redeploy any of the assets of the Company.

(f) **Re-domiciliation and Re-listing**

In the RSA the Company agreed to take all requisite steps to re-domicile its business in Canada or such other jurisdiction as to which the Initial Supporting Creditors agree. It is the current intention of the Ad Hoc Group to support the Company's re-domiciliation (see Section 1.9). In conjunction with a potential re-domiciliation of the Company, the Ad Hoc Group would be likely to support a potential dual listing on a stock exchange other than the ASX.

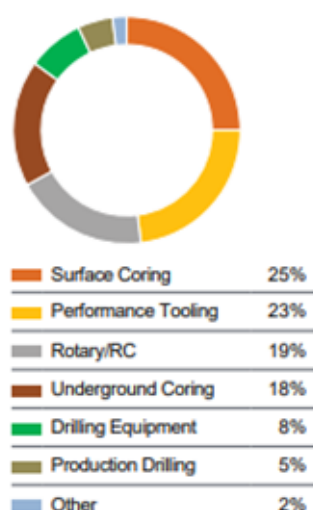
(g) **Financial or dividend policies**

The Ad Hoc Group is supportive of a policy under which no dividends are issued until the business of the Company is turned around.

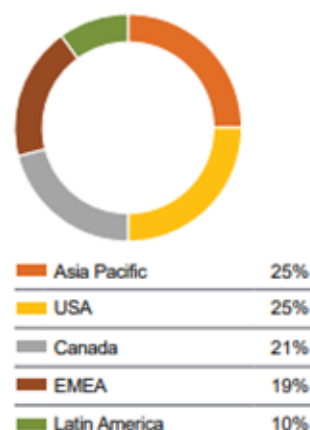
## 10. OVERVIEW OF THE COMPANY

The Company is a leading integrated provider of drilling services, drilling equipment and performance tooling for mining and mineral drilling companies globally, offering a comprehensive portfolio of technologically advanced and innovative drilling services and products. With its main focus in mining and exploration activities spanning a wide range of commodities, including copper, gold, nickel, zinc, uranium, and other metals and minerals, the Company also holds a substantial presence in the energy, oil sands exploration and environmental sectors. It operates through two segments, “Global Drilling Services” and “Global Products”, and believes its market-leading positions in the mineral drilling industry are driven by a variety of factors, including the performance, expertise, reliability and high safety standards of Global Drilling Services, the technological innovation, engineering excellence and global manufacturing capabilities of Global Products. These factors, combined with the Company’s global footprint, have facilitated long-standing relationships with a diverse and blue-chip customer base worldwide that includes many leading mining companies. With more than 130 years of drilling expertise, the Company believes its insignia and brand represent the gold standard in the global mineral drilling industry.

**Company Revenue  
(Products and Services)**



**Company Revenue  
by Region (Products  
and Services)**



### 10.1 Global Drilling Services

#### *Overview*

Global Drilling Services operates for a diverse mining customer base with drilling methods including diamond coring exploration, reverse circulation, large diameter rotary, mine dewatering, water supply drilling, pump services, production, and sonic drilling services.

Global Drilling Services is integral to its mining customers’ mineral exploration, evaluation and resource delineation activities, as the rock and core samples the Company extracts provide essential geological information about mineral deposits and subsurface conditions. As at 31 December 2020, the Company owned 640 drill rigs.

The exploration market, mining market and construction market were materially impacted by the COVID-19 pandemic in 2020 and, as a result of COVID-19 and the

trending uncertainty in mineral exploration, production and development activities, Global Drilling Services' revenue in 2020 was \$456 million, down 11.6% from \$516 million in 2019. The year-over-year revenue decrease was driven primarily by the COVID-19 pause through the second and third quarters as governments and customers restricted activities while developing safe work practices to protect employees from the transmission of the COVID-19 virus. Canada, Australia, Asia, and Africa recovered more quickly from COVID-19 restrictions than the United States, Chile, and Argentina. The majority of the year over year decrease in revenue is attributable to these three countries.

Approximately 89% of Global Drilling Services' revenue for 2020 was derived from major mining companies, including AngloGold Ashanti, Barrick, Newmont, and Rio Tinto. The Company's top 10 Global Drilling Services customers represented approximately 52% of the division's revenue for 2020, with no contract contributing more than 10% of the Company's consolidated revenue.

#### *Drilling services offered*

- **Mining** - Drilling services for minerals primarily involves the extraction of solid rock core or chip samples for technical analysis. This activity is typically contracted to third party service providers, such as the Company. The samples extracted provide the mining companies with critical information over the life of a mining project. Drilling services are used in each stage of the life cycle of the mining operation: greenfield, development, production and mine closure.
- **Energy** - The energy drilling services the Company provides relate to the exploration and development of non-conventional energy sources such as oil sands, oil shale, coal, coal seam gas and geothermal energy. The Company does not drill production wells for conventional oil or gas, but provides specialised gas well pre-collaring services. The Company provides earth and rock core samples for analysis, as well as completed holes for the installation of gas well casings.

#### *Drilling technologies*

The Company's Global Drilling Services division offers its mining customers a wide variety of drilling technologies tailored to meet clients' needs. All methods require purpose-built equipment, tooling and skilled operators to perform the drilling safely, efficiently and to a high standard of quality. Drilling technologies consist of the following:

- **Diamond core drilling (surface and underground)** - Diamond core drilling uses an industrial-grade diamond crown drill bit to cut a cylindrical core through solid rock. This is a desirable drilling technology suited to many mining customers' needs due to the information that it yields. The core barrel assembly used in diamond core drilling enables core samples to be retrieved through the hollow drill rods with a wireline device. The wireline device allows the core sample to be extracted without having to remove the entire string of drill rods from the hole to reach the sample. The benefits of this device are of particular importance for deep drilling.
- **Production drilling** - Production drilling is a fast and effective method to quickly remove earth and obtain ore. Holes are drilled with a pneumatic/hydraulic top hammer or an in-the-hole hammer with a carbide percussive bit. Once the hole is drilled into the rock, it is filled with explosives. After detonation, the debris is cleared and the process is repeated. This method

of drilling is sometimes referred to as long-hole drill-and-blast. This method of drilling is also used when holes are needed to connect from level to level in an underground mine or when up-holes are drilled in the back of underground tunnels to install cables for structural support in the tunnels.

- **Rotary drilling** - Rotary drilling involves a continuous rotation of a drill bit to bore through earth and rock. As cuttings are created, they are circulated out of the borehole with either air or drilling fluids. There are several technologies used to perform rotary drilling including reverse circulation, flooded reverse, and conventional rotary. Reverse circulation drilling is used to collect rock samples quickly and efficiently using a large rotary drill and air compressor. This method is ideal for obtaining mineral samples in the early phases of an exploration project. In addition, rotary drilling is used in the development and production stages of mining. The Company's dual-tube flooded reverse technology allows us to install dewatering wells in existing mines. This method can also be used to drill "service holes" in underground mines to supply utilities and air shafts to the mine. In addition, rotary drilling is also used where pockets of water near the walls of an open pit mine create pressure against the wall making it unstable. Horizontal holes are drilled in the wall to create an outlet for water to drain and relieve wall pressure.
- **Sonic drilling** - Sonic drilling produces a continuous, in-situ sample providing close to 100% recovery in almost any overburden formation. Sonic drilling relies upon sending a frequency from the head into the rod. The sonic tooling penetrates the surface with minimal rotation, friction and disruption. This method of drilling provides a continuous sample, and is ideal in both overburden and environmentally sensitive areas. Mining companies will utilise sonic drilling to examine leach pads, ore bodies just prior to processing, and pre-collars in unconsolidated formations. The technology does not require water or mud consumables, which makes it an environmentally friendly form of drilling that offers an uncontaminated sample.

## 10.2 Global Products

### *Overview*

Global Products, which includes the rapidly growing Geological Data Services division, offers sophisticated research and development and holds hundreds of patented designs to manufacture, market, and service reliable drill rigs, innovative drill string products, rugged performance tooling, durable drilling consumables, and quality parts for customers worldwide. Global Products continues to maintain market leadership with the recent commercialisation of new products such as its LF160 surface coring drill with the Freedom loader, patented Longyear™ diamond bits, DriftMaster™ drill rods for blast-hole applications, and XQ™ coring rods. These newer products complement the well-respected lines of existing products that customers have come to rely on from the Company.

The Company is also pursuing market leadership in providing subsurface resource information to its mining customers in an integrated, real-time, and cost-effective manner through its Geological Data Services business. The Geological Data Services division utilises innovative scanning technology and down-hole instrumentation tools to capture detailed geological data from drilled core and chip samples. This valuable orebody knowledge gives mining companies the ability to make timely decisions for more efficient exploration activities.

Revenue for the Global Products division for the year was \$201.0 million, down 12.1% from \$228.7 million in 2019. Revenues generated from capital equipment, spares, and production tooling were the main drivers contributing to weaker revenue in 2020 relative to the prior period. The decrease in revenues across these product lines were primarily a result of decreased demand in the second and third quarters due to the COVID-19 pandemic that drove governments and customers to delay project activity while they implemented safe work practices to reduce the transmission of the COVID-19 virus.

#### *Drilling Products Offered*

Global Products supplies drilling equipment (surface and underground) and performance tooling (diamond drill bits, percussive drill bits, core barrels, drill rods and casings and other products) to the minerals, environmental and infrastructure and energy industries. Below is a summary of the primary products the Company sells.

- **Coring tools** - Coring tools include advanced wireline and conventional diamond drill coring systems used in minerals drilling, including diamond drill bits, core barrels, rods and casings. These products are designed and used to extract rock and other core samples drilled.
- **Rigs** - The Company manufactures a wide range of rigs for use by the minerals, environmental and infrastructure and energy industries. Each rig type is designed and manufactured for specific applications. The parameters used to design rigs include hole depth, hole diameter, hole use/maintenance and ground conditions.
- **Percussive tools** - Percussive tools include drill-mounted and hand-held hammers used to produce the rotation and impact forces, shank adaptors to transmit the energy to the drill string, drill rods and couplings for various hole depths and bits, which are fitted with tungsten carbide inserts to fracture the rock.
- **Aftermarket services** – The Company's customers are supported through experienced teams of service technicians. In-house and field-based repair services are available, as well as technical advice and support.

#### *Backlog*

At 31 December 2020, Global Products had a backlog of product orders valued at \$44.6 million. This compares to \$35.9 million at 31 December 2019. Average backlog during the second half of 2020 was \$33.5 million compared to \$33.2 million during the first half of 2020. The increase in backlog year over year, which is defined as product orders the Company believes to be firm, was driven by an increase in demand for consumables. An order shipped within the same month as an order is received does not show up in backlog. Further, there is no certainty that orders in backlog will result in actual sales at the times or in the amounts ordered.

#### *Intellectual property*

The Company relies on a combination of patents, trademarks, trade secrets and similar intellectual property rights to protect the proprietary technology and other intellectual property that are instrumental to the Global Products business. As at 31 December 2020, the Company had 408 issued patents, 428 registered trademarks, 131 pending patent applications and 13 pending trademark applications. The Company does not consider the Global Products business, or the business as a whole,



to be materially dependent upon any particular patent, trademark, trade secret or other intellectual property.

#### *Research and development*

The Global Products division employs engineers and technicians to develop, design and test new and improved products. The Company works closely with its customers, as well as its Global Drilling Services division, to identify opportunities and develop technical solutions for issues that arise on site. The Company believes that sharing best practices amongst its divisions accelerates innovation and increases safety and productivity in the field. This integrated business model provides the Company with an advantage in product development, and it believes it enables it to bring new technology to the market with speed and reliability. Prior to their introduction, new products are subjected to extensive testing in various environments, again with assistance from the Global Drilling Services network. New product development efforts remain focused on product changes that continue to drive increased safety and productivity, so customers see real added value regardless of the business environment. The Company's recent successes include the LF160 surface coring drill paired with its Freedom Loader which has set a new benchmark in productivity and hands-free rod handling. The Company's patented Longyear™ coloured diamond bits continue to show improved productivity by lasting longer and cutting faster. Commercial launch of the new XQ™ coring rod continues globally, featuring a greater depth capacity than the RQ™ rod, and faster, easier joint make/breaks for higher productivity.

Under the Company's Geological Data Services business, TruCore™ electronic core orientation tools continue to expand geographically and are available globally. The TruShot™ electronic magnetic survey technology is the second offering in a future suite of tools and is available globally. The Company has recently launched its TruSub™ technology. TruSub™ is a digital drill sub technology that fits between the drill head and drill rods. TruSub™ allows for key drilling parameters to be digitally recorded and viewed in real time to drive drilling productivity. The Company will be rolling this technology out at mine sites this year. It sees value in this technology and will continue to develop in this space.

The Company's Truscan™ matrix calibrated XRF and photo sample scanning technology is currently being used at several locations globally with long term 24/7 utilisation producing results that are being used for real time decision making as part of the mine site workflow by the mining client. TruScan™ continues to spread its footprint globally with additional units being deployed within Australia as well as North and South America. New features utilising artificial intelligence and machine learning continue to be integrated into Truscan™ ensuring it is well differentiated in the market.

These technologies are part of the Company's strategy to provide real-time subsurface resource defining information to mining companies.

#### *Inventories*

The business consumed \$3.8 million of cash through the provision of inventory in 2020. The Company's Supply Chain organisation had a challenging year dealing with the impacts of COVID-19 which included variable demand levels from the customer base as well as challenges associated with traditional logistic lanes (swing of transport lines from airfreight to shipping). Through the first half of the year the business was able to generate cash through lowering the Company's reorder points with demand falling from COVID-19 slowdowns and shutdowns globally, as well as implementing a number of initiatives to improve the supply chain process and carrying levels of inventory. For the year ended 31 December 2020, the business implemented a

scrapping program removing \$1.8 million of obsolete inventory that will support a reduction in carrying costs going forward. In addition, the Company re-evaluated several key assumptions in the calculation of our allowance for excess or obsolete inventory resulting in an increase to the current year obsolescence expense of \$5.0 million and contributing to an overall increase to the allowance balance of \$23.5 million, up from the \$20.3 million at 31 December 2019. With industry metrics improving and customer demand increasing through the second half of the year, the business reinstated and increased stocking levels to support current and forecasted near term demand. The business will remain focused through 2021 to improve its inventory turns and improve inventory health however does anticipate the need to increase inventory levels to ensure continued support through to customers

### 10.3 Board of Directors

Name	Role
Kevin McArthur	Non-Executive Chairman
Jeffrey Olsen	Executive Director
Tye Burt	Non-Executive Director
Jason Ireland	Non-Executive Director
James Kern	Non-Executive Director
Rubin McDougal	Non-Executive Director
Robert Smith	Non-Executive Director
Conor Tochilin	Non-Executive Director

## 11. REASONS WHY SHAREHOLDER APPROVAL IS A REQUIREMENT

### 11.1 Introduction

The Recapitalisation will only proceed if all the Recapitalisation Resolutions are passed at the EGM and the other conditions set out in the Restructuring Support Agreement are either satisfied or waived (as applicable) (Section 12.1(a)).

If any of the Recapitalisation Resolutions are not passed at the EGM, the Recapitalisation will not proceed and, as a result, the Company may not be able to meet its debt repayment obligations absent a refinancing (which is considered unlikely given the Company's current financial position). The Directors consider it unlikely that a superior proposal could be agreed with the Company's lenders, or that any alternative proposal would result in a better return for creditors and shareholders than the announced Recapitalisation. There is a significant and present risk that the Company would be placed in external administration if Shareholders fail to pass the Recapitalisation Resolutions. In this event, Shareholders would likely receive little or no return on their shareholding.

As the Selective Buy-Back Resolution is not a Recapitalisation Resolution, if it is not passed at the EGM, the Recapitalisation may still proceed (provided each of the Recapitalisation Resolutions is passed).

The Selective Buy-Back will only proceed if the Re-domiciliation Scheme Resolution is passed at the Re-domiciliation Scheme Meeting.

**All Recapitalisation Resolutions must be passed as ordinary resolutions and will therefore be passed if supported by a simple majority of votes cast on the Resolutions.**

**The Selective Buy-Back Resolution must be passed as a special resolution and will therefore be passed if supported by a 75% majority of votes cast on the Selective Buy-Back Resolution.**

**Each of the Resolutions is explained in this section. This explanation should be read together with the entirety of the Explanatory Statement.**

### 11.2 Resolution 1 - Approval for the issue of Shares to, and acquisition of Shares by, Centerbridge

*Item 7 of Section 611 of the Corporations Act*

Section 606 of the Corporations Act prohibits a person from acquiring a relevant interest in the voting shares in an entity if the person acquiring the interest does so through a transaction in relation to securities entered into by or on behalf of the person and the acquisition would result in that person's or another person's voting power in the entity increasing from 20% or below to more than 20% or from a starting point that is above 20% and below 90%, unless the acquisition falls within one of the exceptions in section 611, such as security holder approval under item 7 of section 611 of the Corporations Act.

As at the date of this Explanatory Statement, Centerbridge has voting power in the Company of 53.3%.

If the Recapitalisation is implemented:

- (a) the CBP Creditors (or their nominees who are Affiliates of Centerbridge) will be issued 132,143,987 Shares under the Creditors' Schemes (not including any Shares issued under the Creditor Share Purchase Option); and
- (b) the CBP Creditors (or their nominees who are Affiliates of Centerbridge) may acquire up to a maximum of 2,604,166 Shares under the Creditor Share Purchase Option. This maximum number of shares is calculated assuming no Shares were taken up under the SPP and the CBP Creditors (or their nominees who are Affiliates of Centerbridge) acquire all of the available shares under the Creditor Share Purchase Option because all participants in the Creditor Share Purchase Option transferred their entitlements by agreeing to nominate the CBP Creditors as their Permitted CSPO Nominee under the Creditor Share Purchase Option to the CBP Creditors (or their nominees who are Affiliates of Centerbridge).

Centerbridge's voting power in the Company following the implementation of the Recapitalisation will depend on a number of factors including:

- (a) the number of Shares issued under the SPP;
- (b) the number of Shares issued to SUN Noteholders under the Creditor Share Purchase Option and the extent to which any Shares are issued to Other CSPO Participants (including the CBP Creditors (or their nominees who are Affiliates of Centerbridge)) under the Creditor Share Purchase Option as a result of undersubscriptions by SUN Noteholders under the Creditor Share Purchase Option;
- (c) the number of New Warrants exercised and converted into Shares by SUN Noteholders; and
- (d) the number of Shares (if any) purchased and cancelled by the Company under the Selective Buy-Back.

The tables in Section 5.4 set out the potential voting power of Centerbridge following implementation of the Recapitalisation under various different scenarios.

The acquisition of Shares under the Creditors' Schemes and the Creditor Share Purchase Option by the CBP Creditors (or their nominees who are Affiliates of Centerbridge) requires Shareholder approval under item 7 of section 611 of the Corporations Act to the extent that it results in Centerbridge's voting power increasing above Centerbridge's voting power in the Company at the date of this Explanatory Statement of 53.3%. It is expected that Centerbridge's voting power in the Company will decrease following implementation of the Recapitalisation, in particular due to the significant number of Shares being issued to other creditors under the Creditors' Schemes and the Creditor Share Purchase Option, which will occur on the same date as the Shares are issued to the CBP Creditors (see the tables in Section 5.4, set out potential voting power of Centerbridge following implementation of the Recapitalisation under various different scenarios). However, Shareholder approval under item 7 of section 611 of the Corporations Act is being sought from Shareholders in case (due to the timing of issue of the Shares to the different parties under the Creditors' Schemes, SPP and Creditor Share Purchase Option) at any point in time Centerbridge's voting power in the Company did increase above 53.3% for a period of time.

Further information that is required to be provided to Shareholders where approval under item 7 of section 611 of the Corporations Act is sought is outlined in Sections 8.2 and 8.3.

#### *Chapter 2E of the Corporations Act*

Chapter 2E of the Corporations Act regulates the provision of financial benefits to related parties by a public company. Section 208 of the Corporations Act prohibits a public company from giving a financial benefit to a related party unless an exception applies. A financial benefit includes a public company issuing securities. A related party of a public company is defined in section 228 of the Corporations Act to include an entity which controls that public company.

Centerbridge may be considered a related party of the Company on the basis it may be said to "control" the Company.

The Directors consider the issue of Shares to the CBP Creditors (or their nominees who are Affiliates of Centerbridge) under the Creditor Share Purchase Option would be reasonable in the circumstances if the Company and the CBP Creditors or their nominees were dealing at arms-length terms or on terms less favourable to the CBP Creditors or their nominees than arms-length terms. However, given the number of Resolutions that are being considered by Shareholders for the purpose of the Recapitalisation, the Directors have determined to seek approval for the issuance of Shares to the CBP Creditors or their nominees under the Creditor Share Purchase Option under Chapter 2E of the Corporations Act notwithstanding that such approval is not strictly necessary.

The table below sets out information required to be provided to Shareholders where approval under Chapter 2E of the Corporations Act is sought:

<b>Identity of the related party (including existing interest)</b>	Refer to Sections 1.2 and 8.
<b>Nature of the financial benefit</b>	Up to 2,604,166 Shares under the Creditor Share Purchase Option. <sup>4</sup>
<b>Directors' recommendations</b>	Refer to Section 7.2.
<b>Directors' interest in the outcome</b>	Refer to Section 12.2.
<b>Valuation of the financial benefit</b>	Shares will not be issued under the Creditor Share Purchase Option unless each of the Recapitalisation Resolutions is passed. Therefore, the value of the Shares to be issued under the Creditor Share Purchase Option is to be assessed by reference to the Company's equity value per Share post implementation of the Recapitalisation. Refer to the Independent Expert's Report, including Section 16.
<b>Dilution effect</b>	Refer to Section 5.4.

<sup>4</sup> For information on how the actual number of Shares to be issued under the Creditor Share Purchase Option will be determined, please refer to Section 2.2.

Resolution 1 therefore also seeks approval for the issue of Shares to the CBP Creditors or their nominees who are Affiliates of Centerbridge under the Creditor Share Purchase Option for the purposes of Chapter 2E of the Corporations Act.

The issue of Shares to the CBP Creditors or their nominees under the Creditors' Schemes will be an issue of Shares pursuant to a Court order. In accordance with section 216 of the Corporations Act Shareholder approval is not required for an issue of Shares to a related party pursuant to a Court order.

Resolution 1 is a Recapitalisation Resolution. Accordingly, the Recapitalisation will not proceed unless Resolution 1 is approved.

### 11.3 **Resolution 2 – Approval for the issue of Shares to, and acquisition of Shares by, the Ad Hoc Group**

#### *Item 7 of Section 611 of the Corporations Act*

Section 606 of the Corporations Act prohibits a person from acquiring a relevant interest in the voting shares in an entity if the person acquiring the interest does so through a transaction in relation to securities entered into by or on behalf of the person and the acquisition would result in that person's or another person's voting power in the entity increasing from 20% or below to more than 20% or from a starting point that is above 20% and below 90%, unless the acquisition falls within one of the exceptions in section 611, such as security holder approval under item 7 of section 611 of the Corporations Act.

The voting power of a person is equal to the aggregate of the total number of votes attached to voting shares in which that person has a relevant interest and the total number of votes attaching to voting shares in which any of that person's associates have a relevant interest.

The AHG Members consider that they may be deemed to be associates of each other in relation to the Company by virtue of section 12(2)(b) or 12(2)(c) of the Corporations Act on the basis that the Restructuring Support Agreement contemplates that they will have a collective right to nominate a specified number of individuals for appointment to the BLY Board from time to time on and from the Creditors' Schemes Implementation Date. That right will arise under the Ad Hoc Group Director Nomination Agreements.

Consequently, each of the AHG Members has disclosed that it has voting power equal to the aggregate of the total number of votes attaching to voting shares in which any of the AHG Members hold a relevant interest.

As at the date of this Explanatory Statement, together, the AHG Members have aggregate voting power in the Company of 23.6%.

If the Recapitalisation is implemented:

- (a) the AHG Members will be issued 157,220,982 Shares under the Creditors' Schemes (not including any Shares issued under the Creditor Share Purchase Option);
- (b) the AHG Members may acquire up to a maximum of 2,604,166 Shares under the Creditor Share Purchase Option. This maximum number of shares is

calculated assuming no Shares were taken up by under the SPP and the AHG Members acquire all of the available shares under the Creditor Share Purchase Option because all participants in the Creditor Share Purchase Option transferred their entitlements under the Creditor Share Purchase Option to the AHG Members; and

- (c) the AHG Members will be issued 30,810,489 New Warrants,

The Ad Hoc Group's potential voting power in the Company following the implementation of the Recapitalisation will depend on a number of factors, including:

- (a) the number of Shares issued under the SPP;
- (b) the number of Shares issued to the AHG Members and other participants under the Creditor Share Purchase Option;
- (c) the number of New Warrants exercised and converted into Shares by SUN Noteholders; and
- (d) the number of Shares (if any) purchased and cancelled by the Company under the Selective Buy-Back.

The tables in Section 5.4 set out potential voting power in the Company of the Ad Hoc Group following implementation of the Recapitalisation under various different scenarios.

The acquisition of Shares by the AHG Members under the Creditors' Schemes and the Creditor Share Purchase Option and on exercise of the New Warrants issued to the AHG Members requires Shareholder approval under item 7 of section 611 of the Corporations Act because it results in their voting power in the Company increasing above the AHG Member's voting power in the Company of 23.6% as at the date of this Explanatory Statement.

In accordance with section 610(3) of the Corporations Act, if after implementation of the Recapitalisation, an AHG Member (or an Affiliate of such person) (the **First AHG Member**) transfers any of the Shares that were issued to the First AHG Member under the Creditors' Schemes or the Creditor Share Purchase Option or on exercise of the New Warrants issued to the First AHG Member (**Relevant AHG Securities**) or any other Shares held by an AHG Member (or any Affiliate of such person) to another AHG Member (or an Affiliate of such person) who did not prior to that transfer have a relevant interest in the Relevant AHG Securities (the **Second AHG Member**) the Second AHG Member's voting power in the Company will be taken to have increased as a result of the transfer from what it would have been before the transfer if the votes attached to the Shares transferred were disregarded to what it was after the transfer (taking the votes attached to those Shares into account).

If as a result the Second AHG Member's voting power in the Company increased from 20% or below to more than 20% or from a starting point that is above 20% and below 90%, then the transfer from the First AHG Member to the Second AHG Member would be prohibited under section 606 of the Corporations Act unless the acquisition falls within one of the exceptions in section 611, such as security holder approval under item 7 of section 611 of the Corporations Act.

Shareholder approval under item 7 of section 611 of the Corporations Act is therefore also being sought to permit the transfer of Relevant AHG Securities or any Shares held by an AHG Member (or any Affiliate of such person) as at the date this resolution

is passed from one AHG Member (or an Affiliate of such person) to another AHG Member (or an Affiliate of such person) at any time during the period 5 years after the date this resolution is passed.

Further information that is required to be provided to Shareholders where approval under item 7 of section 611 of the Corporations Act is sought is outlined in Sections 9.2 and 9.3.

Resolution 2 is a Recapitalisation Resolution. Accordingly, the Recapitalisation will not proceed unless Resolution 2 is approved.

#### 11.4 **Resolution 3 – Approval for the issue of Shares and New Warrants under the Creditors' Schemes for the purposes of ASX Listing Rule 7.1**

##### *ASX Listing Rule 7.1*

ASX Listing Rule 7.1 imposes a limit on the number of equity securities which an ASX listed entity can issue without Shareholder approval.

In general terms, an entity may not, without prior shareholder approval, issue, or agree to issue, equity securities if the equity securities will in themselves or when aggregated with the securities issued by the entity during the previous 12 months, exceed 15% of the number of fully paid ordinary shares on issue at the commencement of that 12 month period, unless an exception applies.

Details of the issue of the Shares and New Warrants under the Creditors' Schemes, provided in accordance with ASX Listing Rule 7.3, are as follows:

Security	Maximum number of securities the entity is to issue	Date by which securities will be issued	Consideration	Summary of the material terms of the agreement	Allottees	Purpose and use of funds raised
Shares issued under the Secured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option)	253,046,838 <sup>5</sup>	To be issued on the Creditors' Schemes Implementation Date, which is currently expected to be 23 September 2021.	Release of the Secured Debt.	Refer to Section 2.	Secured Scheme Creditors	Shares issued under the Secured Creditors' Scheme as consideration for release of the Secured Debt.

<sup>5</sup> For information on how the actual number of Shares to be issued under the Secured Creditors' Scheme will be determined, please refer to Section 2.



Security	Maximum number of securities the entity is to issue	Date by which securities will be issued	Consideration	Summary of the material terms of the agreement	Allottees	Purpose and use of funds raised
Shares issued under the Unsecured Creditors' Scheme (not including Shares issued under the Creditor Share Purchase Option)	37,566,905 <sup>6</sup>	As above.	Release of the Unsecured Debt.	Refer to Section 3.	Unsecured Scheme Creditors	Shares issued under the Unsecured Creditors' Scheme as consideration for the release of the Unsecured Debt.
New Warrants issued under the Unsecured Creditors' Scheme	32,782,148 <sup>7</sup>	As above.	Release of the SUN Debt <sup>8</sup> (each New Warrant will have an exercise price of A\$2.79).	Refer to Section 3.2.	SUN Noteholders	Warrants issued under the Unsecured Creditors' Scheme as additional consideration for the release of the SUN Debt.

The New Warrants are being issued pursuant to the New Warrant Deed Poll. For more information on the terms of the New Warrant Deed Poll, refer to Section 3.2.

The issue of securities under Resolution 3, Resolution 5 and Resolution 6, together, will exceed the 15% limit in ASX Listing Rule 7.1, and no relevant exception applies. BLY is therefore seeking shareholder approval for each of these issues under ASX Listing Rule 7.1.

Resolution 3 therefore seeks approval for the issue of Shares and New Warrants under the Creditors' Schemes for the purposes of ASX Listing Rule 7.1.

<sup>6</sup> For information on how the actual number of Shares to be issued under the Unsecured Creditors' Scheme will be determined, please refer to Section 3.

<sup>7</sup> For information on how the actual number of New Warrants to be issued under the Unsecured Creditors' Scheme will be determined, please refer to Section 3.

<sup>8</sup> As consideration for their release of the SUN Debt, SUN Noteholders will receive both Shares and New Warrants under the Unsecured Creditors' Scheme. Please refer to Section 3 for further information.

Resolution 3 is a Recapitalisation Resolution. Accordingly, the Recapitalisation will not proceed unless Resolution 3 is approved.

If Resolution 3 is passed (and each other Recapitalisation Resolution is passed), BLY will be able to proceed with the Recapitalisation (including issuing the Shares and New Warrants under the Creditors' Schemes). In addition, if Resolution 3 is passed, the issue of the Shares and New Warrants under Resolution 3 will be excluded from the calculation of the number of equity securities that the Company can issue without Shareholder approval under ASX Listing Rule 7.1.

If Resolution 3 is not passed (or any other Recapitalisation Resolution is not passed), none of the Recapitalisation Resolutions will pass. A failure to pass the Recapitalisation Resolutions will mean that the Recapitalisation will not proceed and, as a result, the Company may not be able to meet its debt repayment obligations absent a refinancing (which is considered unlikely given the Company's current financial position). The Directors consider it unlikely that a superior proposal could be agreed with the Company's lenders, or that any alternative proposal would result in a better return for creditors and shareholders than the announced Recapitalisation. There is a significant and present risk that the Company would be placed in external administration if Shareholders fail to pass the Recapitalisation Resolutions. In this event, Shareholders would likely receive little or no return on their shareholding.

#### 11.5 **Resolution 4 – Approval for the consolidation of Shares**

Resolution 4 is a resolution for the purposes of section 254H(1) of the Corporations Act seeking members' approval for the Company to consolidate its Shares.

Section 254H(1) of the Corporations Act provides that a company may convert all or any of its shares into larger or smaller number of shares by resolution passed at a general meeting of shareholders.

Resolution 4 therefore seeks approval for the consolidation of every twenty (20) Shares into one (1) Share for the purposes of Section 254H(1) of the Corporations Act.

Resolution 4 is a Recapitalisation Resolution, so it is conditional on the passing of each other Recapitalisation Resolution. Further, the Recapitalisation will not proceed unless Resolution 4 is approved.

For more information about the Share Consolidation, see Section 4.1.

#### 11.6 **Resolution 5 – Approval for the issue of Shares under the Share Purchase Plan**

##### *ASX Listing Rule 7.1*

ASX Listing Rule 7.1 imposes a limit on the number of equity securities which an ASX listed entity can issue without Shareholder approval.

In general terms, an entity may not, without prior shareholder approval, issue, or agree to issue, equity securities if the equity securities will in themselves or when aggregated with the securities issued by the entity during the previous 12 months, exceed 15% of the number of fully paid ordinary shares on issue at the commencement of that 12 month period, unless an exception applies.

ASX Listing Rule 7.2 (exception 5) provides an exception for an issue of securities under a share purchase plan that (relevantly) satisfies the conditions in ASIC

Corporations (Share and Interest Purchase Plans) Instrument 2019/547 (**Instrument**). Because the SPP may not satisfy all of the conditions in the Instrument (as the SPP Issue Price may not comply with the requirement in paragraph (e) of the definition of "purchase plan" in the Instrument):

- the Company has sought relief from ASIC from the requirement to issue a disclosure document for the SPP; but
- the Company is not entitled to rely on the exception to ASX Listing Rule 7.1 in ASX Listing Rule 7.2 (exception 5) for security purchase plans.

The issue of securities under Resolution 3, Resolution 5 and Resolution 6, together, will exceed the 15% limit in ASX Listing Rule 7.1, and no relevant exception applies. BLY is therefore seeking shareholder approval for each of these issues under ASX Listing Rule 7.1.

Accordingly, Resolution 5 seeks approval for the issue of Shares under the Share Purchase Plan for the purposes of ASX Listing Rule 7.1.

Details of the issue of Shares, provided in accordance with ASX Listing Rule 7.3, are as follows:

Security	Maximum number of securities the entity is to issue	Date by which securities will be issued	Issue price / consideration (per security)	Summary of the material terms of the agreement	Allottees	Purpose and use of funds raised
Shares issued under the Share Purchase Plan	1,302,083 <sup>9</sup>	To be issued on the Creditors' Schemes Implementation Date, which is currently expected to be 23 September 2021.	A\$2.48	Refer to Section 4.2.	Eligible SPP Shareholders	Funds raised by issue of Shares to be used to pay down the balance of the Existing PNC ABL.

#### *ASX Listing Rule 10.11*

ASX Listing Rule 10.11 provides that, unless one of the exceptions in ASX Listing Rule 10.12 applies, an entity must not issue or agree to issue equity securities to:

- a related party;
- a person who is, or was at any time in the 6 months before the issue or agreement, a substantial (30%+) holder in the company;
- a person who is, or was at any time in the 6 months before the issue or agreement, a substantial (10%+) holder in the company and who has

<sup>9</sup> Assumes the Share Purchase Plan is fully subscribed. For information on how the actual number of Shares to be issued under the Share Purchase Plan will be determined, please refer to Section 4.2.

nominated a director to the board of the company pursuant to a relevant agreement which gives them a right or expectation to do so;

- an associate of a person referred to in the preceding 3 bullet points; or
- a person whose relationship with the company or a person referred to in the preceding 4 paragraphs is such that, in ASX's opinion, the issue or agreement should be approved by its shareholders.

without the approval of holders of ordinary securities in the entity. The issue of Shares to a Director under the SPP will fall within ASX Listing Rule 10.11, as each Director will be considered a related party of the Company.

While ASX Listing Rule 10.12 (exception 4) provides an exception for an issue of securities under a share purchase plan that (relevantly) satisfies the conditions in the Instrument, for the reasons referred to in the approval sought for the purposes of ASX Listing Rule 7.1, the SPP may not satisfy the Instrument (and so the Company may not be able to rely on the exception in ASX Listing Rule 10.12 (exception 4)), and no other exemption applies.

Accordingly, Resolution 5 seeks members' approval to issue Shares to the Directors who are Shareholders (and thus may be an Eligible SPP Shareholder) and who may participate in the SPP for the purposes of ASX Listing Rule 10.11.

Details of the holdings of Shares of each Director, as at 31 March 2021, are summarised in the table below:

Director	Shares
Kevin McArthur	428,796
Jeffrey Olsen	271,872
Tye Burt	260,851
Jason Ireland	23,731
James Kern	202,602
Rubin McDougal	165,835
Robert Smith	23,731
Conor Tochilin	Nil

The table below sets out information required by ASX Listing Rule 10.13 in relation to the potential issue of Shares to Directors under the SPP.

Name	Category of person	Maximum number of securities to issue be issued <sup>10</sup>	Date by which securities will be issued	Issue price / consideration (per security)	Purpose and use of funds raised	Summary of the material terms of the agreement
Kevin McArthur	Related party (director of the Company)	12,096	To be issued on the Creditors' Schemes Implementation Date, which is currently expected to be 23 September 2021.	A\$2.48	Funds raised by issue of Shares to be used to pay down the balance of the Existing PNC ABL.	Refer to Section 4.2.
Jeffrey Olsen	As above	As above	As above	As above	As above	As above
Tye Burt	As above	As above	As above	As above	As above	As above
Jason Ireland	As above	As above	As above	As above	As above	As above
James Kern	As above	As above	As above	As above	As above	As above
Rubin McDougal	As above	As above	As above	As above	As above	As above
Robert Smith	As above	As above	As above	As above	As above	As above

Resolution 5 is a Recapitalisation Resolution, so it is conditional on the passing of each other Recapitalisation Resolution. Further, the Recapitalisation will not proceed unless Resolution 5 is approved.

If Resolution 5 is passed (and each other Recapitalisation Resolution is passed), BLY will be able to proceed with the Recapitalisation (including issuing the Shares under the Share Purchase Plan). In addition, if Resolution 5 is passed, the issue of the Shares under Resolution 5 will be excluded from the calculation of the number of equity securities that the Company can issue without Shareholder approval under ASX Listing Rule 7.1.

If Resolution 5 is not passed (or any other Recapitalisation Resolution is not passed), none of the Recapitalisation Resolutions will pass. A failure to pass the Recapitalisation Resolutions will mean that the Recapitalisation will not proceed and, as a result, the Company may not be able to meet its debt repayment obligations absent a refinancing (which is considered unlikely given the Company's current financial position). The Directors consider it unlikely that a superior proposal could be

<sup>10</sup> Assumes full participation by the Director and no scale-backs occurring. For information on how the actual number of Shares to be issued under the Share Purchase Plan will be determined, please refer to Section 4.2.

agreed with the Company's lenders, or that any alternative proposal would result in a better return for creditors and shareholders than the announced Recapitalisation. There is a significant and present risk that the Company would be placed in external administration if Shareholders fail to pass the Recapitalisation Resolutions. In this event, Shareholders would likely receive little or no return on their shareholding.

#### 11.7 **Resolution 6 – Approval for the issue of Shares under the Creditor Share Purchase Option**

Resolution 6 is a resolution for the purposes of ASX Listing Rule 7.1, seeking members' approval to issue Shares to SUN Noteholders and, if applicable, Other CSPO Participants.

ASX Listing Rule 7.1 imposes a limit on the number of equity securities which an ASX listed entity can issue without Shareholder approval.

In general terms, an entity may not, without prior shareholder approval, issue, or agree to issue, equity securities if the equity securities will in themselves or when aggregated with the securities issued by the entity during the previous 12 months, exceed 15% of the number of fully paid ordinary shares on issue at the commencement of that 12 month period, unless an exception applies.

The issue of securities under Resolution 3, Resolution 5 and Resolution 6, together, will exceed the 15% limit in ASX Listing Rule 7.1, and no relevant exception applies. BLY is therefore seeking shareholder approval for each of these issues under ASX Listing Rule 7.1.

Details of the issue of the Shares as required under ASX Listing Rule 7.3 are as follows:<sup>11</sup>

Security	Maximum number of securities to be issued	Date by which securities will be issued	Issue price / consideration (per security)	Summary of the material terms of the agreement	Allottees	Purpose and use of funds raised
Shares issued under the Creditor Share Purchase Option	2,604,166 <sup>12</sup>	To be issued on the Creditors' Schemes Implementation Date, which is currently expected to be 23 September 2021.	A\$2.48	Refer to Sections 1, 2 and 3, and, in particular, Sections 2.2 and 3.3.	SUN Noteholders TLA Purchasers TLB Purchasers SSN Noteholders	Funds raised by issue of Shares to be used to pay down the balance of the Existing PNC ABL.

<sup>11</sup> Excludes (1) the material terms of the Creditor Share Purchase Option (refer to Section 2.2), and (2) the voting exclusion statement (refer to the Notice of Meeting to which this Explanatory Statement is attached).

<sup>12</sup> For information on how the actual number of Shares to be issued under the Creditor Share Purchase Option will be determined (including allocation principles), please refer to Section 2.2.

Resolution 6 is a Recapitalisation Resolution so it is conditional on the passing of each other Recapitalisation Resolution. Further, the Recapitalisation will not proceed unless Resolution 6 is approved.

If Resolution 6 is passed (and each other Recapitalisation Resolution is passed), BLY will be able to proceed with the Recapitalisation (including issuing the Shares under the Creditor Share Purchase Option). In addition, if Resolution 6 is passed the issue of the Shares will be excluded from the calculation of the number of equity securities that the Company can issue without shareholder approval under Listing Rule 7.1.

If Resolution 6 is not passed (or any other Recapitalisation Resolution is not passed), none of the Recapitalisation Resolutions will pass. A failure to pass the Recapitalisation Resolutions will mean that the Recapitalisation will not proceed and, as a result, the Company may not be able to meet its debt repayment obligations absent a refinancing (which is considered unlikely given the Company's current financial position). The Directors consider it unlikely that a superior proposal could be agreed with the Company's lenders, or that any alternative proposal would result in a better return for creditors and shareholders than the announced Recapitalisation. There is a significant and present risk that the Company would be placed in external administration if Shareholders fail to pass the Recapitalisation Resolutions. In this event, Shareholders would likely receive little or no return on their shareholding.

#### 11.8 **Resolution 7 – Approval of Selective Buy-Back**

Resolution 7 is a resolution for the purposes of section 257D of the Corporations Act seeking members' approval for the Company to selectively buy back up to 260,416 of its Shares from Eligible SBB Shareholders.

Section 257D of the Corporations Act provides that a company must seek members' approval by special resolution to selectively buy back certain of its Shares pursuant to a Company's general power to buy back its Shares under section 257A of the Corporations Act.

Further detail around the Selective Buy-Back is set out at Section 1.7.

Resolution 7 is not a Recapitalisation Resolution. However, it is conditional on the passing of each of the Recapitalisation Resolutions and the passing of the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting.

The Directors unanimously recommend that Shareholders vote in favour Resolution 7.

## 12. ADDITIONAL INFORMATION

### 12.1 Restructuring Support Agreement

The Restructuring Support Agreement sets out the terms and conditions on which the parties have agreed to pursue the Recapitalisation. A copy of the Restructuring Support Agreement was announced by the Company to ASX on 13 May 2021, and is available at <http://www.boartlongyear.com/company/investors/announcements/>.

The material provisions of the Restructuring Support Agreement are summarised below:

#### (a) Conditions precedent

The recapitalisation is subject to the satisfaction of certain conditions precedent, including:

- the Treasurer providing a no objection notification under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) to the CBP Creditors for the proposed acquisition by the CBP Creditors or their nominees of Shares under the relevant Recapitalisation Transactions;
- the Treasurer providing a no objection notification under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) to the AHG Members for the proposed acquisition by the AHG Members of Shares under the relevant Recapitalisation Transactions;
- Shareholders approving the Recapitalisation Resolutions at the EGM by the requisite majorities;
- the warranties given by the Company and by the Supporting Creditors being true and correct in all material respects;
- the Company's creditors approving the Creditors' Schemes by the requisite majorities;
- Court approval of the Creditors' Schemes;
- the Independent Expert not concluding in the Independent Expert's Report that the Recapitalisation is "not fair" and "not reasonable" to Non-Associated Shareholders;
- the Company and Supporting Creditors obtaining all other relevant regulatory approvals, confirmations, consents or waivers, including ASX confirmation that it approves the terms of the New Warrants;
- the issue of Shares and New Warrants under the Recapitalisation, where relevant, being exempt from registration under the U.S. Securities Act; and
- the Exit Financing Facility being duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility being satisfied or waived, other than any conditions relating to:
  - the Creditors' Schemes becoming effective;



- no amendments, waivers or modifications to the RSA, RID or the Creditors' Schemes having been made since 8:00 am on the Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);
- each Implementation Step in clauses 8(a) (*Step 1 (Issue of Shares and New Warrants)*) and 8(b) (*Step 2 (Releases)*) of the RID having been completed in accordance with their terms; and
- any conditions which the Exit Financier has agreed to waive or defer.

Each party must use its respective reasonable endeavours to procure that each of the conditions precedent is satisfied as soon as reasonably practicable after the date of the RSA or continues to be satisfied at all times until the last time they are to be satisfied or waived in accordance with the RSA.

(b) **Implementation and Milestones**

The Company agrees to implement the recapitalisation in accordance with the Restructuring Support Agreement. The Supporting Creditors have agreed to support the Creditors' Schemes in accordance with the terms of the Restructuring Support Agreement.

The Company and the Supporting Creditors have also agreed under the Restructuring Support Agreement to use reasonable endeavours to agree in good faith the documents to give effect to the recapitalisation in accordance with agreed Milestones.

(c) **Exclusivity**

The Company is required to comply with certain exclusivity obligations under the Restructuring Support Agreement, including:

- **No shop restriction** – the BLY Group must ensure that neither it, nor any of its related entities, directly or indirectly solicit, invite, encourage or initiate any enquiries, proposals, negotiations or discussions (or communicate any intention to do any of these things) with a view to obtaining any expression of interest, offer or proposal from any other person in relation to a Competing Proposal or potential Competing Proposal;
- **Notification** – the Company must notify the Supporting Creditors if it is approached about a potential Competing Proposal, or provides or proposes to provide any material non-public information to a third party to enable that party to make a Competing Proposal.

(d) **Matching right**

The Restructuring Support Agreement requires that, if the Company determines that a Competing Proposal is a Superior Proposal, the Company

will provide the Supporting Creditors with details of the Competing Proposal that is a Superior Proposal.

The Supporting Creditors will have the right until the expiration of five Business Days of receiving the information to make one or more offers to the Company in writing to amend the terms of the Restructuring Support Agreement or propose any other transaction (a **Counterproposal**).

If the Supporting Creditors make a Counterproposal, then the BLY Board must review the Counterproposal in good faith to determine whether it is more favourable to the Company than the Superior Proposal.

If the BLY Board determines that the Counterproposal is more favourable to the Company, Shareholders and unsecured creditors of the Company than the Superior Proposal, and is capable of being implemented in a reasonable time, then:

- (i) if the Supporting Creditors contemplate an amendment to the Restructuring Support Agreement, the parties will enter into an amending deed reflecting the Counterproposal;
- (ii) if the Counterproposal contemplates any other transaction, the Company will make an announcement recommending the Counterproposal, in the absence of a Superior Proposal and, if required, subject to the conclusions of an independent expert, and the parties will pursue implementation of the Counterproposal in good faith with their best endeavours; and
- (iii) the Company will effect a change of recommendation of the BLY Board in relation to the transaction and will not authorise or enter into any letter of intention, memorandum of understanding, recapitalisation agreement or other agreement, arrangement or understanding relating to (or consummate) such former Superior Proposal.

The requirements of paragraph (ii), above, will not preclude the BLY Board from receiving and considering any further Competing Proposal (including from the same person which provided the former Superior Proposal). Any further Competing Proposal will require the BLY Board to comply with the requirements, above.

Any modification of any Superior Proposal will constitute a new Superior Proposal and require the BLY Board to again comply with the requirements above.

(e) **Reimbursement of costs and expenses of the CBP Creditors and the Ad Hoc Group**

BLY agrees to pay in cash, on a monthly basis for the period from the date of execution of the Restructuring Support Agreement and ending on the earlier of the completion of the Restructuring, the termination of the RSA, or the Longstop Date, all reasonable costs and out of pocket expenses relating to the Restructuring incurred by the CBP Creditors and the Ad Hoc Group.

(f) **Termination**

The Restructuring Support Agreement can be terminated in the following circumstances:

- (i) **Termination for no approval of the recapitalisation** – any party may terminate the Restructuring Support Agreement if, among others:
  - (A) the Creditors' Schemes Implementation Date, and/or the Re-domiciliation Scheme Implementation Date (assuming the requisite Shareholder approval has been obtained) have not occurred by the Longstop Date;
  - (B) Shareholders do not approve the Transaction Resolutions at the EGM;
  - (C) creditors of the Company do not approve the Creditors' Schemes by the requisite majorities;
  - (D) any Government Agency or court of competent jurisdiction issues a final, non-appealable judgment, order, injunction, decree, ruling or similar action restraining, enjoining or otherwise prohibiting the consummation of the recapitalisation or declaring unlawful the recapitalisation;
  - (E) an Australian Court does not approve the Creditors' Schemes;
  - (F) a U.S. bankruptcy court or Canadian court enters a final, non-appealable order denying final approval of the Australian Court's approval of the Creditors' Schemes provided that no such termination right exists if BLY and the Initial Supporting Creditors agree not to seek chapter 15 recognition; or
  - (G) at any time, the agent or lenders under the Existing PNC ABL are taking, or direct any person to take, any one or a series of Enforcement Actions that, in conjunction with any other pending Enforcement Actions taken by such agents, lenders or persons, seeks to recover collateral having an aggregate value of \$500,000 or more.
- (ii) **Termination by the Company for material breach** - the Company may terminate at any time before the Completion Date by written notice to the other parties if:
  - (A) a Supporting Creditor has terminated the Restructuring Support Agreement; or
  - (B) a Supporting Creditor has materially breached the Restructuring Support Agreement.
- (iii) **Termination by any of the Supporting Creditors** - any one of the Supporting Creditors may terminate by written notice to all the parties if:
  - (A) at any time before the Completion Date any one of them has materially breached the Restructuring Support Agreement

(provided that the party terminating cannot be the party in breach);

- (B) the Company enters into an agreement to implement a Competing Proposal; or
  - (C) a warranty given by a Supporting Creditor becomes untrue or misleading (provided that the party terminating cannot be the party who has given the warranty which has become untrue or misleading).
- (iv) **Termination by the CBP Creditors or the Majority AHG Members** – each of the CBP Creditors or the Majority AHG Members may terminate by written notice to the Company if:
- (A) the BLY Board fails to recommend the Transaction Resolutions or withdraws or adversely modifies its recommendation that Shareholders vote in favour of the Transaction Resolutions;
  - (B) the Company materially breaches the Restructuring Support Agreement;
  - (C) any capacity warranty given by the Company or other Company warranty becomes untrue or misleading;
  - (D) a Milestone has not been achieved (other than as a result of any action or omission by a Supporting Creditor, a regulator or court);
  - (E) the Company seeks, and the Australian Court does not approve, an order under the Corporations Act and an insolvency event occurs;
  - (F) the Company seeks, and the U.S. Bankruptcy Court denies, pursuant to a final, non-appealable order, provisional relief and an insolvency event occurs;
  - (G) a Material Adverse Event has occurred;
  - (H) the Company files or otherwise provides to any person a document that:
    - (aa) materially affects the interest of the CBP Creditors or any member of the Ad Hoc Group; or
    - (bb) expressly describes or identifies the CBP Creditors or any member of the Ad Hoc Group,

without counsel to the CBP Creditors or the Ad Hoc Group's Counsel, as applicable, confirming in writing that the relevant document is in a form and substance satisfactory to it; or
  - (I) an event of default occurs under the Existing PNC ABL or any finance document concerning the Incremental Finance Facility.
- (v) **Other circumstances for termination by the Company** – the Company may terminate the Restructuring Support Agreement at any time before the date Shareholders approve the Transaction

Resolutions if, following full compliance with the other provisions of the Restructuring Support Agreement:

- (A) the Company's board adversely changes or withdraws its recommendation in accordance with the Restructuring Support Agreement; or
- (B) the Company enters into an agreement or arrangement with a third party with respect to a Competing Proposal that is a Superior Proposal, as permitted by the Restructuring Support Agreement.

## 12.2 Disclosure of other interests

Mr Tochilin is an employee of Centerbridge and as such a component of his remuneration relates to the performance of Centerbridge's funds, and therefore their respective portfolios, including the Centerbridge funds through which Centerbridge is invested in the Company. Mr Tochilin is one of Centerbridge's existing nominees to the BLY Board. Mr Tochilin was not a member of the Restructuring Committee established by the BLY Board to oversee the Strategic Review and because he is a Centerbridge nominee to the BLY Board and an employee of Centerbridge, neither he nor Centerbridge makes any recommendation in relation to the Recapitalisation Resolutions. Mr Tochilin holds no Shares in the Company and will not be receiving any Shares or warrants in connection with his prospective service as a BLY Board member or if the Recapitalisation Resolutions are approved.

Mr McDougal is an employee of Great Wolf Resorts, which is currently 35% owned by Centerbridge. Mr McDougal was not a member of the Restructuring Committee established by the BLY Board to oversee the Strategic Review and neither he nor Centerbridge makes any recommendation in relation to the Recapitalisation Resolutions.

## 12.3 Consents and disclaimers

The following persons have given and have not, before the date of issue of this Explanatory Statement, withdrawn their consent to:

- be named in this Explanatory Statement in the form and context in which they are named;
- the inclusion of their respective reports or statements noted next to their names and the references to those reports or statements in the form and context in which they are included in this Explanatory Statement; and
- the inclusion of other statements in this Explanatory Statement which are based on or referable to statements made in those reports or statements, or which are based on or referable to other statements made by those persons in the form and context in which they are included.

Name of person	Named as	Reports or statements
Centerbridge	Centerbridge	Centerbridge Information

Name of person	Named as	Reports or statements
Ad Hoc Group member	Ad Hoc Group member	Ad Hoc Group Information to the extent it relates to that AHG Member
KPMG	Independent Expert	Independent Expert's Report set out in Annexure A
FTI Consulting	Independent Expert in respect of the Creditors' Schemes	N/A
Link Market Services	Link Market Services/ Share Registry	N/A

Each person referred to above:

- does not make, or purport to make, any statement in this Explanatory Statement other than those statements referred to above as consented to by that person; and
- to the maximum extent permitted by law, expressly disclaims and takes no responsibility for any part of this Explanatory Statement other than with respect to the statements and references included in this Explanatory Statement with the consent of that person as set out above.

#### 12.4 **Material litigation to which the Company is a party**

Certain of the Company's subsidiaries are defendants to ongoing litigation in Australia in connection with alleged patent infringement. The BLY Group is actively defending this litigation and denies the allegations made by the various plaintiffs. In the event that the BLY Group is unsuccessful in defending the litigation, the BLY Group does not expect that outcome will have any material impact to its financial position and has made appropriate provisions.

### 13. GLOSSARY OF TERMS

In this Explanatory Statement, unless the context requires otherwise:

**2014 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2014 Option Plan.

**2014 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2014 Options.

**2015 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2015 Option Plan.

**2015 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2015 Options.

**2016 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2016 Option Plan.

**2016 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2016 Options.

**2021 Existing PNC ABL Amendment** has the meaning outlined in Section 1.6 of the Explanatory Statement.

**A\$** means Australian dollars.

**ABL Maturity Date** means the earlier of 90 days before the maturity of the Term Loan A, the Term Loan B, the SSN Indenture Notes, the Incremental Financing Facility, the Exit Financing Facility (or any indebtedness refinancing the Exit Financing Facility), 24 July 2022, or, subject to certain conditions, 12 May 2025.

**ABN** means Australian Business Number.

**Account Holder** means a person recorded directly in the records of Cede & Co. and DTC as holding an interest in the SSN Indenture or SUN Indenture (as applicable) in an account held with DTC.

**Ad Hoc Group** means Ascribe, Ares, Corre, FPA, and Nut Tree.

**Ad Hoc Group Information** has the meaning given in the "Important Notices".

**Ad Hoc Group Director Nomination Agreements** means each agreement between one or more AHG Members and BLY in relation to the nomination of no more than three persons to be appointed as directors of BLY.

**Administrative Agent** means:

- (a) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan B; and
- (c) any successor administrative agent under the Term Loan A or Term Loan B.

**Affiliate** means:

- (a) with respect to any person, any other person that directly or indirectly controls, or is under common control with, or is controlled by, such person provided that in no event will the Company or any of its subsidiaries be deemed to be an Affiliate of Centerbridge or the AHG Members (or their Permitted Assignees) or vice versa, notwithstanding any control that Centerbridge and/or the AHG Members (or their Permitted Assignees) may have over the Company or its subsidiaries. As used in this definition, “control” (including with its correlative meanings, “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person (whether through ownership of share equivalents or partnership or other ownership interests, by contract or otherwise);
- (b) in the context of an AHG Member, includes an AHG Permitted Assignee; and
- (c) in the context of Centerbridge, includes a Centerbridge Permitted Assignee.

**Agent** means the Administrative Agent or the Collateral Agent or both of them, as the context requires.

**AHG Member** means any one of Ascribe, Ares, Corre, FPA, or Nut Tree and **AHG Members** means any two or more of them.

**AHG Permitted Assignee** means:

- (a) in respect of the Corre Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Corre Partners Management, LLC or any affiliate of it;
- (b) in respect of the Ares Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Ares Management LLC or any affiliate of it;
- (c) in respect of Ascribe, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Ascribe Management, LLC or any affiliate of it;
- (d) in respect of the FPA Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by First Pacific Advisors, LP or any affiliate of it; and
- (e) in respect of Nut Tree Master Fund, LP, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Nut Tree Capital Management or any affiliate of it.

**Alternative Exchange** means if the Company is no longer listed on ASX, a national or internationally recognised securities exchange other than ASX on which the Company, or a Successor Company, is listed.

**Ares** means Ares Management LLC, on behalf of its affiliated funds and accounts being ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement



System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company – U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.

**Ares Shareholders** means ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company – U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.

**Ascribe** means Ascribe II Investments LLC.

**Ascribe Director Nomination Agreement** means the document entitled "Director Nomination Agreement" dated 8 May 2017, as amended from time to time, between Ascribe and BLY

**ASX** means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691) or the financial market conducted by it, as the context requires.

**ASX Listing Rules** means the listing rules of ASX, as waived or modified by ASX in respect of BLY, the Creditors' Schemes or otherwise.

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

**ASX Settlement Operating Rules** means the settlement operating rules of ASX Settlement.

**Authorised Nominee** means CHESS Depository Nominees Pty Limited ACN 071 346 506, Australian Financial Licence number 254514, an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.

**BCM** means BL Capital Management LLC ARBN 649 445 321, a limited liability company formed under the laws of Delaware.

**BLA** means Boart Longyear Australia Pty Ltd ACN 000 401 025.

**BLI** means Boart Longyear Investments Pty Limited ACN 124 070 373.

**BLY Board** means the board of directors of BLY from time to time.

**BLY Director Nomination Agreements** means:

- (a) the CBP Director Nomination Agreement; and
- (b) the Ad Hoc Group Director Nomination Agreements.

**BLY Group** means BLY and each of its Subsidiaries.

**BLY Issuer** means Boart Longyear Management Pty Limited ACN 123 283 545.

**BLY or the Company** means Boart Longyear Limited ACN 123 052 728.

**BLY Share Register** means the register of members of BLY maintained by or on behalf of BLY in accordance with section 168(1) of the Corporations Act.

**BLY US** means BLY US Holdings Inc. ARBN 649 445 394, a corporation formed under the laws of the State of Utah.

**Book Entry Interest** means a beneficial interest in the SSN Indenture or SUN Indenture, as the context requires, held by or through an Account Holder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales and Adelaide, South Australia.

**Buy-Back Date** means the date of disposal of Shares acquired by BLY under the Selective Buy-Back.

**Buy-Back Price** has the meaning outlined in Section 1.7 of the Explanatory Statement.

**CBP Creditors** means Centerbridge Special Credit Partners II L.P, Centerbridge Credit Partners Master AIV III, L.P, CCP II Acquisition Holdings, LLC, Centerbridge Credit Partners Master, L.P. and Centerbridge Special Credit Partners Master II AIV III, L.P.

**CBP Director Nomination Agreement** means the agreement between BLY and affiliates of Centerbridge in relation to the nomination of persons to be appointed as directors of BLY.

**CBP Registered Holders** means CCP II and CCP Credit.

**CCP Credit** means CCP Credit SC II Dutch Acquisition – E, B.V.

**CCP II** means CCP II Dutch Acquisition – E2, B.V.

**CDI** means a CHESS Depository Interest, that being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.

**Centerbridge** means Centerbridge Partners, L.P. and its affiliates or managed funds (as applicable).

**Centerbridge Board Nominee** means a person nominated by Centerbridge for appointment to the BLY Board in accordance with the CBP Director Nomination Agreement.

**Centerbridge Information** has the meaning given in the "Important Notices".

**Centerbridge Permitted Assignee** means any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by any affiliate of Centerbridge Partners, L.P.

**Chairman** means the chairman of the BLY Board.

**Chair of the Meeting** means Jason Ireland.

**Change in Capital** means any recapitalization, reorganization, reclassification, consolidation, merger, amalgamation, sale of all or substantially all of the Company's assets or other transaction, which in each case is effected in such a way that Warrant Shares are converted into the right to receive (either directly or upon subsequent liquidation) stock, securities, other equity interests or assets (including cash), but does not include:

- (a) a Redomiciling Event;
- (b) a Change of Control;
- (c) a Public Stock Merger; or
- (d) a Small Public Stock Merger.

**Change of Control** occurs when a Third Party (other than as custodian, nominee or bare trustee):

- (a) acquires an interest in, or a relevant interest in or becomes the holder of, 50% or more of the Shares provided that where a Third Party acquires a relevant interest in 50% or more of the Shares by way of an off market takeover bid in accordance with Chapter 6 of the Corporations Act, the Change of Control will not occur until such time as that bid is declared free from all conditions;
- (b) acquires an interest in all or a substantial part of the assets of the Company;
- (c) otherwise acquires control (within the meaning of section 50AA of the Corporations Act) of the Company; or
- (d) otherwise directly or indirectly acquires, merges or amalgamates with the Company or a substantial part of its assets or business, whether by way of takeover offer, scheme or plan of arrangement, shareholder approval acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding company for the Company or other synthetic merger or any other similar transaction or arrangement which for the avoidance of doubt does not include where the Third Party is a new holding company and the shares or common stock in the new holding company are held by the holders of Shares in substantially the same proportion as they hold Shares in the Company immediately before the transaction,

but does not include:

- (a) a Redomiciling Event;
- (b) a Public Stock Merger; or
- (c) a Small Public Stock Merger.

**CHESS** means the clearing house electronic subregister system for the electronic transfer of securities operated by ASX Settlement, which provides for the electronic transfer, settlement and registration of securities.

**Class A 7% Warrant** means the unquoted Class A 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class A 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Class B 7% Warrant** means the unquoted Class B 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class B 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Collateral Agent** means:

- (a) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as collateral agent under the Term Loan B; and
- (c) any successor collateral agent under the Term Loan A or Term Loan B.

**Competing Proposal** means any dissolution, winding up, liquidation, reorganisation, assignment for the benefit of creditors, merger, transaction, consolidation, business combination, joint venture, partnership sale of assets, financing (debt or equity), refinancing, or restructuring of the Company, other than the proposed recapitalisation of BLY to be implemented through the Recapitalisation Transactions, including, but not limited to, any proposal, agreement, arrangement or transaction, received in writing within the period from which the RSA has been duly executed by all parties expressed to be parties to it, to the Completion Date, which the BLY Board determines, in good faith and in consultation with the Company's counsel, if completed, would mean a person who is not a party to the RSA (either alone or with any associate of that third party) may:

- (a) directly or indirectly acquire a Relevant Interest (as defined in the Corporations Act) in 20% or more of the Shares or 50% or more of the share capital of any material subsidiary of the Company;
- (b) acquire Control (as defined in the Corporations Act) of the Company;
- (c) directly or indirectly acquire a legal, beneficial or economic interest in, or Control of, all or a material part of the Company's business or assets or the business or assets of the Company taken as a whole; or
- (d) otherwise directly or indirectly acquire or merge with the Company or acquire a material subsidiary of the Company.

**Completion Date** means the earlier of:

- (a) the date upon which:
  - (i) the Creditors' Schemes Implementation Date has occurred;
  - (ii) the Re-domiciliation Scheme Implementation Date has occurred (assuming the requisite shareholder approval has been obtained); and
  - (iii) all other steps and requirements contemplated as part of the recapitalisation have been implemented; or
- (b) 31 October 2021.

**Constitution** means the constitution of BLY, as amended from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Corre** means Corre Partners Management, LLC and those entities affiliated with it including Corre Opportunities Qualified Master Fund, LP, Corre Horizon Fund, LP and Corre Horizon II Fund, LP.

**Corre Shareholders** means Corre Opportunities Qualified Master Fund, LP, Corre Horizon Fund, LP and Corre Horizon II Fund, LP.

**Counterproposal** has the meaning outlined in Section 12.1(d) of this Explanatory Statement.

**Court or Australian Court** means the Supreme Court of New South Wales.

**Creditor Share Purchase Option** means the option for each SUN Noteholder, TLA Purchaser, TLB Purchaser or SSN Noteholder which is a Secured Scheme Creditor or Unsecured Scheme Creditor to subscribe for Shares at the CSPO Issue Price with the Shares to be allocated by the Company in accordance with the CSPO Allocation Principles and issued in accordance with the Secured Creditors Scheme and Unsecured Creditors Scheme, subject to a maximum cap on the amount to be raised by BLY from the issue of the Shares equal to the CSPO Cap Amount, as described in Section 2.2.

**Creditors' Scheme Meetings** means the meetings of the Company's:

- (a) Secured Scheme Creditors; and
- (b) Unsecured Scheme Creditors,

for the purposes of considering the Creditors' Schemes.

**Creditors' Schemes** means both of the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditors' Schemes Effective Date** means the date upon which each of the conditions precedent in the Creditors' Schemes have been satisfied.

**Creditors' Schemes Explanatory Booklet** means the explanatory statement prepared by the Company and dated 29 July 2021 in respect of each of the Creditors' Schemes in accordance with the Corporations Act to be dispatched to creditors.

**Creditors' Schemes Implementation Date** means the date notified by the Scheme Administrators pursuant to the Restructuring Implementation Deed as the date upon which the Implementation Steps to implement the Creditors' Schemes will be commenced under the Restructuring Implementation Deed, unless another date is determined and notified by a Scheme Administrator in accordance with the Restructuring Implementation Deed, in which case that new date will be the Creditors' Schemes Implementation Date.

**Creditors' Schemes Voting Entitlement Record Date** means the date upon which a creditor's entitlement to vote at the Creditors' Scheme Meetings is determined, being 2 August 2021.

**CSPO Allocation Principles** has the meaning given to that term in Section 2.2.

**CSPO Cap Amount** means an amount equal to the aggregate of US\$2.5 million plus any unsubscribed amount under the Share Purchase Plan.

**CSPO Issue Price** means the issue price of the Shares to be issued under the Creditor Share Purchase Option, being A\$2.48 per Share.

**Depository Trust Company** or **DTC** means The Depository Trust Company, a central securities depository registered as a clearing agency with the Securities Exchange Commission.

**Directors** means the directors appointed to the Company as at the date of this Explanatory Statement.

**EBITDA** means earnings before interest, tax, depreciation and amortisation.

**Effective** means:

- (a) when used in relation to a one of the Creditors' Schemes, the coming into effect of the Second Court Orders pursuant to section 411(10) of the Corporations Act;
- (b) when used in relation to the Re-domiciliation Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Re-domiciliation Scheme.

**Eligible SBB Shareholder** has the meaning outlined in Section 1.7 of this Explanatory Statement.

**Eligible SPP Shareholder** has the meaning outlined in Section 4.2 of this Explanatory Statement.

**Enforcement Actions** means in relation to a Supporting Creditor or the agent or lenders under the Existing ABL or Backstop ABL, such party taking any step(s) in connection with or in furtherance of:

- (a) any action for the enforcement of any security held in relation to the Relevant Finance Document, Existing PNC ABL or Existing Backstop ABL;
- (b) any action under any guarantee under or in relation to the Relevant Finance Documents, Existing PNC ABL or Existing Backstop ABL or the liabilities under them;
- (c) demanding or claiming repayment of all or part of any money owing under the Relevant Finance Documents, Existing PNC ABL or Existing Backstop ABL; or
- (d) instructing any agent, trustee or other party to take any of the actions specified above.

**Excluded Foreign Person** means anyone who falls within any of the following exclusions:

- (a) persons who are (or who are acting on behalf of or for the account of a person who is) located in the United States, a US Person, or a resident of Canada;
- (b) any other Shareholders to whom BLY would be prohibited, pursuant to any act, rule or regulation in any jurisdiction, from making payments;
- (c) persons who reside, or who are acting on behalf of or for the account of a person who resides, in a jurisdiction other than Australia or New Zealand, unless BLY determines that:

- (i) it would not be illegal for BLY to make an invitation to that person, or for that person to participate in the Selective Buy-Back under the laws of that jurisdiction; and
- (ii) it would not be impractical for BLY to permit the person to participate in the Selective Buy-Back, having regard to the number of Shareholders in the relevant jurisdiction and the requirements of the laws of that jurisdiction.

**Exercise Notice** means a notice substantially in the form set out in Attachment 1 to the New Warrant Deed Poll.

**Exercise Period** means the period commencing on the date of issue of the New Warrants until 5.00 pm on the sixth anniversary of that date.

**Exercise Price** means the relevant exercise price for the New Warrants, as set out in Section 3.2.

**Existing Backstop ABL** means the Term Loan Securities Agreement dated as of 23 July 2017 (as amended by the First Amendment to Term Loan Securities Agreement dated as of 5 August 2017, the Second Amendment to Term Loan Securities Agreement dated as of 31 August 2017, the Third Amendment to Term Loan Securities Agreement dated as of 24 July 2019, the Fourth Amendment to Term Loan Securities Agreement dated as of 19 March 2020, the Fifth Amendment to Term Loan Securities Agreement dated as of 1 June 2021 and as further amended, varied or amended and restated from time to time), between, amongst others, BLY Issuer, the other guarantors party thereto, and Wilmington Trust, National Association, as administrative agent, providing for the issuance of term loan securities with a final repayment date of the earlier of 22 October 2022 and 90 days following the final repayment date under the Existing PNC ABL.

**Existing Options** means the 2014 Options, 2015 Options and 2016 Options.

**Existing PNC ABL** means the Amended and Restated Revolving Credit and Security Agreement, originally dated as of July 23, 2017, among PNC Bank National Association as lender and as agent, BLY Issuer as a borrower and the guarantors party thereto as amended by the document titled "Seventh Amendment to Amended and Restated Revolving Credit and Security Agreement" among PNC Bank National Association as lender and as agent and BLY Issuer as borrower.

**Existing Warrants** means each of the following instruments:

- (a) the Ordinary Warrants;
- (b) the Class A 7% Warrants; and
- (c) the Class B 7% Warrants.

**Exit Financier** means each bank, fund or other financial institution who is designated a lender (howsoever described) pursuant to the terms of the Exit Financing Facility.

**Exit Financing Facility** means financing made available under a new money facility agreement, which shall:

- (a) be available for drawing by BLY US or another other member of the BLY Group;

- (b) be a five year term loan facility with a total aggregate commitment of US\$115,000,000 available for the purposes, amongst other things, of fully refinancing outstanding amounts (including, but not limited to, principal, interest and fees) under each of the Incremental Finance Facility and the Existing Backstop ABL; and
- (c) subject to certain conditions precedent, be available for drawing following completion of Step 1 and Step 2 (as set out in clause 8(a) and clause 8(b) (respectively) of the RID) in accordance with the RID.

**Explanatory Statement** means this explanatory statement which includes the Independent Expert's Report, Notice of Meeting and Proxy Form.

**Extraordinary General Meeting or EGM** means the extraordinary general meeting of Shareholders convened by the Notice of Meeting to consider, amongst other things, the Recapitalisation Resolutions.

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

**Finance Document** means:

- (a) each of the documents listed in Schedule 1 of the Secured Creditors' Scheme other than an Incremental Finance Document;
- (b) each of the documents listed in Schedule 1 of the Unsecured Creditors' Scheme other than an Incremental Finance Document;
- (c) any document entered into by a Scheme Company under which it has granted a security interest over its property to secure the Secured Money; and
- (d) any other document designated as:
  - (i) a Loan Document under the Term Loan A and Term Loan B; or
  - (ii) a Notes Document under the SSN Indenture.

**FPA** means First Pacific Advisors, LP and those entities affiliated with it including FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**FPA Shareholders** being FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**FTI Consulting** means FTI Consulting of Level 22, Gateway 1 Macquarie Place, Sydney NSW 2000, Australia.

**FTI Consulting Report** means the independent expert report dated on or around the date of this Explanatory Statement prepared by FTI Consulting in relation to the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Government Agency** means, whether foreign or domestic:

- (a) a government, whether federal, state, provincial, territorial or local or a department, office or minister of a government acting in that capacity, or any



person acting within and under the authority of any of the foregoing or under a statute, rule or regulation thereof; or

- (b) a commission, delegate, instrumentality, agency, board, or other government semi-government, judicial, administrative, monetary or fiscal body, department, tribunal, entity or authority, whether statutory or not, and includes any self-regulatory organisation established under statute or any stock exchange.

**Implementation Steps** means each of the steps set out in clause 8 of the Restructuring Implementation Deed.

**Incremental Finance Commitment Letter** has the meaning outlined in Section 1.1 of this Explanatory Statement.

**Incremental Finance Documents** means together:

- (c) the Incremental Finance Facility; and
- (d) any Loan Document (as that term is defined in the Incremental Finance Facility).

**Incremental Finance Facility** means the Term Loan Securities Agreement dated as of 1 June 2021 between, amongst others, BLY Issuer, the guarantors party thereto, the purchasers party thereto, Wilmington Trust, National Association, as agent and U.S. Bank National Association, as collateral agent, and providing for the issuance of term loan securities with a final repayment date of 31 December 2021.

**Incremental Finance Facility Agreement** has the meaning outlined in Section 1.4 of this Explanatory Statement.

**Independent Directors** means all Directors other than Conor Tochilin and Rubin McDougal.

**Independent Expert** or **KPMG** means KPMG Corporate Finance, a division of KPMG Financial Advisory Services (Australia) Pty Ltd.

**Independent Expert's Report** means the report prepared by the Independent Expert which is contained in Annexure A of this Explanatory Statement.

**Ineligible Person** means a person:

- (a) located in any jurisdiction other than Australia, Canada, Bermuda, Cayman Islands, Ireland, Italy, Netherlands, Switzerland the United States of America or other jurisdiction as agreed to by BLY; or
- (b) to whom BLY considers it would be unlawful for BLY to make an offer of Shares or if applicable, New Warrants, in accordance with the laws of the jurisdiction in which the person is located.

**Information Agent** means Prime Clerk LLC.

**Initial Supporting Creditors** means affiliates of Centerbridge, Ascribe, Corre, FPA and Nut Tree in their capacity as a beneficial holder, or investment adviser or manager for the account of beneficial holders, of obligations arising under the Existing Backstop ABL, Term Loan A, Term Loan B, SSN Indenture and/or SUN Indenture.

**Instrument** means the ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547.

**Link Market Services** means Link Market Services Limited ACN 083 214 537.

**Longstop Date** means 31 October 2021, or such other date as extended in accordance with the RSA.

**Majority AHG Members** means any three (3) of Ascribe, Corre, FPA, and Nut Tree.

**Material Adverse Event** means any event occurring after the commencement date of the RSA that results in a material adverse change in the business, condition or results of operations of the Company and its subsidiaries, taken as a whole, other than:

- (a) as a result of the events contemplated by the RSA;
- (b) in any of the following circumstances:
  - (i) a change in applicable laws or the interpretation or enforcement thereof;
  - (ii) a change in prices, markets or general economic conditions; or
  - (iii) any act of war or terrorism or natural disaster,
 

except if such events, changes, effects, occurrences, developments, circumstances or changes of fact have a materially disproportionate adverse impact on the Company and its subsidiaries, taken as a whole, as compared to other participants engaged in the industries and geographies in which they operate; or
- (c) any change that does not result in a measurable decrease in the fair market value of the assets of the BLY Group entities by more than US\$40,000,000.

**Maximum Committed Securities** means the maximum number of Shares the relevant Participating SUN Noteholder or Other CSPO Participant (or their respective Permitted CSPO Nominee) is willing to subscribe for under the Creditor Share Purchase Option, as listed in its duly executed and delivered SUN Account Holder Letter, SSN Account Holder Letter, TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable).

**Meeting** means the Extraordinary General Meeting convened by the Notice of Meeting.

**Milestones** means the events set out in Schedule 3 to the Restructuring Support Agreement.

**New BLY Parent** means Boart Longyear Ltd, a limited company incorporated in Ontario, Canada (Number 2854330), a newly incorporated company established for the purpose of the Re-domiciliation Scheme.

**New BLY Parent CDI** means a CDI representing one (1) New BLY Parent Share.

**New BLY Parent Share** means a fully paid common share in New BLY Parent.

**New Common Equity** has the meaning given to that term in the Letter from the Chair in this Explanatory Statement.

**New Warrant Certificate** means a certificate evidencing a person as a registered holder of any one or more New Warrants, and substantially in the form set out in Attachment 3 to the New Warrant Deed Poll.

**New Warrant Deed Poll** means the document entitled New Warrant Deed Poll substantially in the form set out in Schedule 11 of the Unsecured Creditors' Scheme to be executed by the Company which sets out the terms of issue of the New Warrants.

**New Warrants** means the warrants issued by the Company on the terms set out in Schedule 11 of the Unsecured Creditors' Scheme with a strike price of A\$2.79.

**New Warrants Issuance** means the issue of the New Warrants to SUN Noteholders as described in Section 3.2.

**Non-Associated Shareholder** means a Shareholder who is not any of the following:

- (a) a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder; or
- (b) an associate of any of the persons referred to in paragraph (a).

**Non-Executive Director** means a non-executive director of the Company.

**Notice of Meeting** means the Notice of Extraordinary General Meeting included in this Explanatory Statement, as applicable.

**Nut Tree** means Nut Tree Capital Management and Nut Tree Master Fund, LP.

**Obligors** means each of:

- (a) BLY;
- (b) BLA;
- (c) BLI;
- (d) BLY Issuer;
- (e) BCM;
- (f) BLY US;
- (g) Boart Longyear Canada;
- (h) Boart Longyear Chile Limitada;
- (i) Boart Longyear Company;
- (j) Boart Longyear Manufacturing and Distribution Inc.;
- (k) Boart Longyear Manufacturing Canada Ltd.;
- (l) Boart Longyear S.A.C.;
- (m) Boart Longyear Suisse Sarl;
- (n) Longyear Canada, ULC;
- (o) Longyear TM, Inc.;

(p) Votaint; and

(q) BLY IP Inc.

**Ordinary Warrant Deed Poll** means the ordinary warrant deed poll dated 31 August 2017 executed by BLY.

**Ordinary Warrants** means quoted ordinary warrants trading on ASX initially issued in September 2017 to all eligible Shareholders, which are subject to an Ordinary Warrant Deed Poll.

**Other CSPO Participants** means TLA Purchasers, TLB Purchasers and SSN Noteholders who are either a Secured Scheme Creditor or an Unsecured Scheme Creditor who complete and return to the Information Agent a TLA Proof of Debt Form, TLB Proof of Debt Form or an SSN Account Holder Letter (as applicable) with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Oversubscribing Other CSPO Participant** means an Other CSPO Participant (or their Permitted CSPO Nominee) whose Maximum Committed Securities exceeds their initial pro rata allocation under paragraph (b)(i) of the CSPO Allocation Principles.

**Oversubscribing Participating SUN Noteholder** means a Participating SUN Noteholder (or their Permitted CSPO Nominee) whose Maximum Committed Securities exceeds their initial pro rata allocation under paragraph (a)(i) of the CSPO Allocation Principles.

**Participating SUN Noteholder** means SUN Noteholders who are Unsecured Scheme Creditors and who complete and return to the Information Agent the SUN Account Holder Letter with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Permitted CSPO Nominee** means a person (who is not an Ineligible Person) nominated by a Participating SUN Noteholder or Other CSPO Participant to take up their allocation of Shares under the Creditor Share Purchase Option provided that:

- (a) the nominee is a party to the RSA or accedes to the RSA; and
- (b) the Participating SUN Noteholder or Other CSPO Participant specifies the nominee's name and details in the relevant section titled 'Creditor Share Purchase Option' of their SUN Account Holder Letter, SSN Account Holder Letter, TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable).

**Proxy Form** means the proxy form accompanying the Notice of Meeting.

**Public Stock** means common stock or shares of a company listed on ASX or an Alternative Exchange with an aggregate market capitalisation in excess of US\$500 million.

**Public Stock Merger** means an event described in any of paragraphs (a) to (d) of the definition of a Change of Control pursuant to which all of the Shares held by shareholders who are not affiliated with the Company or any entity acquiring the Company are exchanged for, converted into or constitute solely (except to the extent

of applicable appraisal rights or cash received in lieu of fractional shares) the right to receive as consideration Public Stock.

**Recapitalisation** means the proposed recapitalisation of the Company to be implemented through the Recapitalisation Transactions.

**Recapitalisation Resolutions** means resolutions 1 to 6 (inclusive) outlined in the Notice of Meeting.

**Recapitalisation Transactions** means the transactions to effect the Recapitalisation, as contemplated by the Restructuring Support Agreement, including:

- (a) the Secured Debt Release;
- (b) the Unsecured Debt Release;
- (c) the New Warrants Issuance;
- (d) the Share Consolidation;
- (e) the Creditor Share Purchase Option;
- (f) the Share Purchase Plan; and
- (g) the establishment of the Exit Financing Facility.

**Re-domiciliation** means the proposed re-domiciliation of the Company to Canada to be effected by way of the Re-domiciliation Scheme.

**Re-domiciliation Scheme** means a members' scheme of arrangement in accordance with Part 5.1 of the Corporations Act between BLY and Shareholders pursuant to which BLY will become a wholly owned subsidiary of the New BLY Parent by the transfer of all Shares to the New BLY Parent in exchange for issue of New BLY Parent CDIs to Shareholders.

**Re-domiciliation Scheme Explanatory Statement** means the explanatory statement prepared in accordance with the Corporations Act explaining the Re-domiciliation Scheme.

**Re-domiciliation Scheme Implementation Date** means the implementation date for the Re-domiciliation Scheme, which will be the Business Day which is 2 Business Days after the Re-domiciliation Scheme Record Date for the Re-domiciliation Scheme, or such other date as BLY and New BLY Parent may agree in writing, may be ordered by the Court or may be required by ASX.

**Re-domiciliation Scheme Meeting** means the meeting of Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the Re-domiciliation Scheme.

**Re-domiciliation Scheme Record Date** means 7:00pm (Sydney time) on the day which is two business days after the date on which the Re-domiciliation Scheme becomes Effective or any other date (after the Re-domiciliation Scheme becomes Effective) agreed by BLY and New BLY Parent to be the record date to determine entitlements to receive Re-domiciliation Scheme Consideration under the Re-domiciliation Scheme.

**Re-domiciliation Scheme Resolution** means the resolution to be put to Shareholders at the Re-domiciliation Scheme Meeting to approve the Re-domiciliation Scheme.

**Re-domiciling Event** means completion of the implementation of a re-domiciling of the place of incorporation or organisation of the Company to a jurisdiction outside of Australia.

**Relevant AHG Securities** has the meaning outlined in Section 11.3 of this Explanatory Statement.

**Relevant Finance Document** means in respect of the Supporting Creditors, the documents listed in Schedule 5 to the Restructuring Support Agreement as amended, varied, supplemented, or amended and restated from time to time and any other agreements or documents entered into by the applicable obligors party thereunder from time to time, in each case in accordance with the terms of such documents.

**Relevant AHG Shareholders** at a time means:

- (a) the Ares Shareholders;
- (b) Ascribe;
- (c) the Corre Shareholders;
- (d) the FPA Shareholders;
- (e) Nut Tree Master Fund, LP; and
- (f) any AHG Permitted Assignee,

that are the registered holders of Retained Shares at that time.

**Relevant CBP Shareholders** at a time means:

- (a) the affiliates of Centerbridge who are party to the CBP Director Nomination Agreement; and
- (b) any Centerbridge Permitted Assignee,

that are the registered holders of Retained Shares at that time.

**Representation Letter** means a letter to be delivered to the Company with the Exercise Notice where a New Warrant is exercised for cash by a holder of a New Warrant under the terms of the New Warrant Deed Poll.

**Resolutions** means:

- (a) the Recapitalisation Resolutions; and
- (b) the Selective Buy-Back Resolution.

**Restructuring** means the restructuring of BLY and certain of its Subsidiaries as summarised in Schedule 2 to the Restructuring Support Agreement.

**Restructuring Committee** has the meaning given to that term in Section 1.1.

**Retained Shares** means:

- (a) immediately following completion of Step 8 (*Confirmation of Scheme Restructuring Effective Time*) of the Implementation Steps as set out in clause 8 (*Implementation Steps*) of the Restructuring Implementation Deed, those Shares in which any one or more of the Relevant AHG Shareholders or the Relevant CBP Shareholders (as applicable) have a relevant interest at that time; or
- (b) if the Re-domiciliation Scheme is implemented, those Shares in which any one or more of the Relevant AHG Shareholders or the Relevant CBP Shareholders (as applicable) has a relevant interest as at immediately following the implementation of the Re-domiciliation Scheme,

and in which, at any relevant time, any one or more of the Relevant AHG Shareholders or Relevant CBP Shareholders (as applicable) holds a relevant interest.

**RID or Restructuring Implementation Deed** means the Restructuring Implementation Deed substantially in the form set out in Schedule 2 of the Secured Creditors' Scheme and Schedule 2 of the Unsecured Creditors' Scheme to be executed by a Secured Scheme Administrator on behalf of the Secured Scheme Creditors and an Unsecured Scheme Administrator on behalf of the Unsecured Scheme Creditors.

**RSA or Restructuring Support Agreement** means the Restructuring Support Agreement entered into between, among others, BLY and BLY Issuer, dated 12 May 2021 as may be amended, modified or supplemented from time to time.

**RSA Date** means 12 May 2021, being the commencement date of the RSA.

**SBB Booklet** has the meaning outlined in Section 1.7 of this Explanatory Statement.

**SBB Payment Date** means the date on which Eligible SBB Shareholders whose Tender has been accepted by BLY will receive payment for their Shares.

**SBB Record Date** has the meaning outlined in Section 1.7 of this Explanatory Statement.

**SBB Tender Form** has the meaning outlined in Section 1.7 of this Explanatory Statement.

**Scheme Administrators** means the Secured Scheme Administrator and the Unsecured Scheme Administrator.

**Scheme Companies** means BLY, BLA, BLI, BLY Issuer, Votrant, BCM and BLY US and **Scheme Company** means any one of them.

**Scheme Creditors** means Secured Scheme Creditors and Unsecured Scheme Creditors.

**Second Court Date** means the first day of the hearing of an application made to the Court for the Second Court Orders or, if the hearing of such application is adjourned for any reason, means the first day to which the hearing is adjourned.

**Second Court Orders** means the orders of the Court approving either the Secured Creditors Scheme or the Unsecured Creditors Scheme (as applicable) under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act.

**Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies and the Secured Scheme Creditors being the compromise or arrangement proposed by the Scheme Companies and approved by the Court in 2021.

**Secured Creditors' Scheme Effective Date** means the date on which each of the conditions precedent to the Secured Creditors' Scheme, as set out in clause 3.1 of the Secured Creditors' Scheme, have been satisfied.

**Secured Debt** means the TLA Secured Debt, the TLB Secured Debt and the SSN Secured Debt.

**Secured Debt Release** means the release of the full amount of the claims of Secured Scheme Creditors in consideration for the issue to the Secured Scheme Creditors of their relevant proportions of New Common Equity in accordance with the terms of the Secured Creditors' Scheme, as described in Section 2.

**Secured Money** means all amounts (including damages) that are payable, owing but not payable, or that otherwise remain unpaid by a Scheme Company to a Secured Scheme Creditor, Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee on any account at any time under or in connection with the Term Loan A, Term Loan B, SSN Indenture Notes or SUN Indenture Notes or any transaction contemplated by those documents:

- (a) whether present or future, actual or contingent;
- (b) whether incurred alone, jointly, severally or jointly and severally;
- (c) whether a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable on its own account or for the account of, or as surety for, another person and without regard to the capacity in which a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee or the SUN Trustee is liable;
- (d) whether due to a Scheme Company alone or with another person;
- (e) whether a Scheme Company is entitled for its own account or the account of another person;
- (f) whether arising from a banker and customer relationship or any other relationship;
- (g) whether originally contemplated by a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee or a Scheme Company or not;
- (h) whether a Scheme Company is the original person in whose favour the undertakings in the Term Loan A, Term Loan B, SSN Indenture or SUN Indenture were given or an assignee and, if a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee is an assignee:
  - (i) whether or not a Secured Scheme Creditor, an Unsecured Scheme Creditor, the Agent, the TLB Collateral Agent, the SSN Trustee, the SUN Trustee consented to or knew of the assignment;



- (ii) no matter when the assignment occurred; and
  - (iii) whether or not the entitlements of that original person were assigned with the security interests; and
- (i) if determined pursuant to any award, order or judgment against a Scheme Company, whether or not that Scheme Company was a party to the court proceedings, arbitration or other dispute resolution process in which that award, order or judgment was made.

**Secured Scheme Administrator** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Secured Creditors' Scheme, subject to section 411(7) of the Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Secured Scheme Administrators' Deed Poll.

**Secured Scheme Administrators' Deed Poll** mean the deed poll substantially in the form set out in Schedule 3 of the Secured Creditors' Scheme and executed by the Secured Scheme Administrators.

**Secured Scheme Creditors** means, as at the Secured Creditors' Scheme Effective Date, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Secured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Secured Debt; and
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Secured Debt; and
  - (ii) the SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co.

**Selective Buy-Back** means the purchase of Shares by the Company from Eligible SBB Shareholders, pursuant to a tender process as described in Section 1.7 of this Explanatory Statement.

**Selective Buy-Back Resolution** means resolution 7 outlined in this Notice of Meeting.

**Seventh Amendment to Amended and Restated Revolving Credit and Security Agreement** means the document titled "Seventh Amendment to Amended and Restated Revolving Credit and Security Agreement" among PNC Bank National Association as lender and as agent and BLY Issuer as borrower, dated 12 May 2021.

**Share Consolidation** means the proposed consolidation of Shares under which every 20 Shares will be converted into 1 Share, pursuant to the Share Consolidation Resolution, as described in Section 4.1.

**Share Consolidation Resolution** means resolution 4.

**Share Purchase Plan** or **SPP** means the proposed share purchase plan to be offered to Eligible SPP Shareholders by the Company as described in Section 4.2 of this Explanatory Statement.

**Shareholder** means a person entered in the BLY Share Register as the holder of a Share.

**Shareholder Information Line** means the information line set up for the purpose of answering enquiries from Shareholders in relation to the Recapitalisation and the Re-domiciliation, the details of which are set out in the Notes section of the Notice of Meeting.

**Share Registry** means Link Market Services Limited or (as applicable) any other registry that BLY appoints to maintain the BLY Share Register.

**Shares** means fully paid ordinary shares in the capital of BLY.

**Small Public Stock** means common stock or shares of a company listed on ASX or an Alternative Exchange with an aggregate market capitalisation less than or equal to US\$500 million.

**Small Public Stock Merger** means an event described in any of clauses (a) to (d) of the definition of Change of Control pursuant to which all of the Shares held by shareholders who are not affiliated with the Company or any entity acquiring the Company are exchanged for, converted into or constitute solely (except to the extent of applicable appraisal rights or cash received in lieu of fractional shares) the right to receive as consideration Small Public Stock.

**SPP Application Form** has the meaning outlined in Section 4.2 of this Explanatory Statement.

**SPP Booklet** has the meaning outlined in Section 4.2 of this Explanatory Statement.

**SPP Issue Price** has the meaning set out in Section 4.2 of this Explanatory Statement.

**SPP Record Date** means the record date for the SPP, being 7.00 pm (Sydney time) on 28 July 2021.

**SSN Account Holder Letter** means the account holder letter substantially in the form set out at Annexure K of the Creditors' Schemes Explanatory Booklet.

**SSN Indenture** means the indenture dated 27 September 2013, between, amongst others, the BLY Issuer, as issuer, BLY, as parent, BLA, BLI, Votaint, BCM and BLY US, as guarantors, amongst others, and U.S. Bank National Association, as trustee and collateral agent, in respect of the 12.0% / 10.0% secured notes, as amended by the first supplemental indenture dated 31 August 2017, the second supplemental indenture dated 18 September 2017, the third supplemental indenture dated 31 December 2018, the fourth supplemental indenture dated 17 July 2019, the fifth supplemental indenture dated 24 June 2020, and the sixth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SSN Indenture Notes** means the 12.0% / 10.0% secured notes issued under the SSN Indenture.

**SSN Noteholders** means each person with a Book Entry Interest in the SSN Indenture.

**SSN Notes Registered Holder** means the "Holder" or "Securityholder" as those terms are defined in the SSN Indenture, being Depository Trust Company.

**SSN Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is secured pursuant to the terms of the applicable Finance Documents.

**SSN Trustee** means U.S. Bank National Association in its capacity as trustee and collateral agent under the SSN Indenture and any successor trustee or collateral agent under that document.

**SSN Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is unsecured pursuant to the terms of the applicable Finance Documents.

**Strategic Review** has the meaning outlined in Section 1.1 of the Explanatory Statement.

**Subordinate Claim** means a "subordinate claim" within the meaning of subsection 563A(2) of the Corporations Act against BLY in respect of any fact, matter, circumstance or event which has arisen or occurred at any time prior to the commencement of Implementation Step 7 (*Subordinate Claim Releases*) in clause 8 (*Implementation Steps*) of the RID.

**Subordinate Claim Holder** means any person who, as at immediately prior to the commencement of Implementation Step 7 (*Subordinate Claim Releases*) in clause 8 (*Implementation Steps*) of the RID, has or, but for the Unsecured Creditors' Scheme, would be entitled to make, a Subordinate Claim.

**Subsidiaries** has the meaning given in the Corporations Act and, as applied to BLY, Subsidiary shall include the BLY Issuer, BLA, BLI, BCM, BLY US, Boart Longyear Canada, Boart Longyear Chile Limitada, Boart Longyear Company, Boart Longyear Manufacturing and Distribution Inc., Boart Longyear Manufacturing Canada Ltd., Boart Longyear S.A.C., Boart Longyear Suisse Sarl, Longyear Canada, ULC, Longyear Holdings Inc., Votaint and BLY IP Inc.

**Substitute Property** means shares, stock, securities, other equity interests or assets issued to a Shareholder in respect of their shares pursuant to a Change in Capital or a Redomiciling Event.

**Successor Company** means, if there is a Redomiciling Event, such other company which becomes the parent company of the corporate group of which the Company is currently the parent company.

**SUN Account Holder Letter** means the account holder letter substantially in the form set out at Annexure L of the Creditors' Schemes Explanatory Booklet.

**SUN Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SUN Noteholders under the applicable Finance Documents.

**SUN Indenture** means the indenture dated 28 March 2011 between the BLY Issuer, as issuer, BLY, as guarantor, and Delaware Trust Company, as trustee, amongst others, as amended by the first supplemental indenture dated 14 June 2013, the second supplemental indenture dated 27 September 2013, the third supplemental indenture dated 2 April 2017, the fourth supplemental indenture dated 31 August 2017, the fifth supplemental indenture dated 18 September 2017, the sixth supplemental indenture dated 31 December 2018, the seventh supplemental indenture dated 17 July 2019, the eighth supplemental indenture dated 15 June 2020, and the ninth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SUN Indenture Notes** means the 1.5% pay in kind unsecured notes issued under the SUN Indenture.

**SUN Noteholders** means each person with a Book Entry Interest in the SUN Indenture.

**SUN Notes Registered Holder** means the "Holder" or "Securityholder" as that term is defined in the SUN Indenture, being Depository Trust Company.

**SUN Trustee** means Delaware Trust Company in its capacity as trustee under the SUN Indenture and any successor trustee under that document.

**Superior Proposal** means a bona fide written competing proposal of the kind referred to in (b) or (c) of the definition of Competing Proposal that the BLY Board, acting in good faith, and after receiving written legal advice from the Company's counsel and advice from its financial advisor, determines:

- (a) is reasonably capable of being valued and completed, taking into account all aspects of the Competing Proposal including any timing considerations, any conditions precedent, the identity, reputation and financial standing of the proponent, the current contractual rights of the Supporting Creditors under the Relevant Finance Documents, and any requirements set forth by the Supporting Creditors in their response to a Competing Proposal;
- (b) would, if completed substantially in accordance with its terms, be more favourable to Shareholders (as a whole) and the creditors of the Company than the Recapitalisation Transactions (having regard to the fact that trade creditors will be paid in full under the Recapitalisation Transactions) taking into account all terms and conditions of the Competing Proposal; and
- (c) would reasonably be expected to require it by virtue of its directors' fiduciary or statutory duties under applicable law to respond to such Competing Proposal or to change, withdraw or modify its recommendation.

**Supporting Creditors** means those creditors of the Company who are party to the RSA.

**Tender** means an offer, tendered on the SBB Tender Form by an Eligible SBB Shareholder, to sell their Shares to BLY under the Selective Buy-Back.

**Term Loan A** means the Term Loan A Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votaint and BLY US, as guarantors, the TLA Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan A Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan A Securities Agreement dated 24 June 2020, and the Third Amendment to Term Loan A Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**Term Loan B** means the Term Loan B Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votaint and BLY US, as guarantors, the TLB Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan B Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated 24 June 2020, and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**TEV** means total enterprise value of the BLY Group.

**TLA Proof of Debt Form** means the proof of debt form substantially in the form set out at Annexure H of the Creditors' Schemes Explanatory Booklet.

**TLA Purchasers** means the "Purchasers" as that term is defined in the Term Loan A.

**TLA Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is secured pursuant to the terms of the applicable Finance Documents.

**TLA Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is unsecured pursuant to the terms of the applicable Finance Documents.

**TLB Collateral Agent** means U.S. Bank National Association in its capacity as collateral agent for the TLB Purchasers and any successor trustee or collateral agent.

**TLB Proof of Debt Form** means the proof of debt form substantially in the form set out at Annexure J of the Creditors' Schemes Explanatory Booklet.

**TLB Purchasers** means the "Purchasers" as that term is defined in the Term Loan B.

**TLB Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is secured pursuant to the terms of the applicable Finance Documents.

**TLB Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is unsecured pursuant to the terms of the applicable Finance Documents.

**Transaction Resolutions** means resolutions 1, 2, 3, 5 and 6 outlined in the Notice of Meeting.

**Treasurer** has the same meaning as it has for the purposes of the FATA.

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders, being the compromise or arrangement proposed by the Scheme Companies and approved by the Court in 2021.

**Unsecured Creditors' Schemes Effective Date** means the date on which each of the conditions precedent to the Unsecured Creditors' Scheme, as set out in clause 3.1 of the Unsecured Creditors' Scheme, have been satisfied.

**Unsecured Debt** means:

- (a) the TLA Unsecured Debt;
- (b) the TLB Unsecured Debt;
- (c) the SSN Unsecured Debt; and
- (d) the SUN Debt.

**Unsecured Debt Release** has the meaning given to that term in Section 3.1.

**Unsecured TLA, TLB, SSN Debt** means:

- (a) the TLA Unsecured Debt;
- (b) the TLB Unsecured Debt; and
- (c) the SSN Unsecured Debt.

**Unsecured TLA, TLB, SSN Release** has the meaning given to that term in Section 3.1.

**Unsecured Scheme Administrator** means Christopher Clarke Hill and David Peter McGrath of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Unsecured Creditors' Scheme, subject to section 411(7) of the Corporations Act provided, in each case, they have each executed a deed poll in substantially the same form as the Unsecured Scheme Administrators' Deed Poll.

**Unsecured Scheme Administrators' Deed Poll** means the deed poll substantially in the form set out in Schedule 3 of the Unsecured Creditors' Scheme and executed by the Unsecured Scheme Administrators.

**Unsecured Scheme Creditors** means as at the Unsecured Creditors' Schemes Effective Date, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Unsecured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Unsecured Debt;
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Unsecured Debt; and
  - (ii) the SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co;
- (d) the SUN Indenture:
  - (i) each SUN Noteholder with SUN Debt; and
  - (ii) the SUN Notes Registered Holder, and the SUN Notes Registered Holder's nominee, Cede & Co.

**Unsecured SUN Debt Release** has the meaning given to that term in Section 3.1.

**U.S. Bankruptcy Court** means the United States Bankruptcy Court of the Southern District of New York.

**U.S. Securities Act** means the United States Securities Act of 1933, 15 U.S.C. § § 77a-77aa, as now in effect or hereafter amended, and the rules and regulations promulgated thereunder.

**Votrant** means Votrant No. 1609 Pty Limited ACN 119 244 272.

**Warrant Share** means:

- (a) one (1) Share; or

- (b) if there is a Re-domiciling Event, the Substitute Property received in place of one (1) Share as a result of the Re-domiciling Event,

to be issued to a holder of a New Warrant on exercise of a New Warrant.

**Working Capital Facilities** means each of:

- (a) the Incremental Finance Facility; and
- (b) the Existing Backstop ABL.

**Annexure A – Independent Expert's Report**





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The Directors  
Boart Longyear  
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Adelaide Airport SA 5950

29 July 2021

Dear Directors

## **PART ONE – RECAPITALISATION INDEPENDENT EXPERT’S REPORT**

### **1 Introduction**

On 13 May 2021 (Announcement Date) Boart Longyear Limited (BLY or the Company) announced that an overwhelming majority of its lenders (the Supporting Creditors)<sup>1</sup> had entered into a Restructuring Support Agreement (RSA) that would convert approximately \$795 million of BLY’s debt into 98.5%<sup>2</sup> of the post-recapitalisation ordinary shares of BLY (the Recapitalisation). The Recapitalisation is intended to provide a more sustainable capital structure for BLY through substantially reducing debt and interest costs, strengthening the balance sheet as well as enhancing liquidity to support operations and future growth.

As a consequence of the Recapitalisation all existing BLY shareholders (Shareholders) other than Centerbridge, Ascribe and Corre will be materially diluted. After the Recapitalisation, affiliates of Centerbridge and Ascribe who currently collectively represent over 66% of its secured lenders and 45.5% of its unsecured lenders, respectively, will collectively hold 60% of the ordinary shares of the company.<sup>3</sup>

The Recapitalisation forms part of a wider restructuring involving the proposed Re-Domicile Transaction and related transactions (the Restructuring).

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<sup>1</sup> The Supporting Creditors comprise Ares Management LLC (Ares), Ascribe II Investments LLC (Ascribe), Centerbridge Partners, L.P. (Centerbridge), Corre Partners Management LLC (Corre), First Pacific Advisers LP (FPA) and Nut Tree Capital Management (Nut Tree).

<sup>2</sup> Subject to dilution (1) including the new Shares that would be issued on exercise of the New Warrants, (2) before the issue of any Shares on the exercise of any Existing Warrants and Existing Options (3) before the issue of any Shares under the Share Purchase Plan (SPP) and the Creditor Share Purchase Option (CSPO), (4) before any buy-back of Shares under the Selective Share Buy-Back Programme (SBB) and (5) before the issue of any Shares under any management incentive plan.

<sup>3</sup> Subject to dilution for the SPP, CSPO, any management incentive plan and New Warrants.



**Boart Longyear**  
*Independent Expert Report*  
29 July 2021

BLY is a leading global provider of drilling services and manufacturer of drilling equipment and performance tooling for mining and drilling companies. At 12 May 2021, the Company had a market capitalisation of US\$36.3 million.<sup>4</sup>

Centerbridge, a US-based private equity firm, and its affiliates manage approximately US\$29.0 billion of capital under management. Centerbridge's partners include prominent financial institutions, universities, pension and sovereign wealth funds, private foundations and charitable trusts.

Ascribe is a US-based, private equity firm with approximately US\$3 billion of capital under management. The company's investment strategy aims to invest in securities of middle-market companies that are either distressed, or undergoing operational or financial challenges.

The key elements of the Restructuring are:

- **Deleveraging:** Debt will decrease to less than US\$200 million as approximately US\$795 million of debt (plus further accrued interest post Announcement Date) would be converted under the Creditors' Schemes<sup>5</sup> into 98.5% of BLY's post-recapitalisation equity<sup>6</sup> and in respect of the senior unsecured notes (SUNs) only, into new warrants to purchase shares of up to 10% of post-recapitalisation equity (with the total number of Shares on issue for the purposes of this calculation determined (1) including the new Shares that would be issued on exercise of the New Warrants, (2) before the issue of any Shares on the exercise of any Existing Warrants and Existing Options, (3) before the issue of any Shares under the SPP and the CSPO, (4) before any buy-back of Shares under the SBB and (5) before the issue of any Shares under any management incentive plan) (New Warrants). As a result, BLY's interest cost will reduce by US\$19.9 million in FY21 and US\$60.8 million in FY22.<sup>7</sup>
- **Incremental Financing:** On 1 June 2021, BLY entered into a term loan securities agreement with Corre, FPA and Nut Tree regarding the provision of debt financing in an aggregate maximum amount of US\$50 million (Incremental Finance Facility). The Incremental Finance Facility was established to provide additional working capital to support the BLY Group whilst the Recapitalisation is being implemented. To provide further liquidity BLY and PNC Bank, National Association, entered into the Seventh Amendment to the Amended and Restated Revolving Credit and Security Agreement to amend the Existing PNC ABL (2021 Existing PNC ABL Amendment), that provides US\$15 million of additional liquidity, an extension of the term to 24 July 2022 and the ability to enter into the Incremental Finance Facility.
- **New Warrants:** The issuance of New Warrants to holders of SUN Claims under the Creditors' Schemes to purchase shares of up to 10.0% of post-recapitalisation equity (with the total number of Shares on issue for the purposes of this calculation determined (1) including the new Shares that would be issued on exercise of the New Warrants, (2) before the issue of any Shares on the exercise of any Existing Warrants and Existing Options (3) before the issue of any Shares under the SPP and

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<sup>4</sup> Based on an exchange rate of 0.7741 US\$/AU\$ and market capitalisation the day prior to Announcement Date

<sup>5</sup> Creditors' Schemes means both of the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

<sup>6</sup> Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

<sup>7</sup> Excluding any potential savings on the interest cost for the refinance of the Backstop ABL

the CSPO, (4) before any buy-back of Shares under the SBB and (5) before the issue of any Shares under any management incentive plan), with a strike price per share of \$2.79.

- **Share Purchase Plan:** Eligible SPP Shareholders, as defined in the Explanatory Statement, will be able to participate in a SPP to purchase shares in the Company at the same price as the implied price for the new shares that will be issued to BLY creditors under the Creditors' Schemes capped at a maximum total amount of US\$2.5 million
- **Creditor Share Purchase Option:** Creditors will be able to participate in a CSPO at the same price as the implied price for the new shares that will be issued to BLY creditors under the Creditors' Schemes, capped at a maximum total amount of US\$2.5 million (as increased by the extent of any SPP undersubscription)
- **Shareholder Recoveries:** Due to equity being issued for the deleveraging and reduced interest the percentage of ordinary shares held by Shareholders will decrease to approximately 1.5%<sup>8</sup> Post-Recapitalisation.
- **Re-Domiciliation:** BLY will undertake a Re-Domiciliation from Australia to Canada subject to separate court and shareholder approval
- **Selective Buy-Back Programme:** Subject to the Re-Domiciliation being approved, BLY will allow Shareholders who hold parcels of shares valued at less than \$3,000 the opportunity, under certain conditions, to offer to sell their BLY shares to BLY under a SBB. BLY may in its absolute discretion determine whether to accept (in whole or in part) or reject an offer from Shareholders to sell shares under the SBB and the maximum amount that BLY will spend to buy back shares under the SBB will be US\$500,000.
- **Share consolidation:** BLY will undertake a 20 to 1 share consolidation (Share Consolidation) to reduce the number of shares on issue
- **Exit financing:** BLY to also secure a new money investment to fully refinance (1) the Existing Backstop ABL and (2) the Incremental Finance Facility. The maximum amount available to be drawn under the Exit Financing Facility is expected to be US\$115 million.

A consequence of the Recapitalisation is that Centerbridge will reduce its shareholding from its current holding of 53.3% to 45.59% and Ascribe will reduce its current holding of 20.7% to 14.9% through the Creditors' Schemes.<sup>9</sup>

The combined effect of the Restructuring is summarised below:

- a reduction in debt of US\$795 million<sup>10</sup> (plus further accrued interest post Announcement Date)

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<sup>8</sup> Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

<sup>9</sup> Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

<sup>10</sup> Sourced from the BLY ASX announcement issued on 13 May 2021



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- a new Incremental Financing Facility of US\$50.0 million and Existing PNC ABL facility of US\$15.0 million<sup>11</sup>
- a reduction in interest cost of US\$19.9 million in FY21 and US\$60.8 million in FY22<sup>12</sup>
- a dilution in the ordinary equity holdings of Shareholders<sup>13</sup> to 1.5% of their original holding<sup>14</sup> and
- post the Recapitalisation the Board will comprise the Chief Executive Office, five Centerbridge nominated directors and three other directors nominated by the Ad Hoc Group<sup>15</sup>.

The proposal is described more fully in Section 14 of this report.

The Restructuring contains a number of conditions (refer Section 5.1 of this report and Section 5 of the RSA).

In order to assist Shareholders in assessing the Recapitalisation, the Board of BLY has requested KPMG Financial Advisory Services (Australia) Pty Ltd (of which KPMG Corporate Finance is a division) (KPMG Corporate Finance) to prepare an independent expert report (IER) setting out whether, in our opinion, the Recapitalisation is fair and reasonable to the Non-Associated Shareholders of BLY.

This report sets out KPMG Corporate Finance's opinion on the Recapitalisation and will be included in the Explanatory Statement to be sent to Shareholders prior to the Extraordinary General Meeting (EGM). This report should be considered in conjunction with, and not independently of, the information set out in the Explanatory Statement. It should also be read in conjunction with KPMG Corporate Finance's Re-Domiciliation independent expert report as set out in the Scheme Booklet with respect to the Re-Domiciliation.

Further information regarding KPMG Corporate Finance as it pertains to preparation of this report is set out in Appendix 1.

KPMG Corporate Finance's Financial Services Guide is contained in Part Two of this report.

## 2 Requirement for our Report

Section 606 of the Corporations Act (the Act) expressly prohibits an individual (or corporation) as a result of a transaction increasing their shareholding either to obtain more than 20.0% or to move from a starting point that is above 20% and below 90% of the voting power of an Australian listed company, unless a full takeover offer is made. An exemption to this rule is contained in item 7 section 611 of the Act, which allows the target company shareholders the opportunity to vote to forgo their right to a full takeover. In passing the resolution, no votes may be cast by the potential acquirer or their associates or by the persons from whom the acquisition is to be made or their associates.

The acquisition of shares under the Creditors' Schemes and under the CSPO by Centerbridge requires shareholder approval under Item 7 of Section 611 of the Act to the extent that it results in Centerbridge's voting power increasing above Centerbridge's voting power in the Company at the date of this report of

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<sup>11</sup> Sourced from the BLY ASX announcement issued on 13 May 2021

<sup>12</sup> Excluding any potential savings on the interest cost for the refinance of the Backstop ABL

<sup>13</sup> Non-Associated Shareholders means a Shareholder who is not a Secured or Unsecured Scheme creditor or an associate of a Secured or Unsecured Scheme Creditor

<sup>14</sup> Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

<sup>15</sup> The Ad Hoc Group comprises Ascribe, Ares, Corre, FPA and Nut Tree



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53.3%. It is expected that Centerbridge's voting power in the Company will decrease following implementation of the Recapitalisation, in particular due to the significant number of shares being issued to other creditors under the Creditors' Schemes and the CSPO, which will occur on the same date as the shares are issued to Centerbridge. However, Shareholder approval under item 7 of section 611 of the Corporations Act is being sought from Shareholders in case (due to the timing of issue of the shares to the different parties under the Creditors' Schemes, SPP and CSPO) at any point in time Centerbridge's voting power in the Company did increase above 53.3% for a period of time.

The Ad Hoc Group consider that they may be deemed to be associates of each other in relation to the Company by virtue of section 12(2)(b) or 12(2)(c) of the Act on the basis of the RSA. Consequently, each of the Ad Hoc Group members is treated as having voting power equal to the aggregate of the total number of votes attaching to voting shares in which any of the Ad Hoc Group members hold a relevant interest. As at the date of this report, together, the Ad Hoc Group members have aggregate voting power in the Company of 23.6%. The acquisition of Shares by the Ad Hoc Group members under the Creditors' Schemes and the CSPO and on exercise of the New Warrants issued to the Ad Hoc Group members requires shareholder approval under Item 7 of Section 611 of the Act because it results in their voting power in the Company increasing above the Ad Hoc Group member's voting power in the Company of 23.6% as at the date of this report.

In the case of a resolution pursuant to Item 7 Section 611 of the Act, Regulatory Guide 74 (RG74) "Acquisitions approved by members" issued by the Australian Securities and Investments Commission (ASIC) requires that Non-Associated Shareholders be supplied with all information that is material to the decision on how to vote on the Restructuring. In such circumstances, the Directors are required to provide Shareholders with a detailed analysis of whether the Restructuring is fair and reasonable. The Directors may undertake such an analysis or, as is more commonly the case, the Directors may engage an independent expert to report on the Restructuring. In this case, the Independent Directors have requested KPMG Corporate Finance to prepare an IER, opining on whether the Restructuring is fair and reasonable.

Further, we note that the analysis as to fairness must be made on the basis that the Recapitalisation is for 100.0% ownership of BLY and should not consider Centerbridge's, Ascribe's or any Ad Hoc Group member's existing shareholding.

Refer to Section 6 of our attached report for further details on the technical requirements and the basis of assessment for the IER.

## **3 Summary of opinion**

### **3.1 Conclusion**

In our opinion, having assessed the Recapitalisation to the Shareholders, we consider the Recapitalisation to be fair and reasonable to Non-Associated Shareholders, in the absence of a superior proposal.

In arriving at this opinion, we have considered the terms of the Recapitalisation. We have assessed whether the Recapitalisation is:

- *fair*, by comparing our assessed value of BLY prior to the Recapitalisation, on a controlling interest basis, to our assessed value of a share in BLY following completion of the Recapitalisation, on a minority (portfolio) basis
- *reasonable*, by assessing for the Shareholders:
  - implications of the Recapitalisation
  - available alternatives to the Recapitalisation, and

- the consequences of not approving the Recapitalisation.

The Recapitalisation is the outcome of a Capital Structure Review process which BLY initiated in 2020 to evaluate capital structure options given the significant debt maturities falling due in 2022. The Capital Structure Review had a number of key objectives including reducing the high levels of debt, improving liquidity, providing a more sustainable capital structure whilst at the same time achieving the best possible outcome for Shareholders.

The significant debt maturities the Company was facing was also reflected in the going concern comments made in the Annual Report 2020 which noted that going concern was dependent on the support of the creditors and the ability to refinance various obligations. The difficult industry conditions that had impacted BLY's financial results were further exacerbated by the COVID-19 pandemic in FY20. This made it difficult in the context of the Capital Structure Review to achieve an optimal outcome for all the objectives.

Any examination of the Recapitalisation needs to recognise these events, the inherent uncertainty that this creates for any valuation, their impact on available alternatives and the consequences should the Recapitalisation not be approved.

As a starting point, we have assessed whether the Recapitalisation is fair by comparing the value prior to the Recapitalisation, on a control basis, to that post the Recapitalisation on a non-controlling basis. In our valuation we have recognised the cyclical nature of the industry by applying 'through-the-cycle' earnings figures as well as 'through-the-cycle' capitalisation multiples. However, a valuation of the Company in the current stage of the cycle is complex as this requires estimates of the length and the impact of the current industry cycle and therefore includes some optionality regarding the recovery of the industry.

Our valuation analysis indicates that Non-Associated Shareholders will be better off post the Recapitalisation. Fundamentally this arises because BLY's current debt is greater than the value of its assets Pre-Recapitalisation. On this basis, no value is attributable to the shares Pre-Recapitalisation whereas Post-Recapitalisation the value is between US\$0.0432 and US\$0.0498 per share of BLY.

This outcome is not unexpected given the current position of BLY in the industry cycle, the impacts of the COVID-19 pandemic and its resulting current level of debt.

In forming our opinion as to the reasonableness of the Recapitalisation, we have considered a number of advantages and disadvantages for the Non-Associated Shareholders. The principal factors supporting the conclusion include:

- in our view it represents the most superior option currently available to Non-Associated Shareholders. If the Recapitalisation is not approved BLY faces a potential insolvency
- it provides a more appropriate capital structure and improved liquidity
- the Recapitalisation substantially reduces the net debt of the Company to a more sustainable position
- the Recapitalisation provides certainty of the outcome in relation of the Capital Structure Review and looming debt maturity events
- the removal of liquidity concerns may result in improved business performance as the management of BLY (Management) can focus on improving operational results, rather than on the liquidity concerns, and
- additional liquidity is facilitated through the Recapitalisation.

Principal factors that do not support the conclusion include:





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- the Non-Associated Shareholders' investments will be significantly diluted.

Other considerations such as the costs of the transaction had a lesser impact on our reasonableness conclusion. The key factors and other considerations are discussed in more detail in Sections 3.3.1 and 3.3.2 respectively.

In relation to these matters, notwithstanding their subjective nature, we consider the advantages of the Recapitalisation to considerably exceed the disadvantages particularly given the potential adverse effects should the Recapitalisation not be approved.

The principal matters that KPMG Corporate Finance has taken into consideration in forming its opinion that the Recapitalisation is fair and reasonable are summarised in the remainder of Section 3 below.

## 3.2 Assessment of fairness

Our fairness assessment has been based on comparing the value of a share in BLY prior to the Recapitalisation, on a control basis, to that post the Recapitalisation on a non-controlling basis.

Whilst the BLY creditors under the Creditors' Schemes are not acquiring 100.0% of BLY we are required to consider the value as if the offer was for full control. Therefore, we have assessed the value of a BLY share based on 100.0% ownership, having regard to synergies which would be generally available to a broad pool of potential purchasers.

We have applied a capitalised earnings approach to derive the value of BLY on a controlling basis. Due to the characteristics of the business operations, we have based our valuation on an analysis of 'through-the-cycle' maintainable earnings of the Company as well as capitalisation multiples for a similar period. The reason for this being the cyclical nature of the drilling business as a result of fluctuations in exploration spending in the mining industry. We have further reflected certain balance sheet items as at 30 June 2021. The number of shares is based on the expected number of shares at the Implementation Date prior to the Recapitalisation. Under this approach, we have assessed the control value of a BLY share, Pre-Recapitalisation, to be in the range of negative US\$5.147 to negative US\$4.525 per share, as outlined in the table below.

**Table 1: Boart Longyear Valuation Summary**

	Report Section	Value range (US\$ million) Pre-Recapitalisation	
		Low	High
Maintainable earnings (EBITDA)	16.3.2	65.0	85.0
EBITDA multiple (on a controlling basis) (times)	16.3.3	7.0x	6.0x
<b>Enterprise Value of Boart Longyear</b>		<b>455.0</b>	<b>510.0</b>
Less: Net debt as at 30 June 2021	16.4.2	(910.7)	(910.7)
Add: Assets held for sale	8.3	0.2	0.2
<b>Equity Value of Boart Longyear</b>		<b>(455.5)</b>	<b>(400.5)</b>
Issued shares (million) up to	14	88.5	88.5
<b>Equity value per share on a marketable, controlling basis (US\$)</b>		<b>(5.147)</b>	<b>(4.525)</b>
Foreign currency exchange rate as at 15 July 2021 (US\$:AU\$)		0.75	0.75
<b>Equity value per share on a marketable, controlling basis (AU\$)</b>		<b>(6.882)</b>	<b>(6.051)</b>

Source: FY20 Annual Report, Management, KPMG Corporate Finance analysis

Note 1: Differences in calculations due to rounding

The equity value per share on a marketable, controlling basis, is negative primarily as the debt outstanding is greater than the assessed enterprise value of the Company. The current level of gearing is a result of both debt drawdowns over the last years since the top of the mining cycle in 2012, the sustained

weakness in the mining services industry cycle since then and the impacts of the COVID-19 pandemic over the past year. Weakened market conditions led to a continued increase in outstanding debt as cash interest was deferred through ‘payment-in-kind’ interest capitalisation in order to meet liquidity requirements.

The value of BLY increases from a range of negative US\$5.147 to negative US\$4.525 per share Pre-Recapitalisation to a range of US\$0.0432 to US\$0.0498 per share Post-Recapitalisation. The increase in value relates mainly to the cancellation of US\$795<sup>16</sup> million of debt in exchange for the issuance of ordinary equity to the Supporting Creditors. This reduces the financial leverage of the Company sufficiently to create a positive equity valuation. We note that as a result of the Recapitalisation there is a significant dilution to current Non-associated Shareholders, reflecting the issuance of approximately 6,520.3 million additional shares<sup>17</sup>.

In contrast to the Pre-Recapitalisation valuation, we have set out below the value per share Post-Recapitalisation, which is based on an equity value for a minority shareholder and the number of shares Post-Recapitalisation. This value per share Post-Recapitalisation also takes into account the proceeds from the SPP and CSPO and the reduction of net debt and only considers the cost incurred in respect of the Recapitalisation as at 30 June 2021 of approximately US\$12.6 million<sup>18</sup>. The calculation of the value per share Post-Recapitalisation is shown in the table below.

**Table 2: Post-Recapitalisation value analysis**

	Report Section	Value range (US\$ million) Post-Recapitalisation	
		Low	High
Maintainable earnings (EBITDA)	16.3.2	65.0	85.0
EBITDA multiple (on a controlling basis) (times)	16.3.3	7.0x	6.0x
<b>Enterprise Value of Boart Longyear</b>		<b>455.0</b>	<b>510.0</b>
Less: Net Debt post-restructuring	16.4.2	(103.5)	(103.5)
Add: Cash proceeds from SPP and CSPO	1	5.0	5.0
Add: Assets held for sale	8.3	0.2	0.2
<b>Equity Value of Boart Longyear on a controlling basis</b>		<b>356.7</b>	<b>411.7</b>
less: Minority Discount (20.0%) <sup>2</sup>		(71.3)	(82.3)
<b>Equity Value of Boart Longyear on a minority basis</b>		<b>285.3</b>	<b>329.3</b>
Issued shares (million) post-proposal up to	14	6,608.8	6,608.8
<b>Equity value per share (US\$)</b>		<b>0.0432</b>	<b>0.0498</b>
Foreign currency exchange rate as at 15 July 2021 (US\$:AU\$)		0.75	0.75
<b>Equity value per share (AU\$)</b>		<b>0.0577</b>	<b>0.0666</b>

Source: Management, KPMG Corporate Finance Analysis

Note 1: Tables may not cast due to rounding

Note 2: A 25.0% control premium translates into a 20.0% minority discount

A comparison of the value per share on a Pre and Post-Recapitalisation basis is outlined in the table below.

<sup>16</sup> Excluding interest accrued post Announcement Date

<sup>17</sup> Including the maximum number of shares to be issued under the SPP, the CSPO and any Warrant Shares on a comparable Pre-Share Consolidation basis, equaling 330.4 million shares Post-Share Consolidation.

<sup>18</sup> The full cost of the Recapitalisation is estimated to be US\$40.4 million.



**Table 3: Comparison of Value Pre and Post-Recapitalisation**

US\$ unless otherwise stated	Value per share (US\$)	
	Low	High
Assessed value per BLY share Pre-Recapitalisation	-	-
Assessed value per BLY share Post-Recapitalisation	0.0432	0.0498
<b>Premium/(discount) (US\$ per share)</b>	<b>0.0432</b>	<b>0.0498</b>

Source: KPMG Corporate Finance Analysis

According to RG 111, the Recapitalisation should be considered fair if the value per share post the Recapitalisation is equal to or higher than our assessed value of a BLY share Pre-Recapitalisation.

In this respect the assessed value range per BLY share Pre-Recapitalisation is lower than our assessed value range for a BLY share Post-Recapitalisation and therefore we consider the Recapitalisation to be fair.

We have further calculated the earnings multiple required to be applied to the maintainable earnings that would result in the Recapitalisation to become not fair. The required earnings multiple range would have to be between 10.8x and 14.1x<sup>19</sup>. We consider ultimately the transaction evidence as reflected in Appendix 4 to be the best indicator of prices that third parties are prepared to pay for a company in a particular industry. We note that at no point over the observed transaction period has any acquirer been willing to pay a multiple as those required multiples calculated above. In our view, given the disparity between the multiples implied by the market transaction evidence and the required multiples calculated above, this further supports our opinion of the Recapitalisation to be fair for Non-Associated Shareholders.

### 3.3 Assessment of reasonableness

In accordance with RG 111, an offer is reasonable if it is fair. As the Recapitalisation is fair for Non-Associated Shareholders, the Recapitalisation is reasonable for Non-Associated Shareholders. Notwithstanding this requirement, we consider the Recapitalisation to be reasonable. In forming this view we have considered a range of factors that Non-Associated Shareholders may also wish to consider in assessing whether to vote in favour of the Recapitalisation.

#### 3.3.1 Key factors

Outlined below are the key factors, separated in advantages and disadvantages, which support the view that the Recapitalisation is reasonable.

##### *Advantages*

##### **In our view the Recapitalisation represents the most superior option currently available to Non-Associated Shareholders**

In assessing the merits of the Recapitalisation, we have considered the relative attractiveness of other options available to BLY. During the Capital Structure Review the Company and their advisers have reviewed a range of recapitalisation measures and other options, including:

- on- and/or off-market capital raisings

<sup>19</sup> Calculated as the EV multiple at which the value of a share Pre-Recapitalisation equals the value of a share Post-Recapitalisation.

- refinancing of the current debt instruments
- extension of the maturities of the current debt instruments, and
- maintaining the status-quo.

Whilst on- and/or off-market capital raisings were considered (of which an on-market capital raising would have included the possibility for current Non-Associated Shareholders to participate and to avoid a dilution of their shareholding), restrictions in relation to the reasonable size of such a capital raising as well as the conditions of the SUNs have resulted in this not being capable of implementation.

Both a refinancing of the current debt instruments or an extension of their maturities, would not have resulted in a material and sustainable reduction in the financial obligations for BLY. As such future interest and principal payments would not have been reduced sufficiently.

It is not possible to maintain the status quo without a restructure. Based on current financial results BLY is not capable of meeting its present interest and principal obligations and has significant debt maturing in 2022.

The Recapitalisation is superior to all other options currently available to the Company as it substantially reduces the quantum of debt within BLY to a more sustainable position. It also gives Non-Associated Shareholders an opportunity to participate in a potential future upside if industry and business performance improve.

If the Recapitalisation is not implemented, BLY is likely to face insolvency, in the absence of an alternative proposal. In such circumstances Non-Associated Shareholders could expect to realise zero value.

#### **The Recapitalisation provides BLY with an immediate improved liquidity position**

The Recapitalisation will substantively reduce the current debt obligations in a way that reduces interest cost for the Company by US\$19.9 million in FY21 and US\$60.8 million in FY22. The reduced cash payments will help the Company's ongoing liquidity during the current industry cycle until the mining industry recovers.

The Recapitalisation will significantly reduce BLY's debt position by approximately US\$795 million.

Further, the Annual Report 2020 noted that Going Concern was dependent:

- on securing an agreement to remove the obligation to pay cash interest on the Senior Secured Notes in June 2021 and December 2021, and
- on the ongoing support of BLY's debt providers, including negotiating a refinancing or recapitalisation of the debt facilities which were to expire in the second half of 2022.

The Annual Report 2020 audit opinion also noted material uncertainty related to Going Concern.

Taking into consideration the reduction in cash interest cost that the Recapitalisation will provide to BLY and the ongoing restructuring efforts of the Company, based on a historical cash flow analysis, the Company may be able to improve its financial viability over the coming years.

There remains the possibility however that the recovery of the mining cycle takes longer than expected.

#### **The Recapitalisation concludes the Capital Structure Review providing certainty to Non-Associated Shareholders**

Certainty over the outcome of the Capital Structure Review reduces risk for the Company and the Shareholders. Alternative options in the absence of the Recapitalisation, including potential insolvency,



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carry significant uncertainty. In our view, alternative options are unlikely to result in Non-Associated Shareholders realising greater value than if the Recapitalisation is not implemented.

The resolution of the Capital Structure Review and the increased liquidity going forward will allow management to focus on improving business performance and operational results.

**Additional financing is facilitated through the Recapitalisation and improved maturity**

In conjunction with executing the RSA, BLY has also secured a new money investment from lenders affiliated with Corre, FPA and Nut Tree to fully refinance (1) the Existing Backstop ABL and (2) the Incremental Finance Facility. The maximum amount available to be drawn under the Exit Financing Facility is expected to be US\$115 million.

This will better align BLY's external debt as it will be all US based, where the majority of revenue is earned and where its financial creditors are based.

Until the implementation of the Exit Financing Facility the 2021 Existing PNC ABL Amendment, provides US\$15 million of additional liquidity and an extension of the term to 24 July 2022.

*Disadvantages*

**Non-Associated Shareholders' investments will be significantly diluted**

The Non-Associated Shareholders investment will be significantly diluted as under the Recapitalisation approximately \$795 million of BLY's debt (plus further accrued interest post Announcement Date) converts into 98.5%<sup>20</sup> of the post-recapitalisation ordinary shares of BLY. Currently the Non-Associated Shareholders hold 23.1% of the ordinary equity, whereas Post-Recapitalisation they will hold approximately 0.3346%<sup>21</sup> of the reorganised ordinary equity. This may decrease to 0.23% depending on the exercise of the SPP, CSPO and New Warrants. As such Non-Associated Shareholders will have very limited ability to influence the future direction of the Company.

**No influence on the structure of the Board**

The Board of Directors of BLY (Board) will consist of nine Board members. Supporting Creditors will be able to nominate eight members to the Board, with Centerbridge being able to nominate five members and the Ad Hoc Group<sup>22</sup> three members. The CEO of the Company will remain on the Board. Centerbridge appointed Board members will therefore represent the majority of the Board after the Recapitalisation. As a result, the Company will remain not being in compliance with some of the ASX Corporate Governance Council Principles and Recommendations, including the recommendation that a majority of the board of a listed entity should be independent directors.

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<sup>20</sup> Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

<sup>21</sup> Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

### 3.3.2 Other considerations

In forming our opinion, we have also considered a number of other factors as outlined below. Whilst we do not necessarily consider these to be advantages or disadvantages of the Recapitalisation, we consider it appropriate to address these considerations in arriving at our opinion:

- upon the successful completion of the Recapitalisation, BLY is expected to incur total transaction costs of approximately US\$40.4 million (US\$0.46 per share<sup>23</sup>) including advisory costs, legal fees, independent expert fees and other costs associated with the Recapitalisation (including advisory fees incurred by the Supporting Creditors required to be reimbursed by BLY). As at 30 June 2021 approximately US\$12.6 million in professional fees has already been incurred. We note however that any alternative option would also likely impose considerable costs on BLY to implement
- the BLY creditors under the Creditors' Schemes will have a collective ownership of approximately 99.7% (after the Creditors' Schemes) in BLY. It is likely that there will be limited liquidity in the remaining outstanding shares as well as a further reduced coverage from analysts (currently only one analyst is following BLY) and also a lower possibility of any other transaction emerging, without the support of Centerbridge and Ascribe
- under the SPP, Eligible SPP Shareholders will be entitled to subscribe for up to \$30,000 worth of shares subject to an aggregate maximum cap of US\$2.5 million
- without the Recapitalisation and the support of the Company's lenders BLY's current business situation would likely result in some form of insolvency appointment for the Company and subsidiaries in other jurisdictions. Due to this being likely a multi jurisdiction insolvency process it would result in heightened complexity and costs for BLY. As such Non-Associated Shareholders would have very limited chance of recovery of their investments
- any other potential restructuring of BLY or its debt obligations would require the support of the Supporting Creditors, and therefore would likely result in a similar outcome except the uncertainties around timeline and the potential recovery for Non-Associated Shareholders in such a process, and
- BLY has, prima facie, unused tax losses available to offset against future taxable income. However we have not attributed any value to unused tax losses held by BLY in our valuation of BLY given the difficulty typically experienced by potential purchasers in satisfying the tests which allow them to utilise the tax losses held by acquired businesses and the uncertainty as to the specific utilisation profile applicable to potential purchasers. More often than not with distressed entities, potential acquirers do not attribute material value to tax losses even though they may have value for the Shareholders.

Further, the availability of any tax losses will be impacted by the Restructuring as the exchange of debt for BLY Shares is expected to give rise to a commercial debt forgiveness under Australian tax legislation which has the effect of reducing unused tax losses. BLY must also satisfy the continuity of ownership test, and failing this, the same business test or alternatively a similar business test (depending on the applicable loss year) in order to be able to utilise unused tax losses (refer Section 6.3(d) of the Explanatory Memorandum for further detail in relation to the tax risks).

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<sup>23</sup> Based on the current number of shares



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### 3.3.3 Implications if the Recapitalisation is not approved

The Board will likely need to place the Company into voluntary administration (or alternatively a Chapter 11 process in the US) if the Recapitalisation is not approved, which may lead to the appointment of receivers and managers. If the Company was to go into voluntary administration or receivership, the following options may be available to raise funds:

- sale of company assets
- refinancing the debt
- alternative whole of company sale, and
- recapitalisation of the Company through the issue of new equity.

As pointed out in Section 3.3.1 the Company and its advisers have already considered several of these options in relation to the Recapitalisation none of which was seen as superior to the Recapitalisation. Further, should the Company enter into insolvency we do not expect that Non-Associated Shareholders would receive any value for their shares.

We note also that if the Recapitalisation is not approved some of the professional fees related to the Recapitalisation will already have been incurred even if the Recapitalisation is not approved and will reduce BLY's liquidity further. As at 30 June 2021 approximately US\$12.6 million in professional fees has already been incurred.

## 4 Other matters

In forming our opinion, we have considered the interests of Non-Associated Shareholders as a whole. This advice therefore does not consider the financial situation, objectives or needs of individual Shareholders. It is not practical or possible to assess the implications of the Recapitalisation on individual Shareholders as their financial circumstances are not known. The decision of Non-Associated Shareholders as to whether or not to approve the Recapitalisation is a matter for individuals based on, amongst other things, their risk profile, liquidity preference, investment strategy and tax position. Individual Shareholders should therefore consider the appropriateness of our opinion to their specific circumstances before acting on it. As an individual's decision to vote for or against the proposed resolutions may be influenced by his or her particular circumstances, we recommend that individual Shareholders including residents of foreign jurisdictions seek their own independent professional advice.

Our report has also been prepared in accordance with the relevant provisions of the Corporations Act and other applicable Australian regulatory requirements. This report has been prepared solely for the purpose of assisting Non-Associated Shareholders in considering the Recapitalisation. We do not assume any responsibility or liability to any other party as a result of reliance on this report for any other purpose.

All currency amounts in this report are denominated in US\$ unless otherwise stated. References to the financial year to 31 December have been abbreviated to FY.

Neither the whole nor any part of this report or its attachments or any reference thereto may be included in or attached to any document, other than the Explanatory Statement to be sent to Shareholders in relation to the Recapitalisation, without the prior written consent of KPMG Corporate Finance as to the form and context in which it appears. KPMG Corporate Finance consents to the inclusion of this report in the form and context in which it appears in the Explanatory Statement.

Our opinion is based solely on information available as at the date of this report as set out in Appendix 2.

We refer readers to the limitations and reliance on information as set out in Section 6.3 of our report. In this respect, Non-Associated Shareholders should recognise that our opinion is based on prevailing



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market, economic and other conditions at the date of this report and corresponds with a period of significant volatility in global financial markets and widespread macro-economic uncertainty associated with the COVID-19 pandemic. To the extent possible, we have reflected these conditions in our opinion. However, the factors driving these conditions can change over relatively short periods of time. The impact of any subsequent changes in these conditions on the global economy and financial markets generally, and the assets being valued specifically, could impact upon value in the future, either positively or negatively.

We note that we have not undertaken to update our report for events or circumstances arising after the date of this report other than those of a material nature which would impact upon our opinion.

The above opinion should be considered in conjunction with and not independently of the information set out in the remainder of this report, including the appendices.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ian Jedlin'.

Ian Jedlin  
Authorised Representative

A handwritten signature in black ink, appearing to read 'Adele Thomas'.

Adele Thomas  
Authorised Representative



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## 5 The Recapitalisation

On 13 May 2021 BLY announced that an overwhelming majority of its lenders had entered into a RSA that would convert approximately \$795 million, or approximately 85% of BLY's existing debt and accrued interest cost into 98.5%<sup>24</sup> of the post-recapitalisation ordinary shares of BLY (the Recapitalisation). The Recapitalisation is intended to provide a more sustainable capital structure for BLY through substantially reducing debt and interest costs, strengthening the balance sheet as well as enhancing liquidity to support operations and future growth.

As a consequence of the Recapitalisation all Non-Associated Shareholders, being those other than Centerbridge, Ascribe and Corre will be materially diluted. After the Recapitalisation, affiliates of Centerbridge and Ascribe, who currently collectively represent over 66% of its secured lenders and 45% of its unsecured lenders, respectively, will collectively hold over 60% of the ordinary shares of the company<sup>25</sup>.

The Recapitalisation forms part of a wider restructuring involving the proposed Re-Domicile Transaction and related transactions (the Restructuring).

The RSA was entered into by amongst others Ares Management LLC (Ares), Ascribe, Centerbridge, Corre Partners management LLC (Corre), First Pacific Advisers LP (FPA) and Nut Tree Capital Management (Nut Tree) (together the Supporting Creditors), which hold the majority of BLY's approximately US\$900 million of debt that matures in 2022.

As part of the Recapitalisation:

- Term Loan A and Term Loan B of approximately \$353.5 million will be converted into equity based on 100% of the secured face value and 25% of the unsecured face value and any allocation under the CSPO
- 10% Senior Secured Notes due 2022 of approximately \$348.4 million will be converted into equity based on 100% of the secured portion and 25% of the unsecured portion and any allocation under the CSPO
- 1.5% Senior Unsecured Notes due 2022 of approximately \$93.9 million will be converted into equity based on 22.5% of the face amount and pro rata share of the New Warrants based 100.0% of the face amount and any allocation under the CSPO, and
- Shareholders will maintain their shares, diluted by the Recapitalisation to 1.5% (Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan).

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<sup>24</sup> Subject to dilution before ((1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

<sup>25</sup> Subject to dilution before (1) the issue of any new shares on the exercise of any New Warrants, (2) the issue of any Shares on the exercise of any Existing Warrants of Existing Options, (3) the issue of any Shares under the SPP and CSPO, (4) any buy back of Shares under the SBB, and (5) the issue of any Shares under any management incentive plan.

The Recapitalisation will be implemented by two creditor's schemes of arrangement and by Shareholders at an Extraordinary General meeting.

The impact of the Recapitalisation on the statement of financial position is discussed in further detail in Section 14.

In conjunction with the Recapitalisation under the RSA BLY is also committed to redomicile its business to Canada.

## **5.1 Conditions of the Recapitalisation**

The Recapitalisation is subject to a number of conditions which are set out in full in the Explanatory Statement (Section 12.1). The key conditions are:

- the independent expert not concluding that the Recapitalisation is "not fair" and "not reasonable" for Non-Associated Shareholders of the Company
- Shareholders of the Company approving the required resolutions to give effect to the Recapitalisation at the general meeting by the requisite majorities
- creditors of the Company approving the creditors' schemes of arrangement by the requisite majorities
- court approval of the Creditors' schemes of arrangement
- any and all conditions in relation to the Exit Financing shall have been satisfied or waived
- the warranties given by the Company and the Supporting Creditors being true and correct in all material respects
- Supporting Creditors and the New BLY Parent obtaining approval under the Foreign Acquisitions and Takeovers Act 1975 (Cth)
- the issue of shares and warrants notes under the Recapitalisation, where relevant, being exempt from registration under section 3(a)(10) of the United States Securities Act of 1933, and
- the Company obtaining all other relevant regulatory approvals, confirmations, consents or waivers, including confirmation from the ASX that it approves the terms of the warrants.

The RSA can also be terminated prior to the Completion Date<sup>26</sup> by either BLY or the Supporting Creditors in the event that there has been a material breach of the agreement or where BLY enters into a Competing Proposal.

## **5.2 Impact of the COVID-19 pandemic**

The timing of the Proposal corresponds with a period of unprecedented social and community disruption, as a result of COVID-19 and the economic stimulus and other measures implemented by governments to counter its spread.

The impact of the COVID-19 pandemic on value depends on the characteristics of the individual investments and their geographical location given different restrictions that may apply between States. In

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<sup>26</sup> Being the first date on which all Milestones (as defined in Schedule 3 of the RSA) have been completed.

this regard, demand-based assets are most at risk from a downward value adjustment, particularly those investments exposed to the travel sector (e.g. airports) and directly correlated with gross domestic product (GDP) performance (e.g. ports). Availability based or regulated assets or assets related to essential services are expected to be more stable at a revenue level, unless broader economic pressures force changes to contractual mechanisms. However, demand-based assets will have the potential to recover more quickly when economic activity returns and will also be potential beneficiaries of initial government stimulus measures.

The profile of the recovery will likely be a more substantial determinant of value impact than the movement in equity markets or short-term declines in earnings. Contributing to the speed of recovery will be the success of the widespread Australian and global government stimulus measures announced to support industries and individuals in negotiating the downturn. However, whilst these measures may soften the immediate impact, a number of these measures have been withdrawn from 28 March 2021 and furthermore, the cost of funding these measures will potentially create a prolonged longer term drag on economic performance.

## **6 Scope of the report**

### **6.1 Purpose**

This report has been prepared for inclusion in the Notice of Extraordinary General Meeting and Explanatory Statement and has been prepared for the purpose of assisting Non-Associated Shareholders in their consideration of the Recapitalisation. Shareholder approval is required in relation to the issue of new shares in BLY, to the extent necessary to fully implement the Recapitalisation, under ASX Listings Rules 7.1 and 10.11; and (item 7) s611 and Chapter 2E s208 of the Act.

The Recapitalisation involves 15 resolutions (Resolutions) of which Resolution 1 to 6 must be passed in order for the Recapitalisation to be approved and implemented, being:

- approval for the issue of shares to, and acquisition of shares by Centerbridge
- approval for the issue of shares to, and acquisition of shares by the Ad Hoc Group
- approval for the issue of shares and New Warrants under the Creditors Schemes
- approval for the consolidation of the shares
- approval for the issue of shares under the SPP, and
- approval for the issue of shares under the CSPO.

In undertaking this work, we have referred to the guidance by ASIC under RG 74 and RG 111 “Content of expert reports”.

### **6.2 Basis of assessment**

RG 111, issued by ASIC, indicates the principles and matters which it expects a person preparing an independent expert’s report to consider. It includes guidance in relation to control transactions.

#### ***Control transactions under Item 7 Section 611***

The term ‘fair and reasonable’ has no legal definition. RG 74 provides that any analysis should comply with the requirements of RG 111.

In relation to the concepts of ‘fair and reasonableness’, RG 111 notes:

- ‘fair and reasonable’ is not regarded as a compound phrase
- an offer is ‘fair’ if the value of the offer price or consideration is equal to or greater than the value of the securities subject to the offer
- the comparison should be made assuming 100.0% ownership of the ‘target’ and irrespective of whether the consideration is scrip or cash
- the expert should not consider the percentage holding of the ‘bidder’ or its associates in the target when making this comparison
- an offer is ‘reasonable’ if it is ‘fair’
- an offer might also be ‘reasonable’ if, despite being ‘not fair’, the expert believes that there are sufficient reasons for security holders to accept the offer in the absence of any higher bid before the close of the offer.

RG 111 provides that an offer is fair if the value of the consideration is equal to or greater than the value of the securities subject to the offer. It is a requirement of RG 111 that the comparison be made assuming 100.0% ownership of the ‘target’ and irrespective of whether the consideration is scrip or cash and without considering the percentage holding of the ‘bidder’ or its associates in the target prior to the bid. That is, RG 111 requires the value of BLY to be assessed as if the bidder was acquiring 100.0% of BLY. Adapting this test to an Item 7 of Section 611 of the Corporations Act transaction involves a comparison of the control value of the share prior to the transaction with the value of the shares that will be “received” by the shareholder post the transaction i.e. comparing the control value of a BLY share before the Recapitalisation with the value of a BLY share post the Recapitalisation.

In addition to the points noted above, RG 111 notes that the weight of judicial authority is that an expert should not reflect ‘special value’ that might accrue to the acquirer. Accordingly, when assessing the full underlying value of BLY, we have considered those synergies and benefits that would be available to more than one potential purchaser (or a pool of potential purchasers) of BLY. As such, we have not included the value of special benefits that may be unique to Centerbridge or Ascribe. Accordingly, our valuation of BLY has been determined regardless of the other party and any special benefits have been considered separately.

In considering whether the Recapitalisation is reasonable, we have considered the following factors:

- the rationale and implications of the Recapitalisation including the impact on its financial position and the potential dilution for Non-Associated Shareholders
- the extent of any implied premium over recent trading prices for a BLY share, if any, being paid by Centerbridge and Ascribe
- other alternatives considered and the prospects of a superior alternative offer emerging
- the consequences of not approving the Recapitalisation
- any other benefits or disadvantages of the Recapitalisation that we believe to be relevant.

#### ***Related Party Transaction under Chapter 2E Section 208***

Chapter 2E of the Act regulates the provision of financial benefits to related parties by a public company. Section 208 of the Act prohibits a public company from giving a financial benefit to a related party,

including the issuance of securities, unless an exception applies. A related party of a public company is defined in Section 228 of the Act to include an entity which controls that public company. Centerbridge may be considered a related party of the Company on the basis it may be said to 'control' the Company given Centrebridge's existing shareholding in BLY. The Directors have therefore determined to seek approval for the issuance of Shares to Centerbridge under the CSPO under Chapter 2E of the Act notwithstanding that such approval is not strictly necessary.

RG 111 notes in relation to related party transactions under RG 111.63 that an expert only needs to conduct one analysis of whether the transaction is 'fair and reasonable', even if the report has been prepared for a reason other than the transaction being a related party transaction, e.g. a control transaction under item 7 of s611.

#### **ASX Listing Rules**

ASX Listing Rule 7.1 requires shareholder approval as more than 15% of the existing capital will be issued as part of the Recapitalisation.

ASX Listing Rule 10.11 requires shareholder approval, amongst other things, where securities are to be issued to a related party or to a party who held substantial equity within the prior 6 months (30% plus).

The ASX Listing Rule provide no guidance as to the form and substance of any independent expert report prepared in relation to such circumstances. In this regard it is common practice to adopt the relevant regulatory guidance issued by ASIC.

Centerbridge holds currently 53.3% of BLY shares. Accordingly, the issue of the New Common Equity in relation to Centerbridge falls within Listing Rule 10.11.1 and requires approval of Shareholders under Listing Rule 10.11.

### **6.3 Limitations and reliance on information**

In preparing this report and arriving at our opinion, we have considered the information detailed in Appendix 2 of this report. In forming our opinion, we have relied upon the truth, accuracy and completeness of any information provided or made available to us without independently verifying it. Nothing in this report should be taken to imply that KPMG Corporate Finance has in any way carried out an audit of the books of account or other records of BLY for the purposes of this report.

Further, we note that an important part of the information base used in forming our opinion is comprised of the opinions and judgements of management. In addition, we have also had discussions with the management in relation to the nature of the Company's business operations, its specific risks and opportunities, its historical results and its prospects for the foreseeable future. This type of information has been evaluated through analysis, enquiry and review to the extent practical. However, such information is often not capable of external verification or validation.

BLY has been responsible for ensuring that information provided by it or its representatives is not false or misleading or incomplete. Complete information is deemed to be information which at the time of completing this report should have been made available to KPMG Corporate Finance and would have reasonably been expected to have been made available to KPMG Corporate Finance to enable us to form our opinion.

We have no reason to believe that any material facts have been withheld from us but do not warrant that our inquiries have revealed all of the matters which an audit or extensive examination might disclose. The statements and opinions included in this report are given in good faith, and in the belief that such statements and opinions are not false or misleading.



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The information provided to KPMG Corporate Finance included forecasts/projections and other statements and assumptions about future matters (forward-looking financial information) prepared by the Management. Whilst KPMG Corporate Finance has relied upon this forward-looking financial information in preparing this report, BLY remains responsible for all aspects of this forward-looking financial information. The forecasts and projections as supplied to us are based upon assumptions about events and circumstances which have not yet transpired. We have not tested individual assumptions or attempted to substantiate the veracity or integrity of such assumptions in relation to any forward-looking financial information, however we have made sufficient enquiries to satisfy ourselves that such information has been prepared on a reasonable basis.

Notwithstanding the above, KPMG Corporate Finance cannot provide any assurance that the forward-looking financial information will be representative of the results which will actually be achieved during the forecast period. Any variations in the forward looking financial information may affect our valuation and opinion.

The opinion of KPMG Corporate Finance is based on prevailing market, economic and other conditions at the date of this report and corresponds with a period of significant volatility in global financial markets and widespread macro-economic uncertainty associated with the COVID-19 pandemic. To the extent possible, we have reflected these conditions in our opinion. However, the factors driving these conditions can change over relatively short periods of time. The impact of any subsequent changes in these conditions on the global economy and financial markets generally, and the assets being valued specifically, could impact upon value in the future, either positively or negatively.

We note that we have not undertaken to update our report for events or circumstances arising after the date of this report other than those of a material nature which would impact upon our opinion.

## **6.4 Disclosure of information**

In preparing this report, KPMG Corporate Finance has had access to all financial information considered necessary in order to provide the required opinion. BLY has requested KPMG Corporate Finance limit the disclosure of some commercially sensitive information relating to BLY and its subsidiaries. This request has been made on the basis of the commercially sensitive and confidential nature of the operational and financial information of the operating entities comprising BLY.

## 7 Company overview

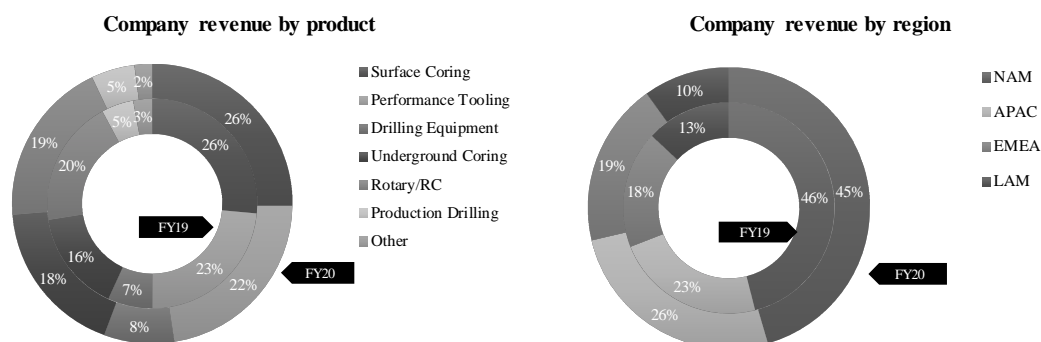
### 7.1 Overview

BLY is a leading provider of drilling services, drilling equipment and performance tooling for mining and drilling companies, with more than 130 years of expertise in the mineral drilling market. The Company also provides aftermarket parts and services, energy drilling, oil sands exploration and production drilling. BLY comprises of two main operating divisions: global drilling services (Drilling Services) and global products (Products), which are discussed in further detail below. The integrated business model of providing both drilling services and drilling products globally gives BLY the ability to integrate knowledge gained from both divisions into the development of new products and improve its drilling services offering.

BLY operates across four regions: Asia Pacific (APAC), North America (NAM), Europe, the Middle East and Africa (EMEA), and Latin America (LAM). In FY20, operations in the NAM region accounted for 44.3% of the Company's total revenue, followed by APAC with 25.9%, EMEA with 19.5% and LAM with 10.2%.

A split of BLY's revenue by product and geographic region for FY19 and FY20 is shown below.

**Figure 1: BLY's revenue by product and region**



Source: BLY investor presentation for FY20 and FY19.

### 7.2 Recent developments

BLY operates a business that can be highly cyclical and typically follows major trends within the mining industry. The mining industry has had five industry cycles since 2000<sup>27</sup> and going forward, similar cyclicity and greater volatility within cycles are expected by market participants as they face challenges in relation to financing, volatile share prices and cyclical capital expansion. In addition, the exploration, mining, and construction markets were materially impacted by restrictions imposed as a result of the COVID-19 pandemic.

The revenue and earnings of BLY are linked to commodity prices. Since the onset of the COVID-19 pandemic in early 2020, the decline in customer demand, disrupted global supply chains and market volatility led to a significant decline in commodity prices. In a declining commodity pricing environment mining companies typically cancel or defer capital expenditure and exploration projects to focus on cost

<sup>27</sup> Through-cycle investment in mining, McKinsey & Company, 8 July 2020



reductions and capital allocations, resulting in a reduction in global mining exploration activity and mining investments. The trend in decreased mining exploration is expected to reverse going forward, with commodity prices predicted to continue to appreciate, encouraging stronger mining investment and mining services expenditure in FY21 as noted in Appendix 5.

The percentage utilisation of operating drilling rigs in Drilling Services can be seen as an economic indicator for the performance of the division. During FY20, BLY's operating rig utilisation rate was approximately 37%, a decrease from 41% in FY19 and 46% in FY18. Comparatively, at the top of the cycle, the percentage utilisation was approximately 55.0% to 65.0%.

For Products, order backlog can be seen as an economic indicator. Average backlog increased 6.5% from FY18 to FY19, and 13.1% from FY19 to FY20. An increase in backlog reflects increased demand for drilling products. This measure also acts as a good leading indicator for future increases in volume for Drilling Services, as mining businesses increase drilling inventory in expectation of higher workflow.

In response to the continued downturn and challenging capital structure, BLY continued to position the business to operate more efficiently across all phases of the mining cycle. Following a strategic review of the business and in order to achieve cost saving, BLY committed to undertaking the following key initiatives:

- controlling sales, general and administrative costs (SG&A) and other overhead related costs
- optimising the commercial organisation to drive value through the contracting and pricing processes
- leveraging the supply chain function across the business, and
- focusing on operational efficiencies and productivity at the drill rig level and across the global organisation.

These initiatives resulted in reduced overall expenditure of approximately US\$60.9 million in FY20.

Going forward, BLY will focus on the following initiatives to improve business performance:

- maintaining and improving safety and compliance to reduce job related injuries and protect against potential safety risks
- focusing on expanding mining and mineral drilling customer bases by aiming to improve efficiency, productivity and commercial practices
- fostering strong customer relationships and carefully managing pricing and contract terms
- balancing investing in new products that respond to customer needs, whilst also managing capital expenditure, and
- improving cash generation through effective liquidity and cost management.

Strategically, BLY intends to focus on increasing data acquisition at drilling rigs for processes such as core orientation, core logging, survey and assay. This subsurface resource data can then be sent back to customers in an instantaneous, low-cost and user-friendly manner through the Geological Data Services business, a segment of the Products business.

## 7.3

### Drilling Services

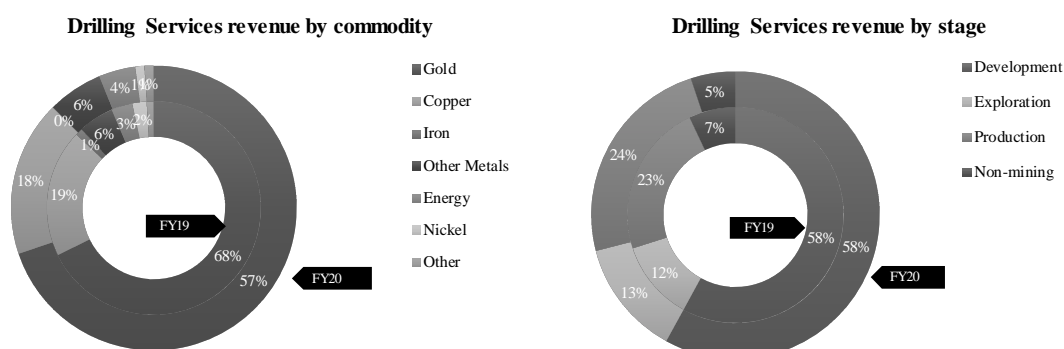
Drilling Services provides a broad range of drilling services to mining and energy companies, water utilities, geotechnical engineering firms, government agencies and other mining services companies in approximately 22 countries. The division primarily offers drilling services for commodities such as gold, copper, and nickel, as well as for the exploration and development of non-conventional energy sources such as oil shale, oil sands, coal, coal seam gas and geothermal energy. BLY specialises in a range of



drilling services technology, including surface and underground diamond core drilling, underground percussive drilling, sonic drilling, surface rotary drilling, surface geotechnical drilling, and surface and underground reverse circulation drilling.

An analysis of Drilling Services revenue by commodity and stage for FY19 and FY20 is shown below.

**Figure 2: Drilling Services revenue by commodity and stage**



Source: BLY investor presentation for FY20 and FY19.

Drilling Services provides services to major and intermediate mining companies which represented 89% of revenues during FY20, with no single contract contributing more than 10% of the consolidated revenue. Major customers during FY20 included, but were not limited to, AngloGold Ashanti Limited, Barrick Gold Corporation, Newmont and Rio Tinto Ltd.

Drilling Services operates in the greenfield, development and production stages of the mining cycle, with the development and production stages generating the majority of revenue. In FY20, Drilling Services revenue, which accounted for approximately 69% of the Company's revenue, decreased by 11.6% to US\$456.3 million. This decrease was primarily driven by volume reduction due to the COVID-19 pandemic impacts through the second and third quarters as governments and customers restricted activities while developing safe work practices to protect employees.

The recovery from the COVID-19 pandemic restrictions in Canada, Australia, Asia and Africa was faster than in the United States, Chile, and Argentina. The majority of revenue lost was attributable to these three countries, which was partially offset by cost reductions implemented as part of the COVID-19 pandemic management plan. Prices observed were broadly in line with prior year with changes in foreign exchange rates resulting in a US\$0.5 million decrease in revenue in FY20 compared to FY19.

With recent increases in commodity prices along with stronger product sales, which act as a leading indicator for increased volume in Drilling Services, there is an opportunity for revenue to grow in the near future. However, low rig utilisation rates have caused an oversupply of rigs in the market, creating a highly competitive environment resulting in price and margin pressures. As such, the Company has continually sold excess rigs and ancillary equipment over the last five to six years. During FY20, the Company had an average of 683 drilling rigs deployed globally and an average rig utilisation of 37%, this compares to 921 drilling rigs in FY15 and an average rig utilisation of 36%.

## 7.4

### Products

Products, designs, manufactures and sells a range of drilling equipment and performance tooling, including wireline core extraction systems, drilling rigs, diamond drill bits and drill rods for mine development, mine production and environmental and infrastructure drilling. The Company offers these

products to environmental, mining, resources, infrastructure, and energy industries. Its coring tools include conventional diamond drill and advanced wireline coring systems used in minerals drilling.

Products predominantly sells exploration tooling and production tooling to drilling services contractors and mining companies.

Overall, Products accounted for 30.0% of the Company's total revenue during FY20. The division carries significant inventory levels, which have decreased year on year as management continues to improve inventory metrics and reevaluate key assumptions in the calculation of allowance for excess or obsolete inventory. As at 31 December 2020, inventory levels remained high as a percentage of revenue at 24.1%, with a decrease of only 2.9% from FY19 to FY20. Notwithstanding the 13.1% increase in average backlog from FY19 to FY20, there was sufficient inventory on hand to fill most customer demand at 31 December 2020.

During FY20, revenue from Products decreased by 9.9% to US\$257.4 million. This decrease was mainly due to the COVID-19 pandemic impacted volume losses and unfavourable currency translations. Specifically, revenue generated from capital equipment, spares, and production tooling were key contributors to the lower revenue in FY20 relative to prior period.

Upon elimination of the impacts mentioned, the Products business posted modest growth with a backlog of product orders valued at US\$44.6 million at 31 December 2020, representing a year-on-year (YoY) increase of 24.2% compared to \$35.9 million at 31 December 2019. Furthermore, the segment profit increased by 12.3% to US\$16.4 million compared to FY19. Management believe the growth is underpinned by an increase in demand for consumables during the year and it is expected to continue growing over FY21.

BLY's research and development (R&D) activities focus on the development, design and testing of new and improved products. The Company works in co-operation with customers to identify issues and develop technical solutions. During FY20, the Company launched one new product and as at 31 December 2020, the Company had 408 issued patents, 428 registered trademarks, 131 pending patent applications and 13 pending trademark applications. The quality of BLY's drilling equipment continues to act as a barrier to competitors from low cost countries entering the market (such as China and India), as the product quality, performance and safety standards of the Company's products are superior, particularly in the high-end hard rock deep drilling market.

## **8 Financial overview**

### **8.1 Going concern basis**

BLY's financial reports for FY20 were prepared by management on a going concern basis, which contemplates continuity of normal business activities and realisation of assets and settlement of liabilities in the ordinary course of business. In this regard, the Directors highlight the following risks which give rise to material uncertainty:

- the Company incurred a net loss after tax of US\$98.8 million (FY19: US\$56.6 million)
- the Company had net liabilities of US\$469.4 million (FY19: US\$382.2 million), and
- based on internal projections difficulties may arise in complying with the financial covenants and terms under the amended credit facility agreement in the absence of improved mining market conditions and financial performance of the Company.

In the Directors' opinion, the ability of the Company to continue as a going concern is dependent on:



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- securing an agreement to remove the obligation to pay cash interest on the Senior Secured Notes in June 2021 and December 2021, and
- the ongoing support of the Company's debt providers, including negotiating a refinancing or recapitalisation of the debt facilities, which currently expire in the second half of 2022.

Notwithstanding the above, the Directors believe that the Company will be successful in reaching an agreement with the debt providers with respect to the removal of the obligation to pay cash interest on the Senior Secured Notes through either:

- a separate agreement specifically in relation to the interest payable on the Senior Secured Notes, and/or
- a refinancing or recapitalisation and accordingly have prepared the financial report on the going concern basis.

## 8.2 Financial performance

The historical consolidated financial performance of BLY for FY18, FY19 and FY20 are summarised below.

**Table 4: Financial performance**

Period	FY18	FY19	FY20
US\$ million unless otherwise stated	Audited	Audited	Audited
Revenue	770.2	745.0	657.3
Cost of goods sold	(639.1)	(606.3)	(559.8)
<b>Gross margin</b>	<b>131.1</b>	<b>138.7</b>	<b>97.5</b>
Other income	10.4	6.8	5.8
General and administrative expenses	(44.0)	(43.6)	(28.9)
Sales and marketing expenses	(22.1)	(20.3)	(17.0)
Other expenses	(21.1)	(15.0)	(17.1)
<b>EBITDA</b>	<b>54.2</b>	<b>66.5</b>	<b>40.3</b>
Depreciation and amortisation	(36.6)	(39.3)	(41.0)
<b>EBIT</b>	<b>17.6</b>	<b>27.2</b>	<b>(0.7)</b>
Interest income	0.9	0.1	0.0
Finance costs	(69.5)	(75.4)	(92.9)
<b>Profit / (loss) before taxation</b>	<b>(51.0)</b>	<b>(48.2)</b>	<b>(93.5)</b>
Income tax expense	7.5	(8.5)	(5.3)
<b>Profit / (loss) after tax attributable to equity holders of the parent</b>	<b>(43.5)</b>	<b>(56.6)</b>	<b>(98.8)</b>
Basic (loss) earnings per share (cents)	(52.9)	(64.6)	(112.3)
Diluted (loss) earnings per share (cents)	(52.9)	(64.6)	(112.3)
<b>Financial metrics:</b>			
Revenue growth	-	(3.3)%	(11.8)%
Gross margin	17.0%	18.6%	14.8%
EBITDA margin	7.0%	8.9%	6.1%
EBIT margin	2.3%	3.6%	(0.1)%
COGS as a % of revenue	(83.0)%	(81.4)%	(85.2)%
Operating expenses as a % of revenue	(11.3)%	(10.6)%	(9.6)%
Profit / (loss) after tax margin	(5.7)%	(7.6)%	(15.0)%

Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.

Note 1: FY18 results do not reflect the impact of AASB 16 – Leases, which was adopted as of 1 January 2019.

With regard to the historical financial performance summarised above, we note the following:

- as the mining and resources markets have contracted, FY20 revenue of US\$657.3 million decreased by 11.8%, compared to FY19 revenue of US\$745.0 million. In relation to the revenue impact of the business divisions, we note the following:
  - FY20 revenue from Drilling Services decreased by 11.6% to US\$456.3 million compared to FY19 primarily due to the pause in activities imposed by governments and customers due to the outbreak of the COVID-19 pandemic, and weak sentiment in the global mining industry

- FY20 revenue from Products decreased by 9.9% to US\$257.4 million compared to FY19, primarily due to the COVID-19 pandemic impacted volume losses and unfavourable currency translations
- BLY implemented its business continuity plan in light of the COVID-19 pandemic, including measures required to protect health and well-being of employees while ensuring ongoing operational sustainability, ceasing all non-essential international and domestic travel, as well as conserving cash by enforcing temporary salary reductions and amending the terms of the Company's Senior Secured Notes to satisfy interest payments due
- as a result of the saving initiatives implemented during the early stages of the COVID-19 pandemic to combat the decline in revenues, expenses comprising Cost of Goods Sold (COGS) and SG&A totalled US\$646.6 million in FY20, representing a 9.6% decrease compared to FY19. Refer to Section 7.2 for further details on the cost saving initiatives
- the adjusted EBITDA is not shown in the table above as it is not a comprehensive representation of all the significant transactions the Company recognised throughout the year. For instance, the adjustments include government aid received throughout the business for the COVID-19 pandemic relief and gains from sales of assets, but exclude costs incurred to quarantine crews unable to work as a result of the COVID-19 pandemic, contract termination costs, legal fees and indirect tax write-offs. Further, the adoption of AASB 16 improves EBITDA in FY19 by US\$9.2 million relative to FY18 (as lease payments are no longer deducted above the EBITDA line but are substituted with deductions for right of use (ROU) asset depreciation and interest below the EBITDA line). During the period FY18 to FY20, the Company incurred the following extraordinary expenses:

**Table 5: Adjusted EBITDA**

Period	FY18	FY19	FY20
US\$ million unless otherwise stated	Reviewed	Reviewed	Reviewed
<b>EBITDA</b>	54.1	66.5	40.3
Impairments			
Property, plant and equipment	0.1	0.2	8.3
Intangible assets	-	9.0	0.5
Inventories	10.9	0.8	5.0
Employee and related costs	2.6	1.7	1.3
Legal provisions	-	2.6	-
Other restructuring expenses	12.9	6.2	4.7
Onerous lease	-	0.3	-
<b>Total of significant and non-recurring items</b>	<b>26.5</b>	<b>20.8</b>	<b>19.8</b>
<b>Adjusted EBITDA</b>	<b>80.6</b>	<b>87.3</b>	<b>60.1</b>

Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.

Note 1: EBITDA is defined as earnings before interest, tax, depreciation and amortization.

Note 2: Adjusted EBITDA is defined as earnings before interest, tax, depreciation and amortization and before major restructuring initiatives, impairments of assets, and other significant and non-recurring transactions outside the ordinary course of the business.

- over the period FY18 to FY20, COGS were impacted by the ongoing cost reduction actions implemented by management and its decline was broadly in line with that of revenue. COGS



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decreased as a percentage of revenue from 83.0% in FY18 to 81.4% in FY19. However, due to the impact of the COVID-19 pandemic on the Company's revenue performance, revenue generated in FY20 decreased to a greater extent relative to COGS, resulting in COGS as a percentage of revenue of 85.2% in FY20. In absolute terms, COGS decreased by 5.1% to US\$606.3 million in FY19, and 7.7% to US\$559.8 million in FY20

- cost reduction measures implemented by management include reducing the SG&A run rate of both business divisions. SG&A expenses are classified in the statement of financial performance as 'general and administrative expenses' and 'sales and marketing expenses'. During FY20, BLY realised additional cost savings of approximately US\$16.4 million or 15.9%, reducing FY20 SG&A expenses to US\$86.9 million compared to FY19 (FY19: US\$0.6 million or 0.5% in additional cost savings, reducing SG&A expenses to US\$103.3 million from FY18)
- other expenses increased from US\$15.0 million to US\$17.1 million during FY20. These expenses primarily related to foreign exchange changes and impairment charges
- finance costs during FY20 increased by 23.2% to US\$92.9 million from US\$75.4 million in FY19, primarily due to an increase in interest on loans and bank overdrafts, partially as a result of the amendment for interest payments to be made in payment in kind (PIK) instead of cash, and
- income tax expenses of US\$5.3 million for FY20 decreased by 37.9% from FY19. Refer to Section 11 for further details on BLY's tax position as at 31 December 2020.

On 29 April 2021, BLY announced its results for the first quarter ended 31 March 2021, noting the improvement in the level of exploration and mining activity, which was last experienced prior to 2014. Revenue generated in the quarter increased by US\$38 million (or 22%) compared to the quarter ended 31 March 2020 and adjusted EBITDA increased by US\$17 million (or 189%), driven by the increased demand for products and services, along with ongoing cost management and productivity improvements. The net loss after tax has also decreased by US\$15 million compared to the quarter ended 31 March 2020.

## 8.3 Financial position

The historical consolidated financial position of BLY as at 31 December 2018, 31 December 2019, and 31 December 2020 are summarised below.

**Table 6: Financial position**

As at	31 Dec 2018	31 Dec 2019	31 Dec 2020
US\$ million unless otherwise stated	Audited	Audited	Audited
<b>Current assets</b>			
Cash and cash equivalents	38.9	20.2	23.5
Trade and other receivables	119.6	113.7	109.6
Inventories	165.4	163.1	158.3
Current tax receivable	0.3	2.5	0.5
Prepaid expenses and other assets	12.8	13.6	10.1
Assets classified as held for sale	0.5	-	0.4
<b>Total current assets</b>	<b>337.5</b>	<b>313.1</b>	<b>302.4</b>
<b>Non-current assets</b>			
Property, plant and equipment	114.1	165.0	152.0
Goodwill	103.9	104.5	105.1
Other intangible assets	37.8	27.6	31.6
Deferred tax assets	20.7	16.9	13.3
Non-current tax receivable	16.3	10.8	1.6
Other assets	7.0	4.0	3.8
<b>Total non-current assets</b>	<b>299.7</b>	<b>328.8</b>	<b>307.2</b>
<b>Total assets</b>	<b>637.2</b>	<b>642.0</b>	<b>609.6</b>
<b>Current liabilities</b>			
Trade and other payables	105.0	111.1	98.0
Provisions	19.9	14.4	13.9
Current tax payable	8.7	5.4	8.3
Loans and borrowings	1.2	8.3	10.2
<b>Total current liabilities</b>	<b>134.8</b>	<b>139.3</b>	<b>130.4</b>
<b>Non-current liabilities</b>			
Loans and borrowings	720.3	793.4	868.3
Deferred tax liabilities	17.5	16.9	18.7
Provisions	79.5	74.5	61.6
<b>Total non-current liabilities</b>	<b>817.2</b>	<b>884.8</b>	<b>948.6</b>
<b>Total liabilities</b>	<b>952.0</b>	<b>1,024.1</b>	<b>1,079.0</b>
<b>Net assets</b>	<b>(314.9)</b>	<b>(382.2)</b>	<b>(469.4)</b>
<b>Equity</b>			
Share capital	1,468.8	1,468.8	1,469.4
Reserves	(116.2)	(117.8)	(117.6)
Other equity	(137.2)	(137.2)	(128.8)
Retained earnings/(Accumulated losses)	(1,532.7)	(1,595.6)	(1,692.9)
Non-controlling interest	2.4	(0.4)	0.5
<b>Total equity</b>	<b>(314.9)</b>	<b>(382.2)</b>	<b>(469.4)</b>
<b>Calculation of debtor and creditor days</b>			
Debtor days <sup>1</sup>	56.7	55.7	60.8
Creditor days <sup>1</sup>	60.0	66.9	63.9
<b>Statistics</b>			
Number of securities on issue (million) <sup>2</sup>	26,296.2	87.7	88.5
NA per securities (US\$) <sup>3</sup>	(0.01)	(4.4)	(5.3)
NTA per securities (US\$) <sup>4</sup>	(0.01)	(2.9)	(3.8)
Gearing <sup>5</sup>	-216.8%	-204.5%	-182.2%



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*Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.*

*Note 1: Based on 365 days in a year.*

*Note 2: On 30 October 2019, BLY completed a consolidation of the Company's issued capital on a basis that every 300 shares be consolidated into 1 share.*

*Note 3: NA per security calculated as net assets divided by the number of securities on issue at period end.*

*Note 4: NTA per security calculated as net tangible assets divided by the number of securities on issue at period end.*

*Note 5: Gearing is calculated based on net debt divided by total equity.*

*Note 6: FY18 results do not reflect the impact of AASB 16 – Leases, which was adopted as of 1 January 2019.*

With regard to the historical financial position summarised above, we note the following:

- as a result of an increased use of cash in operating activities in FY20 offset by a reduction in cash interest paid during the year, cash and cash equivalents increased by US\$3.3 million, or 16.2%, to US\$23.5 million as at 31 December 2020. Included in this balance is US\$7.6 million relating to cash interest paid, as well as US\$0.2 million of restricted cash that cannot be accessed until certain conditions, pertaining to both the asset-based revolver bank loan (ABL) and secure facility leases, are met
- inventories decreased by US\$4.8 million, or 2.9% to US\$158.3 million as at 31 December 2020. The reduction primarily related to inventory saving initiatives implemented by management, and the impacts of a change in key assumptions used to estimate the allowance for excess or obsolete inventory. The change in estimate was a result of the decline in the demand for products and consumables used in the Drilling Services business, the high inventory balances across the Company, and the reduced speed at which inventory was turning in the current market. This resulted in an increase in obsolescence expense of US\$5.0 million recognised in FY20
- as at 31 December 2020, the income tax receivable (US\$2.1 million) was classified as US\$0.5 million of current tax receivables and US\$1.6 million as non-current tax receivable. In addition, the Company has accounted for the potential tax payable arising from audits by the Canadian Revenue Authority (CRA) in its provisions, which is discussed further in Section 11
- in response to challenging market conditions, the Company classified certain excess rigs and ancillary equipment that were underutilised, totalling US\$0.4 million, as assets held for sale as at 31 December 2020. We note that as of 30 June 2021 the company had sold some of the assets held for sale, which resulted in a reduced balance of US\$0.2 million as at the date of this report.
- as at 31 December 2020, the net value of property, plant and equipment (PP&E) decreased by US\$13.1 million, or 7.9% to US\$152.0 million from 31 December 2019. The decrease related to depreciation expenses of US\$37.6 million, disposals of US\$3.6 million, and impairment charges of US\$8.3 million. These decreases were partially offset by US\$4.4 million in foreign currency movements and current year additions of US\$32.1 million
- as of 1 January 2019, the Company adopted AASB 16 and reflected leased assets under PP&E, whilst PP&E balances as at 31 December 2018 include lease accounting under guidance in IAS 17, classifying agreements as finance leases or operating leases. As at 31 December 2020, the Company had ROU assets with a net book value of US\$31.9 million and corresponding lease liabilities of US\$36.6 million, compared to US\$35.6 million and US\$36.6 million as at 31 December 2019
- the Company identified the global economic impact of the COVID-19 pandemic as a potential indicator of impairment, and accordingly impairment charges of US\$6.8 million against PP&E in the



Latin America Drilling Services cash generating unit (CGU) were recorded and recognised in other expenses. Utilisation rates lower than current levels could lead to further future asset impairments

- the carrying balance of other intangible assets increased by US\$3.9 million to US\$31.6 million as at 31 December 2020, due to additions of US\$7.0 million and foreign currency exchange differences of US\$0.9 million, which were partially offset by amortisation of US\$3.4 million, impairment charges of US\$0.5 million and disposals of US\$0.1 million
- deferred tax assets (DTAs) as at 31 December 2020 decreased by 21.5% to US\$13.3 million from 31 December 2019
- total assets as at 31 December 2020 decreased by US\$32.3 million, or 5.0% to US\$609.6 million. The reduction is primarily a result of impairment of PP&E, reductions in tax receivables and a decrease in working capital balances offset by increases in intangible assets and cash
- trade and other payables as at 31 December 2020 decreased by US\$13.1 million, or 11.8% to US\$98.0 million. Despite the creditor days figure increasing to approximately 61 days at 31 December 2020 (31 December 2019: approximately 56 days), a lower level of manufacturing activity and continued focus on cost control led to the resultant decrease in trade and other payables. Further, accrued legal and environmental costs of US\$5.3 million as at 31 December 2020 were reclassified from trade and other payables to provisions
- provisions as at 31 December 2020 decreased by US\$13.5 million, or 21.3%, to US\$75.5 million as compared to 31 December 2019. This decrease is primarily the result of decreases in provision for tax contingencies, pension and post-retirement benefits, restructuring and termination costs. This was partially offset by an increase in the provision for employee benefits and legal contingencies. Provisions of US\$89.0 million as at 31 December 2019 decreased by 10.4% from US\$99.4 million as at 31 December 2018. These balances were primarily made up of provisions for tax contingencies and employee provisions, including pension and post-retirement benefits, annual leave, long service leave and bonuses
- as at 31 December 2020, the current tax payable of US\$10.2 million related primarily to income tax payable, as well as other tax related expenses, attributable to BLY and entities in the consolidated group, and
- loans and borrowings as at 31 December 2020 totalled US\$878.6 million and increased by US\$76.9 million during FY20, primarily driven by accredited interest for the period. See Section 10.1 for further detail.

## 8.4 Statement of cash flows

The historical consolidated statement of cash flows of BLY for FY18, FY19 and FY20 are summarised below.

**Table 7: Statement of cash flows**

For	FY18	FY19	FY20
US\$ million unless otherwise stated	Audited	Audited	Audited
<b>Cash flow from operating activities</b>			
<b>Profit / (loss) for the year</b>	<b>(43.5)</b>	<b>(56.6)</b>	<b>(98.8)</b>
<i>Adjustments provided by operating activities:</i>			
Income tax expense recognised in profit	(7.5)	8.5	5.3
Finance costs recognised in profit	69.5	75.4	92.9
Depreciation and amortisation	36.6	39.3	41.0
Interest income recognised in profit	(0.9)	(0.1)	(0.0)
Other non-cash items	(17.1)	(6.6)	12.5
Impairment of current and non-current assets	11.5	10.0	8.8
Loss (gain) on sale or disposal of non-current assets	(7.8)	(3.2)	(2.0)
Non-cash foreign exchange loss (gain)	2.1	(0.2)	1.6
Shares issued	-	-	0.3
Shares issued to directors	0.02	-	0.3
<i>Changes in net assets and liabilities, net of effects from acquisition and disposal of</i>			
Trade and other receivables	3.0	2.2	5.3
Inventories	4.0	6.4	(3.8)
Other assets	(1.0)	1.2	0.1
Trade and other payables	(18.9)	7.8	(9.0)
Provisions	(5.8)	(7.1)	3.1
Cash generated from operations	24.1	77.0	57.6
Interest paid	(6.1)	(30.8)	(7.6)
Interest received	0.9	0.1	0.0
Income taxes (paid) / received	(15.2)	(10.9)	(0.6)
<b>Net cash flows from operating activities</b>	<b>3.7</b>	<b>35.3</b>	<b>49.4</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	(37.1)	(47.1)	(25.1)
Proceeds from sale of property, plant and equipment	13.7	5.8	5.2
Intangible costs paid	(2.0)	(3.6)	(7.0)
<b>Net cash flows used in investing activities</b>	<b>(25.4)</b>	<b>(44.9)</b>	<b>(26.9)</b>
<b>Cash flows from financing activities</b>			
Payments for debt issuance costs	-	(1.4)	(0.2)
Proceeds from borrowings	16.7	31.4	62.5
Repayment of borrowings	(5.3)	(40.9)	(81.3)
<b>Net cash flows provided by / (used in) financing activities</b>	<b>11.3</b>	<b>(11.0)</b>	<b>(18.9)</b>
Net increase/(decrease) in cash held	(10.0)	(20.5)	3.5
Cash and cash equivalents at the beginning of the year	43.8	38.9	20.2
Effects of exchange rate changes on opening cash brought forward	5.2	1.8	(0.2)
<b>Cash and cash equivalents at the end of the year</b>	<b>38.9</b>	<b>20.2</b>	<b>23.5</b>

Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.

Note 1: FY18 results do not reflect the impact of AASB 16 – Leases, which was adopted as of 1 January 2019.

With regard to the historical statement of cash flows summarised above, we note the following:

- as at 31 December 2020, net operating cash flows was US\$49.4 million (FY19: US\$ 35.3 million), representing an improvement of US\$14.1 million over FY19. This improvement primarily reflects the successful conversion of the 2020 interest instalments for debt from payment in cash to PIK, as well as a number of long-term initiatives implemented to decrease working capital needs, and improve

productivity and capital management. The Company also received US\$6.2 million in funds under the Canada Employee Wage Subsidy program for the COVID-19 pandemic relief

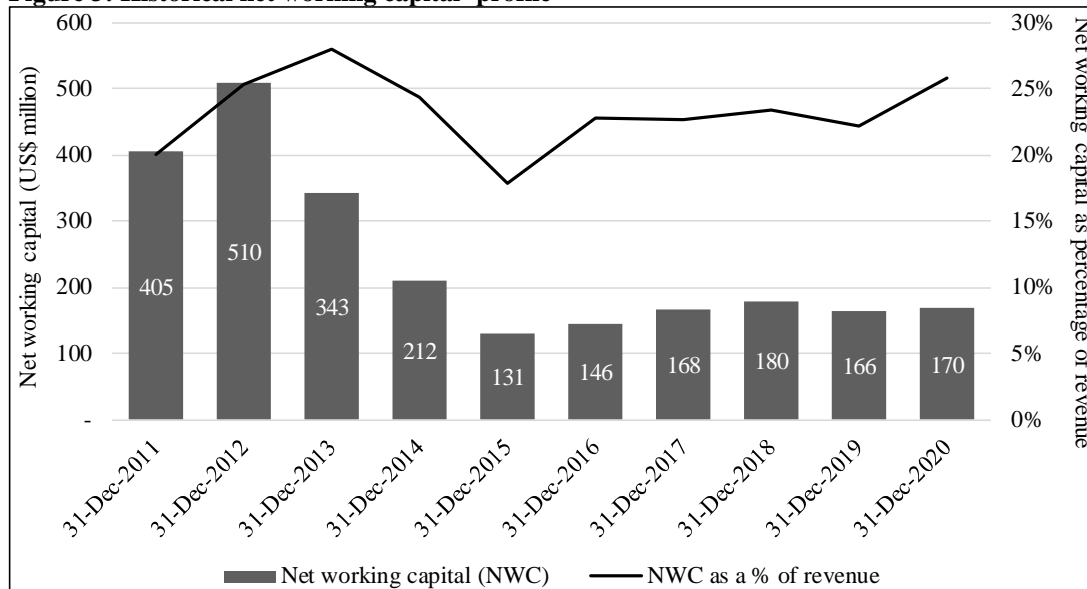
- capital expenditures reduced from the outlay of US\$47.1 million in FY19 to US\$25.1 million in FY20, primarily due to a lower amount of investment of US\$32.1 million (FY19: US\$50.7 million) in capital equipment and R&D as the Company continued to conserve cash during the COVID-19 pandemic. The investments were made to support existing operations during FY20 and prepare the Company for the expected increase in demand in FY21. The capital expenditures incurred in FY20 were partially offset by proceeds from the sale of PP&E of US\$5.2 million in FY20, which was broadly in line with the amount of US\$5.8 million in FY19, and
- during FY20, the Company recorded US\$18.9 million in net cash flows from financing activities compared to US\$11.0 million in FY19. The difference is primarily due to higher repayment of borrowings and lease facilities, partially offset by higher proceeds from borrowings. In comparison, proceeds from borrowings in FY19 were US\$31.4 million.

## 9

### Working capital

The historical NWC balances of BLY are illustrated in the graph below.

**Figure 3: Historical net working capital<sup>1</sup> profile**



Source: BLY financial reports for FY12, FY13, FY14, FY15, FY16, FY17, FY18, FY19 and FY20.

Note 1: Calculation for net working capital = Trade and other receivables + Inventories – Trade and other payables.

With regard to the historical NWC above, we note the following:

- NWC increased by US\$105 million from 31 December 2011 to 31 December 2012 due to significant build-up of inventories and equipment over the period
- NWC has been steadily declining since FY12 as the Company focused on carefully managing working capital levels to ensure that inventory is sufficient to meet demand but is not obsolete

- consolidation and integration of inventory management and supply chain functions combined with lower revenues has reduced the working capital requirements. The slight increase in net working capital from US\$131.0 million at 31 December 2015 to US\$146.0 million at 31 December 2016 was due to a decrease in trade and other payables as opposed to an increase in inventories or receivables. NWC increased in the beginning of 2017 with improving market conditions
- as a percentage of revenue NWC peaked in FY13 at 28.0% as revenue dropped significantly by 39.2% from FY12 to FY13. As NWC management initiatives were put in place NWC as a percentage of revenue has followed a downward trend, before increasing slightly in FY16 due to a decrease in revenue and a corresponding decrease in trade payables, then remained broadly consistent throughout FY17 to FY19. As at 31 December 2020, NWC as a percentage of revenue had increased from 22.2% at 31 December 2019 to 25.8%, primarily due to a decrease in revenue only partially offset by corresponding lower trade receivables and inventories and lower trade payables, and
- the majority of the Company's working capital is cyclical, with the balance decreasing towards the first and fourth quarters of the calendar year. The cyclical nature is primarily influenced by the seasonality in the mining and resources industry where shutdowns by mining companies at year end reduce mining activity and hence the demand for drilling services. A portion of the Company's working capital is counter cyclical as exploration drilling services provided to the oil & gas sector are traditionally provided during the second and third quarters of the year.

## 10 Liquidity and debt facilities

### 10.1 Debt facilities

BLY's debt facilities as at 31 December 2020 are summarised below.

**Table 8: Debt facilities as at 31 December 2020**

US\$ million unless otherwise stated	Total facilities	Amount drawn	Available facility <sup>1</sup>	Interest Rate	Maturity
Senior Secured notes	217.0	217.0	-	Variable <sup>2</sup>	Dec-22
Senior Unsecured notes	88.9	88.9	-	1.5% <sup>3</sup>	Dec-22
Term Loan - Tranche A	132.5	132.5	-	8.0% <sup>4</sup>	Dec-22
Term Loan - Tranche B	159.9	159.9	-	8.0% <sup>4</sup>	Dec-22
ABL <sup>1</sup>	75.0	23.0	17.9	Variable <sup>5</sup>	Jul-22
Backstop ABL	45.0	45.0	-	11% <sup>6</sup>	Oct-22

Source: BLY financial report for FY20 and FY19.

Note 1: Outstanding letters of credit and other facility specific restrictions as at 31 December 2020 reduce the amount of funds available to be drawn from the ABL. This is explained in further detail below.

Note 2: Interest is PIK from 1 January 2020 to 30 June 2020 at an interest rate of 12.0%. Interest is PIK from 1 July 2020 to 31 December 2020 at an interest rate of 14.5%. Interest in cash at a reduced interest rate of 10% p.a. from 1 January 2021. The effective interest rate on a go-forward basis is 14.4%. US\$0.6 million of senior secured notes is subject to interest in cash at an interest rate of 10% p.a.

Note 3: Interest is 1.5% PIK at the Company's election until maturity.

Note 4: Interest is 8% PIK.

Note 5: Applicable interest rates for the ABL are based on a base rate plus a margin, where:

- base rate = US dollar LIBOR or prime rate determined by the Bank of America.
- margin = based on leverage according to a pricing grid.



*Note 6: Interest is PIK at 11% at the Company's election or 10% cash. Maturity date is October 2022 or 90 days after the ABL due date.*

With regard to the debt facilities above, we note the following:

- the Company had US\$217.0 million of senior secured notes outstanding as at 31 December 2020. These notes carried an interest rate of 10.0% p.a. and a maturity date of December 2022. On 19 June 2020, the Company reached an agreement with the relevant noteholders and the ASX to satisfy the interest payments due in respect of the notes on 30 June 2020 and 31 December 2020 by way of PIK instead of cash. The senior secured notes include a premium which is expressed as a percentage of the principal redeemed or repaid and includes PIK interest. The premium is payable at the maturity of the notes due in December 2022, as well as in circumstances whereby the notes are redeemed prior to maturity, and the premium percentage increases over time from 0.9% to 24.4% of the principal balance, subject to the timing of repayment. The debt modification, stated terms and applicable premium result in an effective interest rate on the notes is 14.4% p.a.
- the Company had US\$88.9 million of senior unsecured notes outstanding as at 31 December 2020. These notes have an applicable interest rate of 1.5% p.a. in PIK and mature in December 2022
- the Term Loan facility has an interest rate of 8.0% payable-in-kind and is structured into Term Loan A and Term Loan B. As at 30 December 2020 Term Loan A had principal outstanding of US\$132.5 million maturing in December 2022, and Term Loan B had principal outstanding of US\$159.9 million maturing in December 2022
- the Company had an ABL with an available facility of US\$75.0 million as at 31 December 2020. Letters of credit of US\$5.8 million were drawn under the facility in addition to an outstanding amount of US\$23.0 million, reducing remaining funds available through this facility
  - the facility has an 'availability block' of US\$10.0 million, which releases when the Company achieves certain net debt to EBITDA leverage ratios
  - the borrowing on this facility is limited to the lower of the lender's commitment or the 'borrowing base' that supports the ABL. As at 31 December 2020, the borrowing base was US\$55.0 million, which reduced collateral availability by US\$10.0 million
  - the facility is subject to a minimum liquidity requirement of 15% of the lesser of 'borrowing base' or 'facility capacity' less the 'availability block' on the last day of any month. As at 31 December 2020, the minimum liquidity requirement was US\$8.3 million
  - the amount of funds available to be drawn from the ABL as at 31 December 2020 was US\$17.9 million, as summarised in the following table

**Table 9: Funds available at 31 December 2020**

US\$ million unless otherwise stated	31-Dec-20
<b>ABL available facility</b>	<b>75.0</b>
Drawn	23.0
Letters of credit	5.8
Availability block	10.0
Borrowing base adjustment	10.0
Minimum liquidity	8.3
<b>Undrawn amount</b>	<b>17.9</b>

Source: BLY financial report for FY20.

- the ABL interest rate is based on 30-day US\$ LIBOR with the margin based on a pricing grid linked to the Company's leverage. As at 31 December 2020, the applicable margin was 3.5% for LIBOR based loans
- the scheduled maturity date of the facility is July 2022. As at 31 December 2020, the Company was in compliance with all of its debt covenants
- the Backstop ABL term loan facility has an interest rate of 11.0% p.a. payable-in-kind or 10.0% p.a. in cash. The facility is due to mature in October 2022 and is secured by substantially the same collateral as the ABL facility. As at 31 December 2020, the amount outstanding under this facility was US\$45.0 million
- as at 31 December 2020, accrued interest for the debt facilities was as follows:
  - Senior Secured Notes – US\$62.3 million
  - Senior Unsecured Notes – US\$4.5 million
  - Term Loan A – US\$23.1 million
  - Term Loan B – US\$27.9 million
  - Backstop ABL – US\$13.0 million.
- BLY announced its engagement with Rothschild & Co. on 7 January 2021 to support the Company's evaluation of potential options in anticipation of the maturation of the debt facilities through the second half of 2022 including for refinancing or recapitalisation.

BLY had a total amount of debt facility drawn of US\$883.2 million as at 31 March 2021. With regard to the debt facilities, we note the following:

- the Company had an ABL with an available facility of US\$75.0 million as at 31 March 2021. Letters of credit of US\$6.0 million were drawn under the facility in addition to an outstanding amount of US\$31.4 million, reducing remaining funds available through this facility. Other adjustments reducing the amount of funds available to be drawn include the ABL facility block and borrowing base availability adjustment of US\$20.8 million. As at 31 March 2021, the amount of funds available to be drawn from the ABL was US\$16.8 million



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- as at 31 March 2021, accrued interest for the debt facilities was as follows:
  - Senior Secured Notes – US\$62.3 million
  - Senior Unsecured Notes – US\$4.9 million
  - Term Loan A – US\$26.3 million
  - Term Loan B – US\$31.7 million
  - Backstop ABL – US\$13.6 million.

On 8 June 2021, BLY announced the completion of its US\$65 million short-term financing implementation to ensure adequate liquidity for operations through the restructuring process, as well as the consent approval to amend its Senior Secured Notes. The additional financing is comprised of:

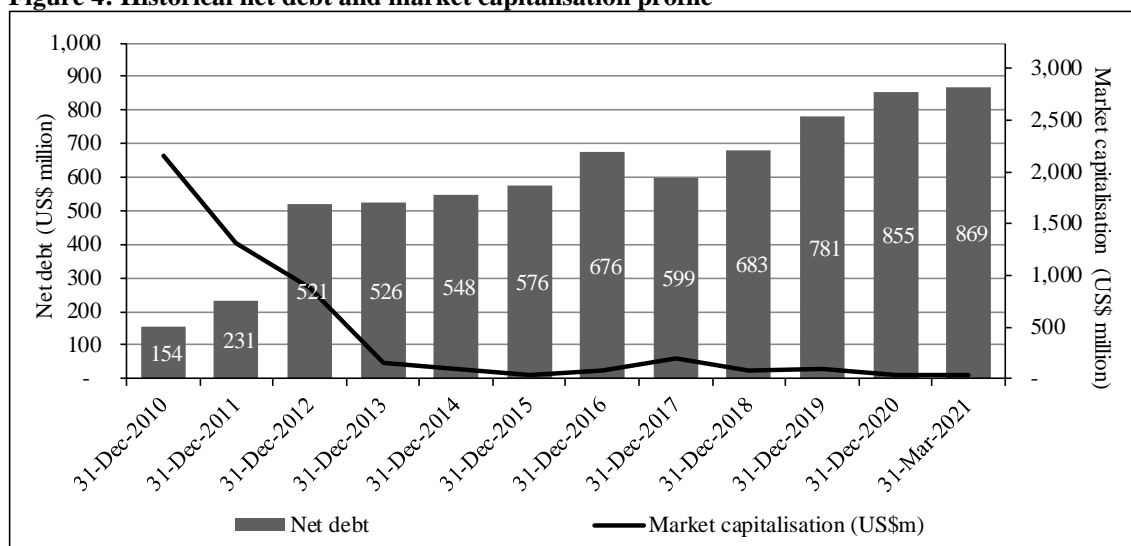
- an incremental, short-term US\$50 million credit facility with Corre, FPA and Nut Tree to provide additional working capital until the Recapitalisation and related transactions are completed, and
- an additional US\$15 million of accessible liquidity and four-year extension of the term of the ABL facility.

Further, BLY received consents from the holders of 99.75% of the Senior Secured Notes due in December 2022 to permit the Company to incur additional financial indebtedness and to satisfy the interest payments due on 30 June 2021 in respect of notes held by consenting note holders by way of PIK at the rate of 14.5%.

## 10.2 Historical net debt and market capitalisation profile

BLY's historical net debt<sup>28</sup> and market capitalisation profile is illustrated below.

**Figure 4: Historical net debt and market capitalisation profile**



Source: BLY financial reports for FY12 to FY20, First Quarter 2021 Appendix 4C, S&P Capital IQ, and KPMG Corporate Finance Analysis.

In FY12, BLY geared up to increase their production capacity in line with the peak of the mining exploration cycle. However, the contraction in the exploration market post 2012 has led to customers reducing capital expenditure, resulting in lower demand for exploration drilling and expenditure, whilst underground production drilling remained relatively stable. This has produced an oversupply of drill rigs in the market, causing BLY to be impacted by low rig utilisation rates, a reduction in order backlogs and an increase in financial leverage. This has resulted in a fall in market capitalisation in line with the mining down-cycle over time. Even the demand for exploration activities at the highest point in the most recent cycle in 2018 was not enough to reduce the Company's debt significantly.

In response to the prolonged contraction in the mining market, the Company negotiated a number of amendments to its credit facilities to maintain liquidity as well as recapitalisations in FY14 and FY17 to reduce the debt amounts outstanding.

## 10.3 Credit rating

During the last twelve months (LTM), BLY was subject to a series of credit rating downgrades, as summarised below:

- 24 June 2020 – S&P revised the BLY's credit ratings as follows, reflecting the completion of the amendment to Senior Secured Notes due December 2022 which saw the conversion of the June 2020 and December 2020 interest payments from cash to PIK:
  - corporate credit rating downgraded from 'CCC' to 'SD' (selective default)

<sup>28</sup> Net debt is calculated as gross debt less cash and cash equivalents



- rating outlook downgraded to ‘Negative’
- senior secured notes downgraded to ‘D’ with recovery rating ‘3’
- senior unsecured notes downgraded to ‘C’ with recovery rating ‘6’.
- 2 July 2020 – S&P revised the Company’s credit ratings as follows:
  - corporate credit rating reinstated from ‘SD’ to ‘CCC+’
  - rating outlook affirmed to be ‘Negative’
  - senior secured notes reinstated from ‘D’ to ‘CCC+’ with recovery rating ‘3’
  - senior unsecured notes reinstated from ‘C’ to ‘CCC-’ with recovery rating ‘6’.
- 2 July 2020 – Moody’s Investors Service (Moody’s) affirmed the Company’s credit rating as follows:
  - corporate family rating and probability of default to be ‘Caa2’
  - rating outlook to be ‘Stable’
  - senior secured notes to be ‘Caa1’
  - senior unsecured notes to be ‘Caa3’
  - speculative grade liquidity rating to be ‘SGL-3’.
- 8 March 2021 – S&P revised the Company’s credit ratings as follows:
  - corporate credit rating downgraded from ‘CCC+’ to ‘CC’
  - rating outlook moved to ‘CreditWatch Negative’
  - senior secured notes downgraded from ‘CCC+’ to ‘CC’ with recovery rating ‘4’
  - senior unsecured notes remained unchanged at ‘C’ with recovery rating ‘6’.
- 20 May 2021 – S&P revised the Company’s credit ratings as follows:
  - corporate credit rating downgraded from ‘CC’ to ‘D’
  - rating outlook removed from ‘CreditWatch Negative’
  - senior secured notes downgraded from ‘CC’ to ‘D’ with recovery rating ‘4’
  - senior unsecured notes remained unchanged at ‘D’ with recovery rating ‘6’.
- 4 June 2021 – Moody’s revised the Company’s credit ratings as follows:
  - corporate family rating and probability of default lowered to be ‘Ca’
  - rating outlook to be ‘Negative’
  - senior secured notes to be ‘Ca’
  - senior unsecured notes to be ‘C’, and

- speculative grade liquidity rating to be ‘SGL-4’.

Further reductions in liquidity may cause additional downgrades to the Company’s corporate and debt credit ratings. However, the Company confirmed its capital restructure plans on 26 February 2021 as part of the FY20 earnings announcement and its expectation for the Company’s debt rating and outlook to improve upon successful completion of the restructuring process.

## **11 Tax position**

In relation to BLY’s tax position, we note the following:

- BLY is the head entity in the Australian tax consolidated group comprising the Australian wholly-owned entities. Under the Australian tax consolidation regime, these entities are treated as a single entity for income tax purposes
- BLY’s unsettled assessments with the CRA for the years 2010 to 2014 will, if upheld, result in federal and provincial tax liabilities (including interest) approximating a maximum of CAD\$35 million in future cash outlay after the application of tax credits and payments. The outcome and timing of any resolution of the Canadian reassessments are unknown. Interest will continue to accrue on all disputed and unpaid amounts until they are paid, or, alternatively, until the disputes are resolved in the Company’s favour
- BLY has also recorded a tax provision related to the CRA’s audits of the 2010 through 2017 tax years. The provision reflects the uncertainties regarding the outcome of those audits and assessments have not yet been received for the tax years 2015 through 2017. While the Company believes it is appropriately reserved in respect of the CRA tax disputes, the resolution of those disputes on terms substantially as assessed by the CRA could be material to the Company’s financial position or results of operations. Interest will continue to accrue on all disputed and unpaid amounts until they are paid, or otherwise settled, and
- BLY is also under audit by the ATO. The resolution of potential assessments by the ATO may adversely affect BLY’s liquidity.

## **12 Capital structure and ownership**

As at 31 December 2020, BLY had the following securities on issue:

- 88,511,800 ordinary shares, held by approximately 3,607 individual Shareholders, and
- 43,158 unquoted share options, held by 13 individual option holders that are not publicly traded on the ASX under the code “BLYAA”. The unquoted share options do not carry rights to vote.



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## 12.1 Ordinary Shareholders

Issued capital in BLY is listed and traded on the ASX. The table below summarises the top 20 ordinary Shareholders as at 30 June 2021.

**Table 10: Top 20 Shareholders as at 30 June 2021**

Shareholder	Number of ordinary shares	Percentage of issued capital
Centerbridge Credit Partners	47,189,770	53.31%
Ascribe Capital	18,308,703	20.69%
Paradice Investment Management	2,777,992	3.14%
Corre Partners	2,588,537	2.92%
Cranport	1,398,333	1.58%
Mr Zhong Wei Miao	1,249,800	1.41%
Mr Alfred Otte	1,081,735	1.22%
BLY Aus Plans Control	920,048	1.04%
Mr Allan K Clarke	605,682	0.68%
Ms Katina Riadis	450,000	0.51%
Mr Kevin McArthur	428,796	0.48%
Mr Christopher S King	405,025	0.46%
Mr Jeffrey Olsen	271,872	0.31%
Mr Jimmy Yip	270,454	0.31%
Mrs Guixing Jian	268,688	0.30%
Mr Mark A Lee	263,036	0.30%
Mr Tye Burt	260,851	0.29%
Mr James D Kern	202,602	0.23%
Russell Investments	202,444	0.23%
Dr Sow Keong Lim	200,000	0.23%
<b>Total shares held by top 20 shareholders</b>	<b>79,344,368</b>	<b>89.64%</b>
Other shareholders	9,167,432	10.36%
<b>Total shares on issue</b>	<b>88,511,800</b>	<b>100%</b>

Source: Share register analysis provided by BLY and KPMG Corporate Finance Analysis.

The top 20 registered Shareholders account for approximately 89.64% of the ordinary shares on issue.

## 12.2 Director's interest

As at 30 June 2021, the Directors held the following shares:

**Table 11: Director's interest**

Name	Position	Total interest in ordinary shares held
Kevin McArthur	Non-executive Chairman	428,796
Tye Burt	Non-executive Director	260,851
Jason Ireland	Non-executive Director	23,731
James Kern	Non-executive Director	202,602
Rubin McDougal	Non-executive Director (appointed effective 1 March 2020)	165,835
Robert Smith	Non-executive Director	23,731
Jeffrey Olsen	Executive Director	271,872
Denis Despres	Chief Operating Officer	65,778
Miguel Desdin	Chief Financial Officer	65,282
Kari Plaster	Chief Human Resources Officer	10,425
<b>Total</b>		<b>1,518,903</b>

Source: Share register analysis provided by BLY, ASX announcements

As at 30 June 2021, the Executive Director, Jeffrey Olsen, held also 1,081 outstanding share options which were vested and exercisable as of 1 April 2017 and expire on 1 April 2024.

## 13 Share price performance and liquidity analysis

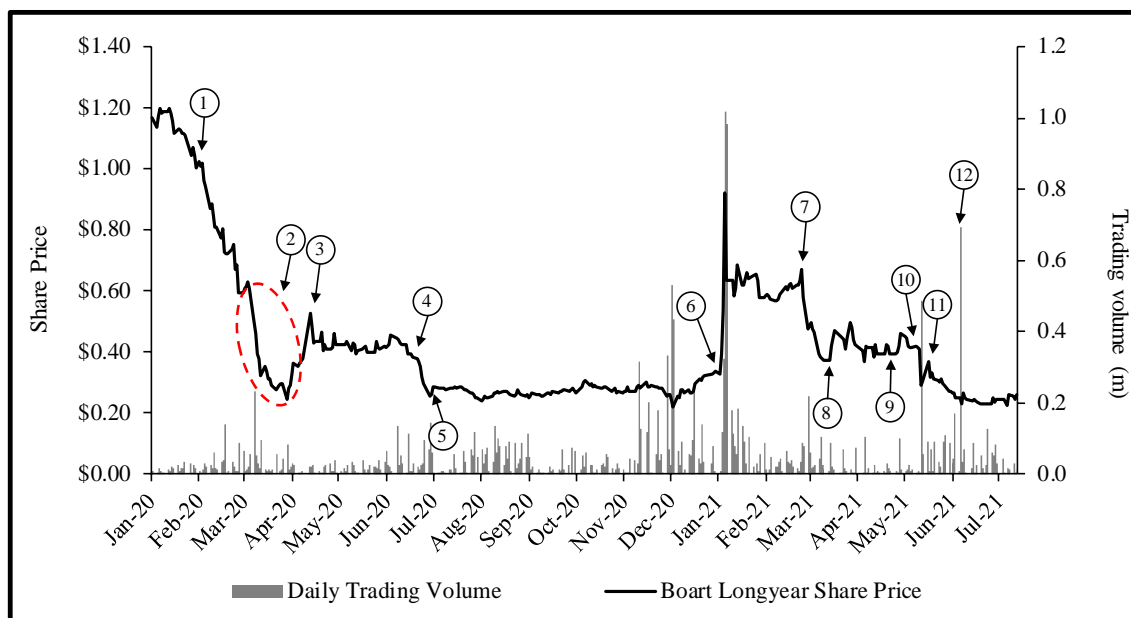
### 13.1 Share price performance

In assessing BLY's share price performance we have:

- analysed the price and volume performance of BLY over the period from 1 January 2020 to 14 July 2021
- compared the share price movement to the Australian All Ordinaries and Metals and Mining indices over the same period ended 14 July 2021, and
- assessed the VWAP and trading liquidity of BLY's shares for the period ending 14 July 2021.

Figure 5 depicts BLY's daily closing price on the ASX in \$ over the period from 1 January 2020 to 14 July 2021, along with the daily volume of shares traded on the ASX as a percentage of total issued capital over the period.

**Figure 5: Share price performance and volume of shares traded**



Source: S&P Capital IQ, KPMG Corporate Finance Analysis and ASX announcements.

As illustrated in Figure 8, BLY's closing share price and volume has remained relatively stable across the period with key movements primarily related to the release of financial reporting figures and the outbreak of the COVID-19 pandemic.

Significant announcements by BLY over the period from 1 January 2020 to 14 July 2021 that may have had an impact on its recent share price include:

1. on 6 February 2020, BLY released its full year FY19 results update, highlighting that several significant mergers and acquisitions within the mining industry took place in the second half of 2019, resulting in delayed mineral exploration projects and a lower level of market activity. Further, the Company did not achieve the anticipated reduction to its debt-to-EBITDA ratio for FY19 as previously communicated. This announcement was followed by a decrease of 38.5% in the share price from \$0.961 to \$0.591 on 28 February 2020 when the investor presentation for FY19 results was released
2. throughout March 2020, BLY's share price declined in line with the overall share market (reflecting the early impacts of the COVID-19 pandemic) from \$0.630 on 5 March 2020 to close at a low of \$0.246 on 30 March 2020
3. on 15 April 2020, BLY released its full FY19 annual financial report, reporting a 3.2% decrease in overall revenue compared to FY18 and the Company's share price closed at \$0.481 on the same day. This announcement was followed five days later by the announcement of results for the first quarter of FY20 and its expectation that the COVID-19 pandemic would have a greater impact during the quarter ending 30 June 2020 than the first quarter. The share price closed at \$0.434 on 20 April 2020

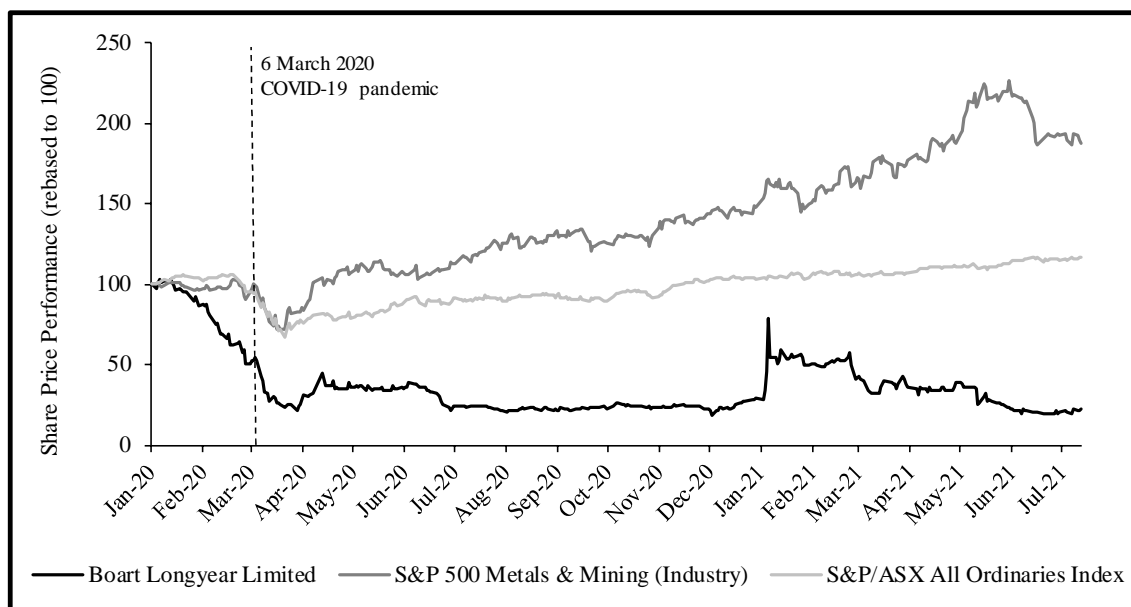
4. on 24 June 2020, S&P revised the Company's credit ratings to reflect the completion of the amendment to the Senior Secured Notes due December 2022 which saw the conversion of the June 2020 and December 2020 interest payments from cash to PIK. The Company's share price closed at \$0.354 and further information is detailed in Section 10.3
5. on 24 July 2020, S&P reinstated the Company's credit ratings and Moody's affirmed the Company's credit ratings. The Company's share price closed at \$0.277 and further information is detailed in Section 10.3
6. on 7 January 2021, the Company announced the engagement of Rothschild & Co. as advisor to support the Company's evaluation of potential options, including refinancing and recapitalisation, in anticipation of the maturation of its debt facilities through the second half of 2022. The Company's share price closed at \$0.923 following the announcement, representing a 72.0% increase on the last sale price of \$0.537 on the previous day
7. on 26 February 2021, BLY released its full FY20 annual financial report, reporting a 11.8% decrease in overall revenue compared to FY19 and the share price closed at \$0.579 on the same day. Following the announcement, the share price decreased by 35.6% over a two-week period to close at \$0.373 on 11 March 2021
8. on 8 March 2021, S&P downgraded the Company's credit ratings and the share price closed at \$0.395. Further information is detailed in Section 10.3
9. on 29 April 2021, BLY announced its financial performance for the quarter ended 31 March 2021, noting the improvement of the level of exploration and mining activity. Following the announcement, the share price increased by 5.8% to close at \$0.42 on the same day, and subsequently 9.3% the following day to close at \$0.46 on 30 April 2021
10. on 13 May 2021, BLY announced that it had reached an agreement regarding the Recapitalisation. The share price decreased by 28.5% to close at \$0.29 on the same day
11. on 20 May 2021, S&P downgraded the Company's credit ratings and the share price closed at \$0.33 on the same day and decreased by 12.4% over the following week. Further information is detailed in Section 10.3, and
12. on 8 June 2021, BLY announced completion of US\$65 million in additional short term financing to provide adequate liquidity for operations through the restructuring process, as well as the consent approval to amend Senior Secured Notes. The share price decreased by 8.1% to close at \$0.23 on the same day.

Further details in relation to all announcements made by BLY to the ASX can be obtained from either the Company's website or ASX's website at [www.asx.com.au](http://www.asx.com.au).

The figure below illustrates a comparison of the trading performance of BLY's shares relative to the All Ordinaries Index and the Metals and Mining Index over the period 1 January 2020 to 14 July 2021. BLY significantly underperformed the index from the beginning of 2020, especially when the COVID-19 pandemic broke out, as mining activities were disrupted. Over the period to 14 July 2021, the BLY share price depreciated by 76.9%. Over the same period, the All Ordinaries Index and Mining and Metals Index grew by 16.5% and 87.2%, respectively. The BLY share price displayed significantly greater volatility

relative to both indices, which is not uncommon given the enhanced diversification of an index when compared to a single company, along with the higher leverage, the small market capitalisation and liquidity of BLY.

**Figure 6: Relative share price performance**



Source: S&P Capital IQ and KPMG Corporate Finance Analysis

## 13.2 VWAP and liquidity analysis

An analysis of the volume of trading in the ordinary shares of BLY, including the VWAP for the period up to 14 July 2021 is set out in the following table.

**Table 12: Volume of trading in ordinary shares**

Period	Price (low) \$	Price (high) \$	Price VWAP \$	Cumulative value \$m	Cumulative volume m	% of issued capital
1 day	0.25	0.26	0.26	0.0	0.0	0.0
1 week	0.23	0.26	0.25	0.0	0.1	0.1
1 month	0.23	0.27	0.24	0.2	0.7	0.8
3 months	0.23	0.48	0.29	0.9	3.2	3.6
6 months	0.23	0.69	0.40	2.2	5.6	6.3
12 months	0.22	1.65	0.67	17.1	25.4	13.9

Source: S&P Capital IQ and KPMG Corporate Finance Analysis

During the 12-month period to 14 July 2021, 13.9% of issued shares were traded. This level of trading indicates that BLY's shares are illiquid, albeit being traded every day over the 12-month period.

## 13.3 Dividends

No dividends have been issued for the half years ended 31 December 2019 through 31 December 2020.

## 14 Financial implications of the Recapitalisation

In order to understand the financial implications, we have used the reviewed financial position of BLY as at 30 June 2021 as a base position and then created a pro-forma balance sheet based on the Creditors' Schemes to demonstrate the impact of each step below.

**Table 13: Pro-forma balance sheet following the Creditors' Schemes**

As at	30-Jun-21	Exit financing	Backstop ABL/Interim financing pay down	Debt Cancellation	Share repurchase/ issuance	Pro-forma post- transaction	Pro-forma post- share consolidation <sup>1</sup>
US\$ million unless otherwise stated	Pre-transaction						
<b>Current assets</b>							
Cash and cash equivalents	32.6	111.6	(92.6)	-	4.5	56.1	56.1
Trade and other receivables	141.4	-	-	-	-	141.4	141.4
Inventories	178.8	-	-	-	-	178.8	178.8
Current tax receivable	1.0	-	-	-	-	1.0	1.0
Prepaid expenses and other assets	14.7	3.5	-	-	-	18.2	18.2
Assets classified as held for sale	0.2	-	-	-	-	0.2	0.2
<b>Total current assets</b>	<b>368.8</b>	<b>115.0</b>	<b>(92.6)</b>	<b>-</b>	<b>4.5</b>	<b>395.7</b>	<b>395.7</b>
<b>Non-current assets</b>							
Property, plant and equipment	157.8	-	-	-	-	157.8	157.8
Goodwill	105.7	-	-	-	-	105.7	105.7
Other intangible assets	34.3	-	-	-	-	34.3	34.3
Deferred tax assets	11.7	-	-	-	-	11.7	11.7
Non-current tax receivable	1.6	-	-	-	-	1.6	1.6
Other assets	2.4	-	-	-	-	2.4	2.4
<b>Total non-current assets</b>	<b>313.6</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>313.6</b>	<b>313.6</b>
<b>Total assets</b>	<b>682.3</b>	<b>115.0</b>	<b>(92.6)</b>	<b>-</b>	<b>4.5</b>	<b>709.2</b>	<b>709.2</b>
<b>Current liabilities</b>							
Trade and other payables	137.7	-	-	-	-	137.7	137.7
Provisions	14.3	-	-	-	-	14.3	14.3
Current tax payable	5.8	-	-	-	-	5.8	5.8
Loans and borrowings	40.9	-	(30.3)	-	-	10.6	10.6
<b>Total current liabilities</b>	<b>198.8</b>	<b>-</b>	<b>(30.3)</b>	<b>-</b>	<b>-</b>	<b>168.6</b>	<b>168.6</b>
<b>Non-current liabilities</b>							
Loans and borrowings	902.4	115.0	(62.3)	(806.1)	-	149.0	149.0
Deferred tax liabilities	20.1	-	-	-	-	20.1	20.1
Provisions	60.8	-	-	-	-	60.8	60.8
<b>Total non-current liabilities</b>	<b>983.4</b>	<b>115.0</b>	<b>(62.3)</b>	<b>(806.1)</b>	<b>-</b>	<b>230.1</b>	<b>230.1</b>
<b>Total liabilities</b>	<b>1,182.3</b>	<b>115.0</b>	<b>(92.6)</b>	<b>(806.1)</b>	<b>-</b>	<b>398.6</b>	<b>398.6</b>
<b>Net assets</b>	<b>(500.0)</b>	<b>-</b>	<b>-</b>	<b>806.1</b>	<b>4.5</b>	<b>310.5</b>	<b>310.5</b>
<i>Net assets per share (US\$)</i>	<i>-5.65</i>					<i>0.05</i>	<i>1.05</i>
<b>Equity</b>	<b>(500.0)</b>	<b>-</b>	<b>-</b>	<b>806.1</b>	<b>4.5</b>	<b>310.5</b>	<b>310.5</b>
Issued ordinary shares	88.5	-	-	5,812.3	-	5,900.8	295.0
Non-associated	19.8	-	-	-	-	19.8	1.0
Non-associated % - ordinary shares	22.4%	22.4%	22.4%	0.3%	0.3%	0.3%	0.3%
Supporting creditors - ordinary shares	68.7	-	-	5,812.3	-	5,881.0	294.0
Supporting creditors % - ordinary shares	77.6%	77.6%	77.6%	99.7%	99.7%	99.7%	99.7%

Source: Management and KPMG Corporate Finance Analysis

Note: A share consolidation at a reverse split ratio of 20 to 1 is applied to the pro forma number of shares of 5.9 billion.

### Step 1: Exit financing

- a new money investment in the form of new senior secured debt in the amount of US\$115.0 million
- the amount raised via the new money investment will be used to fully refinance the existing Backstop ABL of US\$62.3 million and the interim facility with Corre, Nut Tree and FPA of US\$30.3 million
- the amount raised will also be used for the prepayment of expenses and other assets of US\$3.5 million



### Step 2: Debt Cancellation

- the cancellation of debt of US\$806.1 million based on:
  - the Company exchanging US\$161.9 million in principal and accrued interest of Term Loan Tranche A for 18.0% of the New Common Equity of BLY (subject to warrant dilution). This will result in a corresponding decrease in total debt of US\$161.9 million of the company
  - the Company exchanging US\$195.4 million in principal and accrued interest of Term Loan Tranche B for 22.1% of the New Common Equity of BLY (subject to warrant dilution). This will result in a corresponding decrease in total debt of US\$195.4 million of the company
  - the Company exchanging US\$354.7 million in principal and accrued interest of senior secured notes for 55.5% of the New Common Equity of BLY (subject to warrant dilution). This will result in a corresponding decrease in total debt of US\$354.7 million of the company
  - the Company exchanging US\$94.1 million in principal and accrued interest of senior unsecured notes for 3.7% of the New Common Equity of BLY (subject to warrant dilution). This will result in a corresponding decrease in total debt of US\$94.1 million of the company.
- the detailed debt structures pre-transaction and post transaction are as follows:

**Table 14: Pro-forma debt structure following the Recapitalisation as at 30 June 2021**

As at US\$ thousand unless otherwise stated	30-Jun-21 Pre-transaction	Exit financing	Backstop ABL/Interim financing pay down	Debt Cancellation <sup>1</sup>	Share repurchase/ issuance	Pro-forma post transaction
ABL Revolver	5.4	-	-	-	-	5.4
Interim facility	30.3	-	(30.3)	-	-	-
Back stop ABL	62.3	-	(62.3)	-	-	-
Term Loan A	161.9	-	-	(161.9)	-	-
Term Loan B	195.4	-	-	(195.4)	-	-
Capital leases	39.3	-	-	-	-	39.3
Senior secured notes	354.7	-	-	(354.7)	-	-
Senior unsecured notes	94.1	-	-	(94.1)	-	-
Exit facility	-	115.0	-	-	-	115.0
Other	-	-	-	-	-	-
<b>Total debt</b>	<b>943.3</b>	<b>115.0</b>	<b>(92.6)</b>	<b>(806.1)</b>	<b>-</b>	<b>159.6</b>

Source: BLY Management and KPMG Corporate Finance Analysis

Note 1: Debt cancellation amount includes interest accrued since Announcement Date.

Note 2: Table above reflects the impact of the share repurchase but not SPP and CSPO.

### Step 3: Share repurchase/issuance

- as a result of the share repurchase or issuance arising from the Recapitalisation, US\$4.5 million<sup>29</sup> of cash will be added to the books of BLY
- new warrants to purchase shares of up to 10% of the post-recapitalisation equity (with the total number of Shares on issue for the purposes of this calculation determined (1) including the new Shares that would be issued on exercise of the New Warrants, (2) before the issue of any Shares on

<sup>29</sup> Assuming that the Selective Buy-Back Programme is fully exhausted.



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the exercise of any Existing Warrants and Existing Options, (3) before the issue of any Shares under the SPP and the CSPO, (4) before any buy-back of Shares under the SBB and (5) before the issue of any Shares under any management incentive plan) (New Warrants).

Further, we note the following:

- the transaction assumes that all debt in excess of the ABL, Backstop ABL and capitalised leases is fully equitised
- pro-forma capitalisation and equity splits shown include impact of illustrative new money but exclude impact of warrants, and
- the analysis does not include any increases in debt beyond 30 June 2021 or projected equity value.

## 15 Outlook

BLY did not provide a forecast for FY21 revenue or beyond in the presentation of the financial results for FY20 on 26 February 2021. Management noted that whilst the COVID-19 pandemic materially impacted normal operations for several months in FY20, the strength in key commodity prices drove continued capital raisings in the mining sector, with \$3.5 billion raised in the third quarter of FY20, marking the strongest quarter in eight years. Exploration activity in the coming quarters is expected as a result, particularly as COVID-19 restrictions ease.

Further, KPMG Corporate Finance is not aware of any brokers who currently follow and/or issue reports on the Company.

## **16 Assessment of value Pre and Post-Recapitalisation**

### **16.1 General**

We have assessed whether the Recapitalisation is fair by comparing the value prior to the Recapitalisation, on a controlling basis, to that post the Recapitalisation on a non-controlling basis.

This section sets out our assessment of the underlying value of BLY shares prior to the Recapitalisation (inclusive of a premium for control), and after the Recapitalisation (exclusive of a premium for control). When assessing the value of 100.0% of BLY, we have considered those synergies and benefits which would generally be available to a broad pool of hypothetical purchasers. We have not included the 'special value', or the value of synergies specific to a particular acquirer, in this case the Supporting Creditors. Accordingly, our valuation of a share in BLY has been determined regardless of the acquirer.

We have recognised the current difficulty in determining an appropriate value as a result of the previous decline and the current position reached in the mining cycle as well as the impacts of the COVID-19 pandemic on the mining industry. In this regard we have valued BLY as a going concern, which implicitly assumes that existing debt arrangements would continue or be refinanced. While we have not considered the financial distress of the Company in assessing enterprise value, we note that current debt is higher than enterprise value and therefore the ability of the Company to repay this outstanding debt is not possible under the current structure, with all of the outstanding debt being due by December 2022.

### **16.2 Methodology**

#### **16.2.1 Valuation approach**

For the purpose of this report, market value can be defined as the value that should be agreed in a hypothetical transaction between a knowledgeable, willing, but not anxious buyer and a knowledgeable, willing, but not anxious seller, acting at arm's length.

RG 111 indicates that it is appropriate for an independent expert to consider the following valuation methods:

- the discounted cash flow method (DCF)
- the capitalisation of future maintainable earnings or cash flows (capitalisation of earnings)
- the amount that would be distributed to security holders in an orderly realisation of assets
- the amount which an alternative acquirer might be prepared to pay, and/or
- the most recent quoted price of listed securities.

Each of the above methodologies is applicable in different circumstances. In selecting the appropriate methodology by which to value BLY, we have considered the Company's prospects and other available information presented to us. A summary of each of the approaches considered in preparing this report is set out in Appendix 3.

Due to the various uncertainties inherent in the valuation process, we have determined a range of values within which we consider the market value of BLY to lie.

We have used the capitalisation of earnings method, based on adjusted EBITDA, as the primary method. We have adopted this method based on the following considerations:

- a capitalised earnings method is appropriate for a business that has a stable future maintainable level of earnings. We note that despite the recent volatility in earnings for BLY as a result of the outbreak of the COVID-19 pandemic, Management have reduced costs in an attempt to counteract the impacts of the pandemic on the business, and managed costs in order to reduce earnings volatility going forward. We believe a capitalised earnings method is appropriate as there are a number of comparable companies that perform similar services, operate within the resources markets and have similar geographic presence to BLY. Additionally, a number of transactions have occurred since 2012 involving drilling companies within Australia and internationally. We have focused on the more recent transactions within that group of comparables
- a DCF approach is also widely used in the valuation of established industrial businesses. However, the inherent uncertainty associated with the cyclicity of BLY's business operations, its constrained liquidity position inhibiting its ability to bid on all projects, and the volatility of changes in working capital, means that preparing reliable cash flow projections beyond the current order backlog is particularly challenging. This may reduce the robustness of any results derived from a DCF analysis. Whilst we have not utilised a DCF approach as our primary valuation approach, we have considered the Company's business scenarios provided by Management in forming our valuation assessment
- a net realisable assets approach, e.g. assuming an orderly realisation of assets is not considered appropriate as this method would not capture the growth potential and goodwill associated with the business, and
- trading prices for BLY shares have been quite volatile since January 2020, and more broadly in the period since listing. Accordingly, considerable judgement is required in deriving conclusions on the fundamental value of a BLY share. Nevertheless, we have also had regard to trading prices in our analysis of the assessed value per BLY share.

Ultimately, the value of the business operations of BLY has been determined through an iterative process, ensuring the value derived from our primary capitalised earnings methodology is consistent with the outcomes of our high-level DCF cross-check and our analysis of BLY's share price performance.

#### 16.2.2 **Selection of earnings metric**

A capitalised earnings methodology can be applied to a number of different earnings or cash flow measures, including EBITDA, Earnings Before Interest and Tax (EBIT) and Net Profit after Tax (NPAT).

Given the services provided by the comparable companies, we consider EBITDA to be a superior metric as it provides a better view of the operating performance of the companies. As most of the companies have similar relative capital expenditure intensity, we are of the view that distortions as a result of different asset management strategies (e.g. purchasing versus leasing of plant and equipment) are immaterial.

EBIT multiples observed in the market may be distorted by the inclusion of earnings from equity-accounted investments for some of the comparable companies, additionally the availability of comparable

data is limited due to the current underperformance of the industry where EBIT for recent and current years is often zero or negative.

P/E multiples are commonly used in the context of the share market and have the advantage of eliminating the distortion caused by equity-accounted investments. However, the key weakness of P/E multiples is that they do not take into consideration the financial risks associated with different capital structures. This is particularly important given the variability of the capital structures adopted by BLY's peers.

Having reflected on the above, we consider EBITDA to be the most appropriate metric for the capitalised earnings valuation of BLY's business operations. In adopting EBITDA, we have recognised the cyclical nature of the industry by applying 'through-the-cycle' earnings figures as well as 'through-the-cycle' capitalisation multiples. However, we note that a valuation of the Company in the current stage of the cycle is complex, as this requires estimates about the length and the impact of the current industry cycle and therefore includes some optionality regarding the recovery of the industry.

### 16.2.3 **Control premium considerations**

The multiples applied in a capitalised earnings approach are generally based on data from quoted companies and recent transactions in a comparable sector, with appropriate adjustment after consideration has been given to the specific characteristics of the business being valued.

The multiples derived for comparable quoted companies are generally based on share prices reflective of the trades of small parcels of shares. As such, they generally reflect prices at which portfolio interests change hands. That is, there is no premium for control incorporated within such pricing. They may also be impacted by the level of liquidity in trading of the particular stock. Accordingly, when valuing a business en-bloc (i.e. 100.0%) it is appropriate to also reference the multiples achieved in recent transactions, where a control premium and breadth of purchaser interest are more fully reflected.

RG 111.8 states that a control premium should be applied in transactions where a person acquired, or increase a controlling stake in a company. Further, RG 111.9 notes that experts focus on the substance of control, rather than the legal mechanism used to effect it. We note that Centerbridge, along with Ascribe currently maintain clear control of BLY, having nomination rights for five Board positions and a combined shareholding of 74% of the ordinary shares of the Company. Following the transaction, the Supporting Creditors will increase their ownership of outstanding shares to approximately 99.7% of the total shares, and will increase their Board representation to eight out of a total nine Board positions.

Consistent with these considerations, and in accordance with the requirements of RG 111, in valuing BLY we have assumed 100.0% ownership, and therefore included a premium for control when assessing the multiples implied by the comparable companies.

Observations from transaction evidence indicate that takeover premiums concentrate around a range between 25.0% and 40.0%<sup>30</sup> for completed takeovers. In transactions where it was estimated that the

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<sup>30</sup> KPMG Corporate Finance analysis based on Mergerstat data for Australian transactions completed between 2008 and 2018, comparing the Mergerstat 'unaffected' share price of the target company to the final offer price.

combined entity would be able to achieve significant synergies, the takeover premium was frequently estimated to be in excess of this range. Takeover premiums vary significantly and include:

- synergies, such as the removal of costs associated with the target being a listed entity and/or costs related to duplicated head office functions
- pure control premium in respect of the acquirer's ability to utilise full control over the cash flows of the target entity
- desire (or anxiety) for the acquirer to complete the transaction, and
- significant cost reductions having already been achieved.

In considering an appropriate control premium to apply to BLY we have recognised the inherent uncertainty associated with future earnings due to the cyclicity of its business operations and the significant cost take-outs already implemented within BLY, which indicate a control premium for BLY at the lower end of the range.

## 16.3 Capitalised earnings methodology

### 16.3.1 Summary

As noted in Section 3, we have based our valuation on an analysis of 'through-the-cycle' maintainable earnings of the Company as well as capitalisation multiples for a similar period. Under this approach, KPMG Corporate Finance estimates the enterprise value of BLY's business operations prior to the transaction to be in the range of US\$455.0 million to US\$510.0 million on a control basis.

**Table 15: Pre-Recapitalisation analysis**

	Report Section	Value range (US\$ million) Pre-Recapitalisation	
		Low	High
Maintainable earnings (EBITDA)	16.3.2	65.0	85.0
EBITDA multiple (on a controlling basis) (times)	16.3.3	7.0x	6.0x
<b>Enterprise Value of Boart Longyear</b>		<b>455.0</b>	<b>510.0</b>
Less: Net debt as at 30 June 2021	16.4.2	(910.7)	(910.7)
Add: Assets held for sale	8.3	0.2	0.2
<b>Equity Value of Boart Longyear</b>		<b>(455.5)</b>	<b>(400.5)</b>
Issued shares (million) up to	14	88.5	88.5
<b>Equity value per share on a marketable, controlling basis (US\$)</b>		<b>(5.147)</b>	<b>(4.525)</b>
Foreign currency exchange rate as at 15 July 2021 (US\$:AU\$)		0.75	0.75
<b>Equity value per share on a marketable, controlling basis (AU\$)</b>		<b>(6.882)</b>	<b>(6.051)</b>

Source: FY20 Annual Report, Management, KPMG Corporate Finance analysis

Note 1: Differences in calculations due to rounding

We have estimated the EV of BLY using a capitalisation of earnings methodology. To calculate the equity value of BLY shares on a controlling basis we have:

- deducted net debt

- added the proceeds from the SPP and the CSPO, and
- added the assets held for sale as surplus assets.

The assessed valuation range reflects the current stage of the industry coming out of a cyclical low as well as the impact of the COVID-19 pandemic and therefore adopts ‘through-the-cycle’ earnings which is higher than actual and forecasted earnings figures for FY21. The range also reflects some optionality as to when and by what magnitude the industry and BLY’s earnings will recover.

In contrast to the Pre-Recapitalisation valuation, we have set out below the value per share on a Post-Recapitalisation basis, which is based on an equity value for a minority shareholder and the number of shares Post-Recapitalisation. This value per share Post-Recapitalisation also takes into account the reduction of net debt and only considers the cost incurred in respect of the Recapitalisation as at 30 June 2021 of approximately US\$12.6 million<sup>31</sup>. This calculation results in a value range for a BLY share Post-Recapitalisation of US\$0.0432 to US\$0.0498. We note that the number of ordinary shares increases significantly from up to 88.5 million to up to 6,608.8 million as a result of the Recapitalisation<sup>32</sup>. This results in a significant dilution of Non-Associated Shareholders ownership of BLY. The calculation is shown in the table below.

**Table 16: Post-Recapitalisation value analysis**

	Report Section	Value range (US\$ million) Post-Recapitalisation	
		Low	High
Maintainable earnings (EBITDA)	16.3.2	65.0	85.0
EBITDA multiple (on a controlling basis) (times)	16.3.3	7.0x	6.0x
<b>Enterprise Value of Boart Longyear</b>		<b>455.0</b>	<b>510.0</b>
Less: Net Debt post-restructuring	16.4.2	(103.5)	(103.5)
Add: Cash proceeds from SPP and CSPO	1	5.0	5.0
Add: Assets held for sale	8.3	0.2	0.2
<b>Equity Value of Boart Longyear on a controlling basis</b>		<b>356.7</b>	<b>411.7</b>
less: Minority Discount (20.0%) <sup>2</sup>		(71.3)	(82.3)
<b>Equity Value of Boart Longyear on a minority basis</b>		<b>285.3</b>	<b>329.3</b>
Issued shares (million) post-proposal up to	14	6,608.8	6,608.8
<b>Equity value per share (US\$)</b>		<b>0.0432</b>	<b>0.0498</b>
Foreign currency exchange rate as at 15 July 2021 (US\$:AU\$)		0.75	0.75
<b>Equity value per share (AU\$)</b>		<b>0.0577</b>	<b>0.0666</b>

Source: Management, KPMG Corporate Finance Analysis

Note 1: Tables may not cast due to rounding

Note 2: A 25.0% control premium translates into a 20.0% minority discount

Assessing the underlying value of BLY is not straight-forward, due to the volatility of earnings which are dependent on mining exploration spending, weather patterns, foreign exchange rates, global commodity markets and the further impacts of the COVID-19 pandemic. While KPMG Corporate Finance

<sup>31</sup> The full cost of the Recapitalisation is estimated to be US\$40.4 million.

<sup>32</sup> Including the maximum number of shares to be issued under the SPP, the CSPO and any Warrant Shares on a comparable Pre-Share Consolidation basis, equaling 330.4 million shares Post-Share Consolidation.

acknowledges that a recovery in the mining market and commodity prices, and foreign exchange movements could significantly increase BLY's earnings, there is continued risk from exposure to such factors as well as the requirement for appropriate working capital and trained drilling teams. We have sought to balance these issues when valuing BLY.

### 16.3.2 Maintainable earnings

Mining services industry participants are exposed to a degree of earnings volatility throughout the mining cycle. While BLY has exhibited earnings volatility in recent years, cost cutting initiatives, along with expectations of an industry upswing support the view that the company will show greater earnings stability going forward. These industry expectations along with Management's efforts to increase earnings stability going forward, makes the application of future maintainable earnings appropriate for BLY. In addition to company specific factors, the level of maintainable earnings in the mining services industry is influenced by a number of factors. These include the trend and consistency of historical performance, the stage of development of the business and the extent to which one-off or non-recurring transactions are reflected in the financial statements.

In order to select a level of maintainable earnings for BLY we have considered the historical financial results and operations and strategic plans of BLY. Earnings for each of these periods are summarised in Appendix 6, along with any adjustments for non-recurring items.

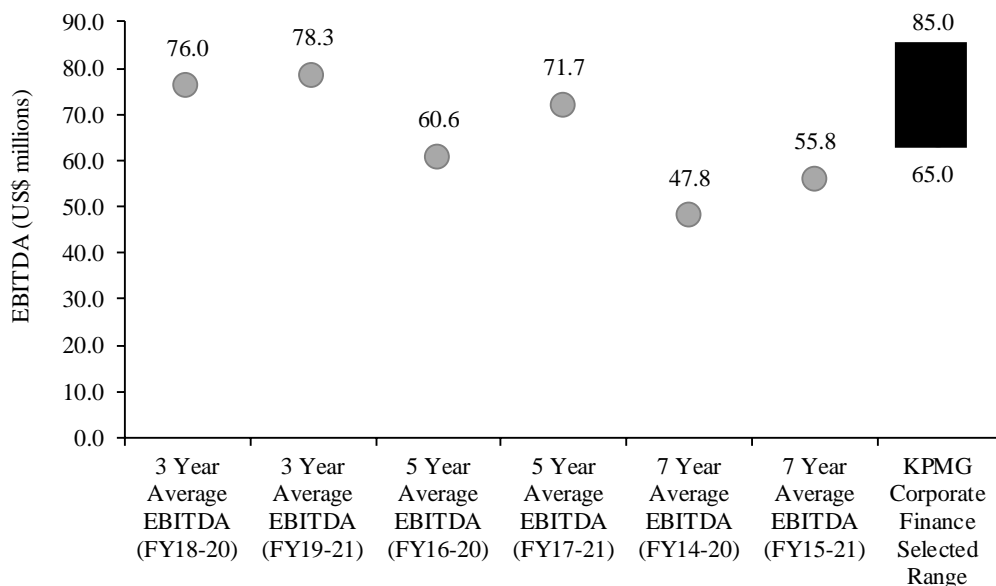
In relation to the selection of a maintainable EBITDA, we note the following:

- the historical financial performance of BLY has been discussed previously in Section 8.2. The recent decline in EBITDA during FY20 was primarily a result of the impacts of the COVID-19 pandemic with the long-term profitability following the demand for drilling services driven by the exploration activity of mining companies, and
- BLY's business scenario assumes a cyclical increase in adjusted EBITDA from US\$60.1 million in FY20 to between US\$60.0 million to US\$115.0 million in FY21 (see Appendix 6).

BLY's business is impacted by industry cycles which have reached cyclical lows. In determining a maintainable EBITDA we have sought to reflect the nature of the cycle by looking at the average EBITDA of various three, five and seven year cycles having considered adjusted EBITDA and statutory EBITDA. Based on the considerations above, we have selected a maintainable EBITDA range of US\$65.0 million to US\$85.0 million, which in our view balances a 'through-the-cycle' view with the current position as well as not choosing too wide a range so as not to be meaningful. Our selected range as well as the various average historical EBITDA are illustrated in the figure below. We have also considered the company's business scenarios and do not consider our range inconsistent with respect to these scenarios.



**Figure 10: Selection of maintainable EBITDA**



Source: KPMG Corporate Finance Analysis

### 16.3.3 Capitalisation multiple

In selecting an appropriate range of maintainable EBITDA multiples to apply, we have considered the following:

- the trading multiples of broadly comparable companies over a similar historic time period to that for our historic earnings analysis of three, five and seven year periods
- the transaction multiples of broadly comparable companies within the drilling industry over a similar historic time period to that for our historic earnings analysis
- the current low stage of the mining industry cycle, as well as the recent commodity price appreciations and forecast industry improvements going forward
- the market capitalisation and nature of the environment in which the comparable companies and target companies operate
- the expected growth profile of BLY and the relative market positioning of BLY in the drilling industry as set out in its base case, and
- the risks associated with BLY's ability to grow during an upcycle including required working capital investment and costs associated with training and deploying staff.

Considering the above we have selected an average EBITDA multiple of 6.0x to 7.0x (inclusive of a control premium) for the purpose of our valuation. This sits within the median for trading multiples for the three, five and seven year periods but below the average for the five and seven year periods. It is also

at the high end of the transaction evidence reflecting our view as to the strengths of BLY for any potential acquirer.

### **16.3.3.1 Comparable company trading multiples**

#### *EBITDA multiple*

The multiple applied in a capitalised earnings methodology should reflect the return expected by an investor in the business. Returns are dependent on various factors including a business' operational risks, growth profile, profitability, size and external environment, and the selected multiple should reflect these factors amongst others.

In selecting the multiple range to be applied, consideration is generally given to market evidence derived from listed comparable companies and recent transactions involving comparable businesses/assets, with an appropriate adjustment to reflect the specific characteristics of the business being valued.

To determine an appropriate comparable company peer group for BLY, we have had regard to the following:

- BLY's market position in providing drilling services and products to the global mining and energy industry. The companies in the peer group identified for comparison purposes are predominantly participants in the construction and engineering and diversified metals and mining industries. The companies selected provide diversified drilling services to mining clients, which operate in all areas of the globe and in all phases of the mining lifecycle, and
- BLY's business relationships with large diversified multinational miners including Newmont Corporation and Rio Tinto Ltd, allowing the business to develop a geographically diversified presence. Having considered the global presence of BLY's operations, we have considered the financial data and trading multiples of companies that operate globally. In this regard, we have considered companies in the APAC, EMEA, the US and Canada marketplaces.

In determining an EBITDA multiple that reflects earnings 'through-the-cycle', we have considered the earnings over three, five and seven year periods. We have considered these figures in reflection of the recent industry cycle, the impacts of the COVID-19 pandemic and the resulting historically low multiples that comparable companies have exhibited recently.

The table below sets out the implied EBITDA multiples for selected listed companies that are considered to be comparable to BLY.

**Table 17: Share market evidence**

						EBITDA Multiple				
						LTM <sup>5</sup>	NTM <sup>6</sup>	Average 3 year <sup>8</sup>	Average 5 year <sup>8</sup>	Average 7 year <sup>8</sup>
Company Name	Ticker	Operational Focus <sup>1</sup>	Market Focus <sup>2</sup>	Geographic Focus <sup>3</sup>	Market Cap (\$m) <sup>4</sup>					
ASPAC										
AJ Lucas Group Limited	ASX:AJL	D	E/P	AU	45	5.4	nmf <sup>7</sup>	9.9	17.6	22.1
MACA Limited	ASX:MLD	D/CM	E/D/P	AU	326	6.7	2.2	6.4	5.7	3.9
Mitchell Services Limited	ASX:MSV	D	E/P	AU	101	4.5	4.0	6.9	9.8	12.4
Perenti Global Ltd	ASX:PRN	D/CM	E/D/P	AU/AF	618	3.6	3.0	6.4	7.0	6.3
Swick Mining Services Limited	ASX:SWK	D	E/P	AU/AM	72	5.6	nmf <sup>7</sup>	4.6	5.4	4.8
Americas										
Major Drilling Group International	TSX:MDI	D	E	G	911	16.9	9.5	14.7	20.7	18.9
Orbit Garant Drilling	TSX:OGD	D	E/D/P	AM	52	6.1	4.6	7.1	10.1	11.4
EMEA										
Capital Drilling Ltd	LSE:CAPD	D/CM	E/D	AF	323	7.3	4.6	4.7	4.9	4.7
Foraco International SA	TSX:FAR	D/CM	E/D/P	G	235	10.0	nmf <sup>7</sup>	6.8	8.5	8.2
Geodrill Limited	TSX:GEO	D	E/D	AF	159	4.8	4.4	3.0	3.9	3.9
Master Drilling Group Limited	JSEMDI	D	E/D/P	G	157	7.3	nmf <sup>7</sup>	5.7	6.4	6.1
Low						3.6	2.2	3.0	3.9	3.9
High						16.9	9.5	14.7	20.7	22.1
Median						6.1	4.4	6.4	7.0	6.3
Average						7.1	4.6	6.9	9.1	9.3

Source: S&P Capital IQ (data as at 5 July 2021) and KPMG Corporate Finance analysis

Note 1: D=Drilling, CM=Contract Mining

Note 2: Stage of Mining Lifecycle: E=Exploration, D=Development, P=Production

Note 3: AU = Australia, AM = Americas, AF = Africa, G = globally diversified

Note 4: Market Cap calculated at close of trade on 5 July 2021, reflecting a 25% premium for control

Note 5: Last twelve months (LTM) multiples calculated after normalisation adjustments applied to reported EBITDA and NPAT, and reflect adoption of AASB16

Note 6: Next twelve months (NTM) multiples sourced from S&P Capital IQ

Note 7: nmf = not meaningful

Note 8: Average multiples calculated based on average enterprise values and reported EBITDA for the prior 3, 5 and 7 years respectively from 5 July 2021

A detailed analysis of these companies is set out in Appendix 4. In assessing the comparability of the companies detailed above, we have had regard to the following key factors.

### Service mix

The companies within our peer group focus on the provision of drilling services to the mining industry globally. Similar to BLY, the core business operations of the companies selected relate to the provision of contract mining drilling for mining companies, along with smaller exposures to drilling manufacturing and other drilling services. As a result of this, we consider the set of comparable companies to be exposed to similar industry and economic risks. Although, companies such as MacMahon Holdings Limited also provide drill and blast services to companies operating in the production phase of the mining lifecycle, these companies provide a broad array of services along the Engineering, Procurement, Construction and Management service line, and are thus more diversified, and less comparable, than pure play drilling companies.

We have only considered comparable companies that operate in the mining drilling sector, and have not considered the drilling operations of companies that operate in the oil and gas industry. While this industry has grown rapidly as a result of the growth in the US shale oil industry, it is exposed to a different commodity, and consequently, different market factors.

Additionally, we have not considered companies that provide civil or infrastructure drilling services, such as Granite Construction Inc. These companies do not have exposure to the mining cycle and as such are more stable industrial construction and engineering companies.

#### ***Market focus***

The comparable set of companies are exposed to different segments of the mining industry, with clients that perform activities at different stages of the mining lifecycle. The core stages of the cycle are illustrated in Table 17, including Exploration, Development and Production. The current stage of the mining cycle and the recent impacts of the COVID-19 pandemic have led to mining companies reducing their exploration budget and capital expenditure, in attempts to conserve capital. This has led to a disproportionate reduction in drilling by exploration and development companies when compared to producing miners, which have lower fixed costs, and higher proven mineral reserves. This leads drilling companies with exposure to exploration and development to have a greater degree of mining cyclicality.

#### ***Geographical diversification***

Mining services companies are exposed to different risk profiles in each geography they operate in, as a result of both the commodity mix that is present in a region, and the weather and other economic conditions that may be present in any particular location. The Australian mining industry has been significantly affected by the price declines in thermal and coking coal on the Eastern Coast driven by the impacts of the COVID-19 pandemic and environmental concerns, as well as the ongoing issues in the Australian-Chinese relationship. Commodity price appreciations for iron ore, however have led to higher forecast growth for this commodity, although this is yet to support sustained improvement in drilling industry conditions in Australia. Similar to Australia, the mining industry in North America has been supported by the expected significant infrastructure investment following the 2020 US presidential elections.

In addition to these factors, operations in developing markets are exposed to additional risks, warranting the inclusion of geographic market risk premiums. This is a contributing factor to the lower multiples observed in both Capital Limited and Geodrill Limited, with significant operations in developing markets in Africa.

Whilst many of the companies operate exclusively in Australia or North America, Foraco International SA and Energold Drilling Corporation benefit from geographic diversity. For example, Foraco International SA currently operates approximately 302 drill rigs internationally, focusing on services to regions such as South America (16.0% CY20 revenue), North America (33.0%), APAC (18.0%) and EMEA (33.0%).

Whether this geographic diversity translates into a premium or a discount depends on the specific circumstances in the relevant markets, as well as the nature and performance of the businesses located in these countries.

#### ***Growth prospects***

The global mining services sector is characterised by relatively flat earnings growth forecasts for a number of the comparable companies, particularly those operating in the APAC region in the near term. Further, due to the strong correlation exhibited between drilling services companies and the mining sector in general, the broad improvement in the mining industry is expected to support growth prospects going

forward. Despite this, there are risks relating to how this industry growth will translate to mining services companies, and this is reflected in the lower multiples observed for APAC mining services companies at present.

### **Size**

In the diversified metals and mining sectors size is typically a substantial advantage. Larger companies have a greater pool of resources and capabilities to draw on and are likely to have a stronger market presence. Both of these factors assist in competing for the largest drilling contracts. The larger companies are also able to benefit from potentially substantial efficiencies that can be gained by achieving economies of scale and advantageous financing terms, particularly given the high fixed cost nature of the industry. Another advantage relates to the ability of larger market participants to absorb losses on specific projects and during market contractions. This is a common characteristic of the construction and engineering sector as a small number of loss-making drilling projects can have a substantial impact on short term profitability. Finally, the larger companies typically have the ability to achieve greater diversity in either their service mix or market and geographic focus, which may reduce volatility resulting from changes in underlying market conditions. Reflecting the advantages considered, particularly the lower risk profile and stronger financial position, larger companies in this sector typically trade at a premium.

In respect of the specific comparable companies, we note the following.

### **APAC**

As illustrated in Table 17, five publicly listed companies were identified as having similar core business operations to that of BLY in the APAC region.

Based on LTM EBITDA trading multiples for the set of comparables operating in the APAC region, a range of 3.6x to 6.7x can be observed. NTM EBITDA multiples for the set of comparables operating in the APAC region are in a range of 2.2x to 4.0x.

Companies operating in the APAC region are subject to similar market conditions to BLY. These companies have broadly similar commodity concentrations with exposure to iron ore, coal, and to a lesser extent, coal seam gas (CSG). As a result, we have considered the industry factors for the APAC companies as a whole, specifically noting that the majority of these companies are solely focused on operations in Australia. As a consequence, the businesses are highly susceptible to market conditions dominating the Australian mining and minerals market. Mining services companies are particularly sensitive to price and volume fluctuations of iron ore and coal, Australia's two largest exports. The volume of Australian exports of iron ore and coal have declined as a result of price declines in Australian Dollar terms and due to lower foreign demand in response to the COVID-19 pandemic as noted in Appendix 5. This has led to a reduction in exploration and mine activity expenditure, and consequentially, drilling. Further, political uncertainty and environmental concern has led to lower CSG investment, as state governments have reduced the number of exploration licenses, particularly in New South Wales. Lower capital expenditure in both of Australia's largest mining commodities, and weaker capital expenditure in CSG has had a negative influence on AJ Lucas Group Limited, a key provider of drilling services to the Australian mining and CSG industries, together with a high level of gearing. Ultimately, the uncertain market outlook for the drilling services industry is reflected in the low forecast multiples of these companies.

### ***Europe, Middle East and Africa***

As illustrated in Table 13, four companies in the EMEA region were identified to be largely comparable to BLY.

#### ***Capital Limited***

Capital Limited's operations are predominantly located in Africa, a region that has experienced high growth in the past but more recently has faced challenging market conditions as exploration investment has declined. Despite this, recent improvements in overall market conditions are reflected in the NTM multiples for the company that are lower than the LTM multiples, indicating expectations that earnings will increase from their current levels in the near future. The company's implementation of cost cutting measures and maintenance of an almost debt free balance sheet, has allowed them to remove additional financing risks in the company and will allow them to respond quickly to upturns in the market.

#### ***Foraco International SA***

Foraco International SA is a multinational drilling company, with industry focuses in both the mining and water industries. The wider geographic footprint, along with the industry diversification provides the company with a degree of earnings stability, and justifies a higher EBITDA multiple than less diversified peers. This, combined with a wider range of service offerings, with the ability to service mining companies across the mining lifecycle, supports lower risks to the company and consequently a higher through-the-cycle EBITDA multiple.

#### ***Geodrill Limited***

Geodrill Limited, like Capital Limited, primarily bases its operations in Africa. As such it is exposed to the same market conditions as Capital Limited, resulting in NTM multiples that are lower than the LTM multiples, indicating expectations that the company's growth and performance will improve in the coming year. This is highlighted by broker consensus forecasts for Geodrill Limited for period ended 31 December 2021, suggesting an approximate 20.0% increase in EBITDA in the next 12 months.

#### ***Master Drilling Group Limited***

Master Drilling Group Limited is a global drilling service provider, operating in the mining, civil engineering, construction and hydro-electric power sectors. Mining operations in South America, Central and North America have been severely impacted by COVID-19 related restrictions during FY20. However, the company's diversification across regions, commodities, currencies and industries has mitigated the majority of the COVID-19 related impact on the business.

### ***US and Canada***

As illustrated in Table 13, two publicly listed companies were identified as having similar core business operations to that of BLY in the US and Canada region. The following analysis provides a brief explanation of the factors impacting on the multiples and the reason for their high nature.

#### ***Major Drilling Group***

The EBITDA multiples observed for Major Drilling Group (Major Drilling) are higher than for the other companies in the peer group due to a number of reasons, primarily:

- during the year ending 30 April 2021, Major Drilling's revenue grew by 5.6% despite the economic impacts of COVID-19, from CA\$409.1 million in FY20 to CA\$432.1 million in FY21. The company also saw 5.2% growth in EBITDA, from CA\$49.7 million in FY20 to CA\$52.4 million in FY21 due to the company's focus on cost controls and disciplined pricing
- Major Drilling is the largest company, in terms of market capitalisation, in the set of comparable companies. Consequently, Major Drilling Group's size and robust balance sheet enhances the company's ability to weather the COVID-19 pandemic related uncertainties in demand for drilling services more efficiently than its smaller competitors, and
- historically, over the previous three years, Major Drilling has traded at an average three year EBITDA multiple of 14.7x. The value and share price of the company has been relatively stable, reflecting the company's strong balance sheet, which also positions the company to be able to capture future growth opportunities when the market recovers.

*Orbit Garant Drilling, Inc.*

The EBITDA trading multiples of Orbit Garant Drilling, Inc. are potentially impacted by the following:

- as at 5 July 2021, Orbit Garant Drilling, Inc. traded at 6.1x LTM EBITDA. The company has implemented strict cost-cutting measures at the onset of the COVID-19 pandemic. As a result, the company's EBITDA for the last 12 months of CA\$14.2 million, increased from previous period's EBITDA of CA\$10.8 million. According to broker consensus forecasts, the company's EBITDA estimate is CA\$15.0 million for the 12 months to 31 December 2021, suggesting a stabilisation of demand and as a result the NTM EBITDA multiple is 4.6x, and
- Orbit Garant Drilling, Inc. had historically higher net debt levels compared to Major Drilling and therefore bears more risk regarding imminent changes in the market environment as seen during the onset of the COVID-19 pandemic.

***Consideration of market evidence***

Multiples based on share prices of listed comparable companies reflect the value of portfolio interests in the underlying company and are commonly assumed to exclude a premium for control. In order to compare market multiples observed with the acquisition of a controlling interest, we have applied a control premium of 25.0% in performing our analysis of the comparable companies which is at the low end of the observed premium range.

From the 11 publicly listed companies identified for comparison purposes, we consider the most comparable companies to BLY to be:

- *Major Drilling* – There are strong parallels between BLY and Major Drilling in terms of their leading market position and global footprint in the international drilling services industry. Despite the companies' similar geographic footprint, and diversification of product offerings, Major Drilling is a larger company in terms of market capitalisation, and has increased its market share during FY20. Major Drilling's relatively strong balance sheet position in comparison to BLY places the company in a superior competitive position as the mining industry recovers after the COVID-19 pandemic and the mining services industry begins to expand back to higher levels. As a consequence of Major Drilling's net cash position and relative size compared to BLY and its competitors, we expect that



Major Drilling would trade at premium. Major Drilling's NTM multiple of 9.5x is reflective of a more mature industrial company with stronger growth prospects and a stable balance sheet going forward. Thus, despite the similar geographic footprint and product and service offering, the multiples would not be reflective of the multiples applied to BLY

- *Perenti Global Ltd* – Perenti Global Ltd is arguably the most comparable company to BLY given the similarities in service mix between the two companies and to an extent, the proportion of revenue derived from the provision of drilling services and the manufacture and sale of drilling products. In the financial year ended 30 June 2020, Perenti Global Ltd generated 93.4% of its revenue from underground and surface mining drilling services. Similarly, in FY20 BLY generated approximately 69.4% of its revenue from drilling services. As BLY's operations and customer base are more geographically diversified than Perenti Global Ltd's we would expect it to trade at a small discount to BLY, and
- the remaining companies in the peer group are considered to be less comparable, but are still broadly relevant to demonstrate the impact of size, service mix, market focus and growth prospects on earnings multiples. These multiples, while not perfectly reflecting BLY, provide a good perspective of the industry multiples observed. When considering the relative size of BLY, we have considered the multiples of highly comparable companies, such as Major Drilling, with those with a smaller market capitalisation, and a more comparable financial position.

### **16.3.3.2 Comparable company transaction multiples**

#### *Transaction Evidence*

The price paid in transactions is widely considered to represent the market value of a controlling interest in the company. The difference between the value of a controlling interest and a minority interest (as implied by the share price) is referred to as a premium for control. This premium can differ from transaction to transaction and is dependent on a range of factors, including the equity share acquired, the negotiating position of the parties, competitive tension in the sales process, the availability of synergies and the extent to which a buyer would pay away these synergies to gain control of the target.

We note the number of sizeable recent transactions involving APAC listed drilling services businesses is limited with six transactions having occurred since 2014. Further to this, as a result of financial distress, and the prolonged depressed mining industry conditions, there have been some transactions that have related primarily to insolvent asset purchases or turnaround acquisitions from receivers. These transactions have not been included due to their limited financial information and distressed nature. The acquisition of Hughes Drilling by Allegro Funds Pty Ltd on 31 December 2016 is an example of such a transaction.

As a consequence of these factors, we have considered those recent transactions involving sizable international drilling services businesses dating back to April 2012, although these multiples will be influenced by the market outlook in the countries they operate, as well as other company specific factors.



The table below sets out the EBITDA multiples implied by these transactions that involved companies operating in the drilling services industry within APAC and internationally.

**Table 18: Transaction evidence**

Close Date	Acquirer	Target	Transaction value (\$ million) <sup>1</sup>	% acquired	EBITDA Multiple LTM <sup>2</sup>	NTM <sup>3</sup>	Revenue Multiple LTM <sup>2</sup>	NTM <sup>3</sup>
ASPAC								
n/a	Dynamic Drill and Blast Holdings Limited	Orlando Drilling Pty Ltd	25.2	100%	n/a	3.9	n/a	0.8
Jun-21	Major Drilling Group International Inc.	McKay Drilling PTY Limited	79.7	100%	4.7	n/a <sup>4</sup>	1.3	n/a <sup>4</sup>
Feb-21	MACA Limited	Mining West Business of Downer EDI Limited	205.0	100%	2.9	n/a <sup>4</sup>	0.5	n/a <sup>4</sup>
Nov-19	Mitchell Services Limited	Deepcore Drilling Pty Ltd	32.0	100%	5.1	3.5	0.7	0.5
Oct-18	Perenti Global Limited	Barmenco Holdings Pty Limited	673.0	100%	5.8	n/a <sup>4</sup>	1.1	n/a <sup>4</sup>
Nov-12	Foraco International SA	John Nitschke Drilling Pty. Ltd.	60.0	100%	4.7	n/a <sup>4</sup>	1.3	n/a <sup>4</sup>
Nov-12	General Electric Company	Industrea Limited	679.3	100%	6.0	4.7	1.8	1.6
International								
Nov-19	Major Drilling Group International Inc.	Norex Drilling Limited	21.5	100%	3.9	n/a <sup>4</sup>	0.9	n/a <sup>4</sup>
Aug-14	Major Drilling Group International Inc.	Taurus Drilling Services ULC	39.7	100%	5.0	n/a <sup>4</sup>	1.1	n/a <sup>4</sup>
Apr-12	Foraco International SA	WFS Sondagem Ltda.	83.9	51%	5.2	n/a <sup>4</sup>	1.2	n/a <sup>4</sup>
Low					2.9	3.5	0.5	0.5
High					6.0	4.7	1.8	1.6
Median					5.0	3.9	1.1	0.8
Average					4.8	4.0	1.1	1.0

Source: Company financial statements and announcements, S&P Capital IQ, KPMG Corporate Finance analysis

Note 1: Transaction value refers to enterprise value of the company as of the date of completion

Note 2: LTM multiples calculated based on EBITDA and revenue from most recently available results as at the transaction announcement date, after normalisation adjustments

Note 3: NTM multiples calculated based on broker consensus forecasts as at the transaction date

Note 4: n/a = not available

Further details on these transactions are set out in Appendix 4. Although the target companies are considered broadly comparable to BLY, it is necessary to consider the specific attributes of the target companies as well as the prevailing economic conditions at the time of the transaction.

The multiples implied by these transactions reflect a range of business specific factors, including:

- the size of the target business implied by the transaction value. The transactions relating to Industrea Limited and Barmenco Holdings Pty Limited were significantly larger in size. These transactions were executed at historical multiples of 6.0x and 5.8x EBITDA and a forecast multiple of 4.7x EBITDA for the Industrea Limited acquisition. Therefore, larger transactions typically generate higher multiples
- the stake acquired in the transaction. All observed transactions involved the transfer of control between shareholders and therefore, invariably all transaction LTM EBITDA multiples reflect a control premium. The WFS Sondagem Limited transaction was a proportional takeover offer for 51.0% of the shares in the company. Although Foraco International SA did not achieve 100.0% control, there is a strong likelihood a premium for control would have been paid as the “effective” control threshold of 50.0% was still reached
- the amount of synergies available to the acquirer. In transactions where it was estimated that the combined entity would be able to achieve significant synergies, takeover premiums and therefore implied multiples, in particular historical multiples, are likely to be higher. In this context, significant synergies were expected e.g. from the acquisition of Barmenco Holdings Pty Ltd by Perenti Global Limited. Barmenco Holdings was a specialist underground hard-rock mining contractor with

operations predominantly in Australia as well as in Africa, Egypt and India. The acquisition allowed Perenti Global to expand the scale of their operations in terms of product offering, customers and geography. Therefore, the transaction multiple may reflect a strategic premium, and

- the stage of the market cycle and the prevailing economic conditions when the transaction was undertaken. For example, in the APAC region, the acquisitions of Deepcore Drilling Pty Ltd by Mitchell Services Limited and Barmenco Holdings Pty Ltd by Perenti Global Limited occurred prior to the onset of the COVID-19 pandemic and during an intermediate cyclical uplift of the mining industry. Consequently, these transactions executed at historical EBITDA multiples higher than the most recent transaction, highlighting the challenging industry conditions following the onset of the COVID-19 pandemic. The more recent transactions for the Mining West Business of Downer EDI Limited, McKay Drilling Pty Ltd and Orland Drilling Pty Ltd have attracted lower EBITDA multiples in comparison.

#### ***Consideration of transaction evidence***

Market evidence derived from APAC transactions provides limited guidance as to an appropriate multiple for BLY. The most comparable transaction is considered to be:

- Perenti Global Limited acquisition of Barmenco Holdings Pty Ltd at 5.8x historical EBITDA. Barmenco Holdings Pty Ltd was a specialist underground hard-rock mining contractor with operations predominantly in Australia as well as in Africa, Egypt and India. Similarities in core operations and geographic diversification between Barmenco Holdings Pty Ltd and BLY provide a rough basis for comparability, however discrepancies in size and market focus between the two companies do exist. Further, the Barmenco Holdings Pty Ltd transaction was executed at a time during a positive market environment for drilling services companies, influencing the observed multiple. As a result we would expect the differences in the prevailing market conditions at the time of the transaction to have a significant impact on the multiples.

#### ***Company specific considerations***

In determining an appropriate EBITDA multiple for BLY in the context of the available market evidence, it is necessary to consider the specific attributes of the business being valued. In this regard, we note there are a number of reasons that would justify higher multiples for BLY:

- BLY benefits from a strong, global orientated position providing drilling services and has a unique drilling product mix and product offering. The Company has a strong brand and reputation with a history of more than 120 years of expertise
- in terms of product and service offering and market focus, BLY is more diversified than many of the comparable companies and target companies. While the COVID-19 pandemic has had a negative influence on nearly all mining commodities around the globe, a broader commodity base is often likely to justify a more stable earnings profile. This, combined with the ability to service a wider range of mining companies at different stages of the mining lifecycle, would support a higher EBITDA multiple. The current cyclical production-drilling operations, enhancing the predictability of earnings and margins, which BLY has the capability of achieving, and

- BLY benefits from a geographically diversified operations base. The company targets the key natural resources markets in regions including APAC, the US, EMEA, Canada and Latin America. Although, many of these markets are mature and established, BLY's geographic presence enables the company to position itself to capture opportunities in high-growth, emerging markets across regions such as Asia and the Middle East.

On the other hand, there are a number of factors that would constrain the appropriate multiples for BLY:

- The company's liquidity positioned has been weak for many years. Solvency has continued to be an issue and BLY's credit rating from credit agencies has fallen consistently. Ultimately, the leveraged nature of the business has increased the riskiness of the Company in many aspects and hindered the Company's ability to capitalise on potential growth opportunities currently and going forward.

## 16.4 Other valuation considerations

### 16.4.1 Synergies

Typically, the level of synergies able to be derived from a business combination is dependent on the nature of the respective businesses and their geographical and operational overlap. With the Supporting Creditors being mostly private equity firms Management anticipates that there are no considerable opportunities to capture significant recurring benefits (or synergies) post the proposed transaction. Additionally, BLY has already executed a number of cost saving initiatives since the downturn in the mining cycle and the outbreak of the COVID-19 pandemic. As a result of this, any further recurring benefits would likely be limited and only attributable to an industry buyer.

### 16.4.2 Net debt

Net debt is calculated as total borrowings (including revolving credit and senior notes) less cash and cash equivalents. We have determined the net debt balance pre-recapitalisation to be US\$910.7 million as at 30 June 2021, as confirmed by Management and presented below for the purpose of our valuation.

**Table 19: BLY's net debt as at 30 June 2021**

As at US\$ million	31-Dec-20	31-Mar-21	Pre Recap	Post Recap
ABL	22.9	31.4	5.4	5.4
Interim facility	-	-	30.3	-
Exit facility	-	-	-	115.0
Backstop ABL	59.1	60.7	62.3	-
Capitalised leases	40.0	40.3	39.3	39.3
Term Loan A	155.7	158.9	161.9	-
Term Loan B	187.7	191.5	195.4	-
Senior Secured Notes	288.3	288.3	354.7	-
Senior Unsecured Notes	93.4	93.8	94.1	-
<b>Total debt</b>	<b>847.2</b>	<b>864.9</b>	<b>943.3</b>	<b>159.6</b>
Less: Cash and cash equivalents	(23.5)	(26.8)	(32.6)	(56.1)
<b>Net debt</b>	<b>823.7</b>	<b>838.1</b>	<b>910.7</b>	<b>103.5</b>

Source: BLY's financial report for FY20 and Management

Note 1: Differences to the net debt as per the financial statements at 31 December 2020 and 31 March 2021 relate to accounting differences in relation to capitalised leases, the ABL facility, the Backstop ABL and the treatment of the applicable premium for the SSNs and debt modifications.

#### 16.4.3 **Surplus assets and liabilities**

Surplus assets represent those assets or investments that are not required in order for BLY to continue to realise its principal source of earnings. To determine the equity value, surplus assets must be added back to the enterprise value, whilst surplus liabilities, if any, are deducted.

Management has stated that due to current market conditions, equipment and rigs are frequently reviewed to determine if there are any rigs that are unlikely to be put back into service. These assets are classified as held for sale, currently the company has assets of US\$0.2 million in this category as at 30 June 2021.

### 16.5 **Valuation cross checks**

#### 16.5.1 **High level DCF cross check**

We have compared the range of values determined using our primary capitalisation of earnings methodology to that derived by a high level DCF methodology. Using high level forecast revenue and earnings projections, we have determined the discount range at an enterprise level that would be required to result in a valuation range comparable to the results of the capitalisation of earnings method.

The indicative valuation has been prepared based on the following assumptions:

- BLY's business scenarios for the period from FY21 to FY23 (see Appendix 6)
- our understanding of BLY's future prospects following discussions with Management for the period beyond FY21
- EBITDA projections were based on the business scenarios reflecting management expectations of industry performance in the period FY21 to FY23. In the terminal value calculation, we have adopted a rolling average adjusted EBITDA
- working capital movements have been calculated with reference to target ratios of payables and receivables, along with more detailed analysis of current and future inventory liquidation. In the terminal value calculation, we have estimated movement in working capital based on a percentage of sales
- tax has been calculated based on management forecasts of cash tax paid in each tax jurisdiction that the business operates. We have used a tax rate of 28% in the terminal value calculation
- projections for depreciation and capital expenditure requirements were provided by BLY. In the terminal value, we have assumed capital expenditures to be equal to depreciation at a sustainable level of US\$60 million, and
- the terminal value relies on the assumption that the business is in a steady state and that gross profit will grow at a constant rate into perpetuity. We have adopted a terminal growth rate of 2.5%, as we believe this is reflective of long-term growth rates.

Based on the assumptions above the required post-tax Weighted Average Cost of Capital (WACC) to result in a valuation range comparable to the results of the capitalised earnings method would be in a range of 17.0% to 18.5%.

This range is high when compared to the mining services industry, resulting in our view from the company specific risks inherent in an investment in BLY. In this respect there is no assurance at this point in time that the company's plan will be achieved, given the inherent uncertainty as to whether the industry will make a recovery, despite improving commodity prices. As such we do not consider that the discount rate implied by our analysis of our primary valuation to be unreasonable. As such we consider this analysis supports our overall valuation conclusions.

## 16.5.2 Market price

We have performed a cross check of our assessed value per share against the VWAP of BLY shares. Set out in the table below is an analysis of the periodic VWAPs and liquidity of BLY's shares for the 12-month period prior to and including 13 May 2021 (period before the announcement of the Recapitalisation). For example, '1 week' means five days prior to and including 13 May 2021.

Table 20 below summarises an analysis of the volume of trade in BLY's shares on the ASX.

**Table 20: VWAP and liquidity analysis**

Period	Price (low) \$	Price (high) \$	Price VWAP \$	Cumulative value \$m	Cumulative volume m	% of issued capital
1 day	0.41	0.41	0.41	0.0	0.0	0.0
1 week	0.41	0.43	0.42	0.0	0.0	0.0
1 month	0.38	0.48	0.43	0.1	0.3	0.3
3 months	0.35	0.68	0.48	0.8	1.7	1.9
6 months	0.22	0.93	0.49	4.2	8.7	9.9
12 months	0.22	1.83	0.76	18.1	23.8	12.2

Source: S&P Capital IQ and KPMG Corporate Finance Analysis

With regard to the table above, we note the following:

- BLY's shares have, prima facie, exhibited low liquidity over the 12-month period to 13 May 2021, with 12.2% of total shares on issue traded in the last 12-months and 9.9% traded in the last six months
- over the 12-month period to 13 May 2021, BLY's shares traded at an average weekly volume of 0.46 million shares and value of approximately \$348,000, and
- the VWAP has declined from \$0.76 over the full 12-month period to \$0.41 in the week prior to the announcement.

We note that there is relatively low free floating stock in BLY as a result of the 53.3% holdings of Centerbridge as well as the 20.7% holdings of Ascribe. In addition to this, the percentage of issued capital that traded over the past 12 months is considered low in comparison to BLY's peers, and other publicly listed companies. During the period set out above the VWAP of BLY exceeds our assessed value of the Company. We do not consider this to be unusual in such circumstances, given the low levels of liquidity and low price per share. The trading price may also reflect some optionality in terms of the timing and size of a recovery of the mining industry. As such we do not consider the trading price to indicate that our valuation is not appropriate.



**Boart Longyear**  
*Independent Expert Report*  
29 July 2021

## **Appendix 1 – KPMG Corporate Finance Disclosures**

### ***Qualifications***

Our report has been prepared in accordance with professional standard APES 225 "Valuation Services" issued by the Accounting Professional & Ethical Standards Board (APESB). The individuals responsible for preparing this report on behalf of KPMG Corporate Finance are Ian Jedlin and Adele Thomas. Ian is member of Chartered Accountants Australia and New Zealand, a Senior Fellow of the Financial Securities Institute of Australasia and holds a Master of Commerce from the University of New South Wales. Adele is a member of Chartered Accountants Australia and New Zealand and holds Bachelor degrees in Commerce and Accounting. Each have a significant number of years' experience in the provision of corporate financial advice, including specific advice on valuations, mergers and acquisitions, as well as the preparation of expert reports. Thomas Kriegel assisted in the preparation of this report

### ***Disclaimers***

It is not intended that this report should be used or relied upon for any purpose other than KPMG Corporate Finance's opinion as to whether the Recapitalisation is fair and reasonable. KPMG Corporate Finance expressly disclaims any liability to any BLY shareholder who relies or purports to rely on the report for any other purpose and to any other party who relies or purports to rely on the report for any purpose whatsoever.

Other than this report neither KPMG Corporate Finance nor the KPMG Partnership has been involved in the preparation of the Explanatory Statement prepared in respect of the Recapitalisation. Accordingly, we take no responsibility for the content of the Explanatory Statement as a whole or other documents prepared in respect of the Recapitalisation.

It is not the role of the Independent Expert to undertake the commercial and legal due diligence that a company, and its advisers may undertake. KPMG Corporate Finance provides no warranty as to the adequacy, effectiveness or completeness of the diligence process, which is outside our control, and beyond the scope of this report. We have assumed that the due diligence process was conducted in an adequate and appropriate manner.

We note that the forward-looking financial information prepared by the Company does not include estimates as to the potential impact of any future changes in taxation legislation in Australia or any other jurisdictions. Future taxation changes are unable to be reliably determined at this time.

### ***Independence***

KPMG Corporate Finance and the individuals responsible for preparing this report have acted independently.

In addition to the disclosures in our Financial Services Guide which indicate that KPMG has also provided tax services in relation to the impact of the Restructuring, it is relevant to a consideration of our independence that, during the course of this engagement, KPMG Corporate Finance provided draft copies of this report to management of BLY for comment as to factual accuracy, as opposed to opinions which are the responsibility of KPMG Corporate Finance alone. Changes made to this report as a result of those reviews have not altered the opinions of KPMG Corporate Finance as stated in this report.

### ***Consent***

KPMG Corporate Finance consents to the inclusion of this report in the form and context in which it is included with the Explanatory Statement to be issued to the Shareholders. Neither the whole nor any part of this report nor any reference thereto may be included in any other document without the prior written consent of KPMG Corporate Finance as to the form and context in which it appears.

## **Appendix 2 – Sources of information**

In preparing this report we have been provided with and considered the following sources of information:

### *Publicly available information*

- the Company Announcement regarding the Restructuring including the RSA
- annual reports for the three years ended 31 December 2018, 31 December 2019 and 31 December 2020
- company presentations and ASX announcements
- various broker and analyst reports
- various press and media articles
- various reports published by IBISWorld Pty Ltd
- data providers including S&P, S&P Capital IQ and Connect 4

### *Non-public information*

- Board papers and other internal briefing papers prepared by BLY and their advisers in relation to the Restructuring
- Draft Explanatory Memorandum, dated 26 July 2021
- other confidential documents, presentations and work papers.

In addition, we have held discussions with, and obtained information from directors and senior management of BLY and their advisers.



## **Appendix 3 – Valuation methodologies**

### ***Capitalisation of earnings***

An earnings based approach estimates a sustainable level of future earnings for a business ('maintainable earnings') and applies an appropriate multiple to those earnings, capitalising them into a value for the business. The earnings bases to which a multiple is commonly applied include Revenue, EBITDA, EBIT and NPAT.

In considering the maintainable earnings of the business being valued, factors to be taken into account include whether the historical performance of the business reflects the expected level of future operating performance, particularly in cases of development, or when significant changes occur in the operating environment, or the underlying business is cyclical.

With regard to the multiples applied in an earnings based valuation, they are generally based on data from listed companies and recent transactions in a comparable sector, but with appropriate adjustment after consideration has been given to the specific characteristics of the business being valued. The multiples derived for comparable quoted companies are generally based on security prices reflective of the trades of small parcels of shares. As such, multiples are generally reflective of the prices at which portfolio interests change hands. That is there is no premium for control incorporated within such pricing. They may also be impacted by illiquidity in trading of the particular stock. Accordingly, when valuing a business en bloc (100.0%) we would also reference the multiples achieved in recent mergers and acquisitions, where a control premium and breadth of purchaser interest are reflected.

An earnings approach is typically used to provide a market cross check to the conclusions reached under a theoretical DCF approach or where the entity subject to valuation operates a mature business in a mature industry or where there is insufficient forecast data to utilise the DCF methodology.

### ***Discounted cash flow***

Under a DCF approach, forecast cash flows are discounted back to the Valuation Date, generating a net present value for the cash flow stream of the business. A terminal value at the end of the explicit forecast period is then determined and that value is also discounted back to the Valuation Date to give an overall value for the business.

In a DCF analysis, the forecast period should be of such a length to enable the business to achieve a stabilised level of earnings, or to be reflective of an entire operation cycle for more cyclical industries. Typically a forecast period of at least five years is required, although this can vary by industry and by sector within a given industry.

The rate at which the future cash flows are discounted ('the Discount Rate') should reflect not only the time value of money, but also the risk associated with the business' future operations. This means that in order for a DCF to produce a sensible valuation figure, the importance of the quality of the underlying cash flow forecasts is fundamental.

The Discount Rate most generally employed is the WACC, reflecting an optimal (as opposed to actual) financing structure, which is applied to unleveraged cash flows and results in an Enterprise Value for the business. Alternatively, for some sectors it is more appropriate to apply an equity approach instead, applying a cost of equity to leveraged cash flows to determine equity value.



In calculating the terminal value, regard must be had to the business' potential for further growth beyond the explicit forecast period. This can be calculated using either a capitalisation of earnings methodology or the 'constant growth model', which applies an expected constant level of growth to the cash flow forecast in the last year of the forecast period and assumes such growth is achieved in perpetuity.

#### ***Net assets or cost based***

Under a net assets or cost based approach, total value is based on the sum of the net asset value or the costs incurred in developing a business to date, plus, if appropriate, a premium to reflect the value of intangible assets not recorded on the balance sheet.

Net asset value is determined by marking every asset and liability on (and off) the company's balance sheet to current market values. A premium is added, if appropriate, to the marked-to-market net asset value, reflecting the profitability, market position and the overall attractiveness of the business. The net asset value, including any premium, can be matched to the 'book' net asset value, to give a price to net assets, which can then be compared to that of similar transactions or quoted companies.

A net asset or cost based methodology is most appropriate for businesses where the value lies in the underlying assets and not the ongoing operations of the business (e.g. real estate holding companies). A net asset approach is also useful as a cross check to assess the relative riskiness of the business (e.g. through measures such as levels of tangible asset backing).

#### ***Enterprise or equity value***

Depending on the valuation approach selected and the treatment of the business' existing debt position, the valuation range calculated will result in either an enterprise value or an equity value being determined.

An enterprise value reflects the value of the whole of the business (i.e. the total assets of the business including fixed assets, working capital and goodwill/intangibles) that accrues to the providers of both debt and equity. An enterprise value will be calculated if a multiple is applied to unleveraged earnings (i.e. revenue, EBITDA, EBITA or EBIT) or unleveraged free cash flow.

An equity value reflects the value that accrues to the equity holders. To compare an enterprise value to an equity value, the level of net debt must be deducted from the enterprise value. An equity value will be calculated if a multiple is applied to leveraged earnings (i.e. NPAT) or free cash flow, post debt servicing.

## Appendix 4 – Market evidence

### Share market evidence

The following table sets out the implied EBITDA multiples for selected listed companies operating in the drilling services and contract mining industries.

**Table 21: Share market evidence**

Table 21: Share market evidence						EBITDA Multiple				
						LTM <sup>5</sup>	NTM <sup>6</sup>	Average 3 year <sup>8</sup>	Average 5 year <sup>8</sup>	Average 7 year <sup>8</sup>
Company Name	Ticker	Operational Focus <sup>1</sup>	Market Focus <sup>2</sup>	Geographic Focus <sup>3</sup>	Market Cap (\$m) <sup>4</sup>					
ASPAC										
AJ Lucas Group Limited	ASX:AJL	D	E/P	AU	45	5.4	nmf <sup>7</sup>	9.9	17.6	22.1
MACA Limited	ASX:MLD	D/CM	E/D/P	AU	326	6.7	2.2	6.4	5.7	3.9
Mitchell Services Limited	ASX:MSV	D	E/P	AU	101	4.5	4.0	6.9	9.8	12.4
Perenti Global Ltd	ASX:PRN	D/CM	E/D/P	AU/AF	618	3.6	3.0	6.4	7.0	6.3
Swick Mining Services Limited	ASX:SWK	D	E/P	AU/AM	72	5.6	nmf <sup>7</sup>	4.6	5.4	4.8
Americas										
Major Drilling Group International	TSX:MDI	D	E	G	911	16.9	9.5	14.7	20.7	18.9
Orbit Garant Drilling	TSX:OGD	D	E/D/P	AM	52	6.1	4.6	7.1	10.1	11.4
EMEA										
Capital Drilling Ltd	LSE:CAPD	D/CM	E/D	AF	323	7.3	4.6	4.7	4.9	4.7
Foraco International SA	TSX:FAR	D/CM	E/D/P	G	235	10.0	nmf <sup>7</sup>	6.8	8.5	8.2
Geodrill Limited	TSX:GEO	D	E/D	AF	159	4.8	4.4	3.0	3.9	3.9
Master Drilling Group Limited	JSEMDI	D	E/D/P	G	157	7.3	nmf <sup>7</sup>	5.7	6.4	6.1
Low						3.6	2.2	3.0	3.9	3.9
High						16.9	9.5	14.7	20.7	22.1
Median						6.1	4.4	6.4	7.0	6.3
Average						7.1	4.6	6.9	9.1	9.3

Source: S&P Capital IQ (data as at 5 July 2021) and KPMG Corporate Finance analysis

Note 1: D=Drilling, CM=Contract Mining

Note 2: Stage of Mining Lifecycle: E=Exploration, D=Development, P=Production

Note 3: AU = Australia, AM = Americas, AF = Africa, G = globally diversified

Note 4: Market Cap calculated at close of trade on 5 July 2021, reflecting a 25% premium for control

Note 5: LTM multiples calculated after normalisation adjustments applied to reported EBITDA and NPAT, and reflect adoption of AASB16

Note 6: NTM multiples sourced from S&P Capital IQ

Note 7: nmf = not meaningful

Note 8: Average multiples calculated based on average enterprise values and reported EBITDA for the prior 3, 5 and 7 years respectively from 5 July 2021

The multiples are based on share market prices as at 5 July 2021 and include a 25% premium for control applied to each company's market capitalisation. A brief description of each company is outlined below.

### APAC

#### AJ Lucas Group Limited

AJ Lucas Group Limited (AJ Lucas) is a specialist mining and infrastructure service provider for the energy, mining, infrastructure and water sectors. The company operates in two divisions: Drilling, which offers exploration, production and directional drilling primarily for the coal and coal seam gas industries in Australia. AJ Lucas also operates an Oil & Gas division, which engages in the exploration and commercialisation of conventional and unconventional hydrocarbon resources. The company's recent focus in this division is the Bowland license located in the UK, where AJ Lucas is undertaking a program of drilling, fracking and flow testing of shale rock. As at 31 December 2020, the company had net debt of \$93.5 million and a net gearing ratio of 211.5%. For 2020, the company generated revenue of \$130.5

million, of which 100% came from the Drilling division located in Australia. In 2020, the company reported EBITDA of \$28.5 million at an EBITDA margin of 21.9%, and a net profit of \$11.3 million. AJ Lucas did not issue a dividend in 2020 and has not issued any dividends since 2009.

#### *MACA Limited*

MACA Limited is a mining, construction and road infrastructure company that offers contract mining, civil earthworks, road asset maintenance, crushing and screening, and material haulage solutions in Australia. The company's key commodity segments include iron ore and gold, with some projects for nickel and lithium miners. As at 31 December 2020, MACA Limited had net debt of \$90.8 million and a net gearing ratio of 24.1%. For 2020, MACA Limited generated \$909.7 million in revenue, of which 71.7% came from the mining segment, 24.0% from civil contracting and the remaining amount from MACA's other operations. The company reported EBITDA of \$87.6 million at an EBITDA margin of 9.6%, and a net loss of \$18.2 million for 2020. On 22 February 2021 MACA issued an interim dividend of \$0.025 per share.

#### *Mitchell Services Limited*

Mitchell Services Limited provides exploration and mine site contract drilling services to the mining industry. The company operates a fleet of more than 100 drill rigs and carries out services such as auger drilling, rotary air blast drilling, rotary mud drilling, reverse circulation drilling, and diamond drilling, with all operations located in Australia. Comparatively, Boart Longyear operates in services such as surface and underground diamond core drilling, underground percussive drilling, sonic drilling, surface rotary drilling, surface geotechnical drilling, and surface and underground reverse circulation drilling. As at 31 December 2020, Mitchell Services Limited had net debt of \$27.4 million and a net gearing ratio of 30.9%. For 2020, the company reported revenue of \$202.6 million, EBITDA of \$29.4 million (EBITDA margin 14.5%), and a net loss of \$0.2 million. The company has not issued any dividends since 2012.

#### *Perenti Global Ltd*

Perenti Global Ltd is a mining services group which provides surface mining and underground mining services, and has a range of diversified mining services offerings through its Investments division. Through its Surface Mining division, Perenti provides exploration and production drilling, blasting and geotechnical services, and logistics services. Perenti's Underground Mining division provides contract underground mining services. The majority of the company's projects are for gold, coal and non-precious metal producers, with 53% of its revenue for the year ended 30 June 2020 coming from Africa and 45% coming from Australia. As at 31 December 2020, Perenti had net debt of \$540.1 million and a net gearing ratio of 68.8%. For 2020, the company delivered revenue of \$2,095.4 million, of which 63.5% was generated from its Underground Mining division, 29.9% from its Surface Mining division and 7.7% from its Investments division. The company delivered EBITDA of \$366.4 million at an EBITDA margin of 17.5%, and a net loss of \$77.6 million. On 8 March 2021 the company issued an interim dividend of \$0.035 per share.

#### *Swick Mining Services Limited*

Swick Mining Services Limited provides underground and surface drilling services to companies working with precious and base metals, and bulk commodities. The company operates 79 surface and underground drilling rigs and offers a drill core scanner instrument and associated software through its subsidiary

Orexplora. As at 31 December 2020, the company had net debt of \$18.9 million and a net gearing of 33.9%. In 2020, the company reported revenue of \$141.1 million, of which 72.5% is derived from drilling operations in Australia, and 29.7% from drilling operations in North America. The company generated EBITDA of \$17.8 million at an EBITDA margin of 12.6%, and a net loss of \$2.3 million. On 26 February 2021 the company announced that it would pay an interim dividend of \$0.0045 per share.

### **Americas**

#### *Major Drilling Group International Inc.*

Major Drilling Group International Inc. (Major Drilling Group) provides contract drilling services for companies primarily involved in mining and mineral exploration. The company offers a wide array of drilling services that include surface and underground coring, directional, reverse circulation, geotechnical, environmental and shallow gas drilling services. As at 31 July 2020, the company owned 613 drill rigs across Canada, the United States, Mexico, South America, Asia, Africa and Europe. As at 30 April 2021, Major Drilling Group had net cash of CA\$3m. For the year ended 30 April 2021, the company reported revenue of CA\$432.1 million, EBITDA of CA\$52.4 million (EBITDA margin 12.1%) and a net profit of CA\$10.0 million. Gold accounted for 54% of its revenue followed by copper (22%), nickel (6%), zinc (3%) and other (15%). Major Drilling has not issued a dividend since 2016.

#### *Orbit Garant Drilling, Inc.*

Orbit Garant Drilling, Inc. provides surface and underground diamond drilling services to mining companies for each stage of mineral exploration, mine development and production. The company also manufactures and sells surface and underground drills to other drilling companies. As of 28 September 2020, the company operated 231 drill rigs, predominantly in Canada with 79.1% of revenue generated in this region, whilst the other 20.9% was generated in the United States, South America and West Africa. As at 31 March 2021, Orbit Garant Drilling Inc. had net debt of CA\$32.8 million and a net gearing ratio of 65.7%. For the year ended 31 March 2021, the company reported revenue of CA\$132.4 million, EBITDA of CA\$14.2 million (EBITDA margin 10.7%) and net profit of CA\$1.7 million. Orbit Garant Drilling did not issue a dividend in 2020.

### **EMEA**

#### *Capital Limited*

Capital Limited provides various drilling solutions to customers in the minerals industry including exploration drilling services, mineral geochemical analysis laboratory services and grade control drilling services. The company also offers equipment rental and IT support services. As at 31 December 2020, the company had net cash of US\$4.3 million. The company operates a fleet of 99 drilling rigs, including 34 diamond core rigs, 32 blast hole rigs and 20 reverse circulation/ grade control rigs. In 2020 Capital Limited reported revenue of US\$135.0 million, EBITDA of US\$35.3 million (EBITDA margin 26.2%), and a net profit of US\$24.6 million. The company generates the majority of its revenue in Africa (88.1% of total revenue), with the company's key commodity being gold. The company issued total dividends of US\$0.022 per share in 2020.

#### *Foraco International SA*

Foraco International SA provides drilling services primarily for the mining and water sectors worldwide. Its drilling services include diamond core, rotary, down-the-hole hammer, direct circulation, reverse circulation, air core, and rotary air blast drilling services. As at 31 March 2021, Foraco International SA had net debt of US\$146.5 million and a net gearing ratio of 114.8%. The company generated revenue through operations in ASPAC (18%), North America (33%) and Europe, Middle East and Africa (33%). For the year ending 31 March 2021, Foraco International SA reported revenue of US\$207.1 million, EBITDA of US\$34.5 million (EBITDA margin 16.3%), and net profit of US\$5.3 million. As of 31 December 2020, the company had 302 drilling rigs, and was ranked as the third largest global driller. The company has not issued a dividend since 2013.

#### *Geodrill Limited*

Geodrill Limited provides mineral exploration drilling services to mining companies with exploration, development and production operations. Its services include reverse circulation, diamond core, deep directional drilling, air-core, grade control, geo-tech and water borehole drilling. As at 31 December 2020, the company operated a fleet of 68 drill rigs, all based in Africa. As at 31 March 2021, Geodrill Limited had US\$1.4 million in net debt and a net gearing ratio of 1.4%. For the year ended 31 March 2021, the company reported revenue of US\$95.1 million, EBITDA of US\$26.0 million (EBITDA margin 27.3%) and net profit of US\$13.1 million. On 5 March 2021, the company announced that it would pay a semi-annual dividend of CAD\$0.01 per share.

#### *Master Drilling Group Limited*

Master Drilling Group Limited (Master Drilling) provides specialised drilling services to the mining, civil engineering, construction and hydro-electric power sectors. The company offers rock boring services, slim drilling services, and support services. As at 31 December 2020, Master Drilling held net debt of US\$22.3 million and a net gearing ratio of 22.9%. Master Drilling generates revenue through operations primarily in Africa (39.0%) and South America (20.9%). For the year ended 31 December 2020, Master Drilling reported revenue of US\$123.1 million, EBITDA of US\$20.3 million (EBITDA margin 16.5%) and a net profit of \$3.3 million. The company has not issued a dividend since 2019.

### Transaction Evidence

The table below sets out the EBITDA multiples implied by transactions since 2012 that involved companies operating in the drilling services and contract mining industry within ASPAC and internationally. We note that there have been very limited transactions in the segment.

**Table 22: Transaction evidence**

Close Date	Acquirer	Target	Transaction value (\$ million) <sup>1</sup>	% acquired	EBITDA Multiple		Revenue Multiple	
					LTM <sup>2</sup>	NTM <sup>3</sup>	LTM <sup>2</sup>	NTM <sup>3</sup>
ASPAC								
n/a	Dynamic Drill and Blast Holdings Limited	Orlando Drilling Pty Ltd	25.2	100%	n/a	3.9	n/a	0.8
Jun-21	Major Drilling Group International Inc.	McKay Drilling PTY Limited	79.7	100%	4.7	n/a <sup>4</sup>	1.3	n/a <sup>4</sup>
Feb-21	MACA Limited	Mining West Business of Downer EDI Limited	205.0	100%	2.9	n/a <sup>4</sup>	0.5	n/a <sup>4</sup>
Nov-19	Mitchell Services Limited	Deepcore Drilling Pty Ltd	32.0	100%	5.1	3.5	0.7	0.5
Oct-18	Perenti Global Limited	Barminto Holdings Pty Limited	673.0	100%	5.8	n/a <sup>4</sup>	1.1	n/a <sup>4</sup>
Nov-12	Foraco International SA	John Nitschke Drilling Pty. Ltd.	60.0	100%	4.7	n/a <sup>4</sup>	1.3	n/a <sup>4</sup>
Nov-12	General Electric Company	Industrea Limited	679.3	100%	6.0	4.7	1.8	1.6
International								
Nov-19	Major Drilling Group International Inc.	Norex Drilling Limited	21.5	100%	3.9	n/a <sup>4</sup>	0.9	n/a <sup>4</sup>
Aug-14	Major Drilling Group International Inc.	Taurus Drilling Services ULC	39.7	100%	5.0	n/a <sup>4</sup>	1.1	n/a <sup>4</sup>
Apr-12	Foraco International SA	WFS Sondagem Ltda.	83.9	51%	5.2	n/a <sup>4</sup>	1.2	n/a <sup>4</sup>
Low					2.9	3.5	0.5	0.5
High					6.0	4.7	1.8	1.6
Median					5.0	3.9	1.1	0.8
Average					4.8	4.0	1.1	1.0

Source: Company financial statements and announcements, S&P Capital IQ, KPMG Corporate Finance analysis

Note 1: Transaction value refers to enterprise value of the company as of the date of completion

Note 2: LTM multiples calculated based on EBITDA and revenue from most recently available results as at the transaction announcement date, after normalisation adjustments

Note 3: NTM multiples calculated based on broker consensus forecasts as at the transaction date

Note 4: n/a = not available

A brief description of each transaction is outlined below.

### ASPAC transactions

#### Acquisition of Orlando Drilling Pty Ltd by Dynamic Drill and Blast Holdings Limited

Dynamic Drill and Blast Holdings (Dynamic) announced its acquisition of a 100% stake in Orlando Drilling Pty Ltd (Orlando) on 20 May 2021. The consideration of \$21.4 million comprises \$4.5 million in cash and 37.5 million fully paid ordinary Dynamic shares. Dynamic will take on Orlando's expected net debt of approximately \$3.8 million on the completion of the acquisition and will conduct a capital raising to fund part of the acquisition. A \$3.5 million earn-out payment is payable if Orlando achieves an actual FY22 EBITDA of \$7 million. An additional \$4 million earn-out payment is subject to Orlando achieving an FY22 EBITDA of \$9.8 million, with a pro-rata amount payable from a baseline FY22 EBITDA of \$7 million. Orlando is a drilling services provider with 17 air-core, reverse circulation and diamond drilling rigs, which services iron ore and gold miners in Australia. The acquisition allows Dynamic to expand its customer base and increase its drill fleet to 33 rigs post-acquisition.

#### Acquisition of McKay Drilling Pty Ltd by Major Drilling Group

Major Drilling Group acquired a 100% stake in McKay Drilling Pty Ltd (McKay) on 1 June 2021. The consideration of \$79.7 million consists of \$15 million in common shares of Major Drilling, an earn-out amount of up to \$25 million, payable in cash over the next three years based on the achievement of certain milestones which have not been publicly disclosed, and \$39.7 million in cash, subject to post-

closing debt, working capital adjustments and holdbacks using Major Drilling's current cash balance. McKay is a drilling services provider which operates 20 reverse circulation and deep-hole diamond rigs, which primarily services iron ore and gold miners in Australia. For the year ended 31 March 2021, McKay generated revenue of approximately \$60 million and EBITDA of approximately \$17 million. The acquisition allows Major Drilling to expand its presence in the Australian market.

*Acquisition of the Mining West Business of Downer EDI Limited by MACA Limited*

MACA Limited acquired a 100% stake in the Mining West Business of Downer EDI Limited (Downer) for \$205 million on 1 February 2021. The consideration comprised an initial \$109 million cash payment which has been received by Downer, 12 equal monthly instalments of \$5.5 million which commenced in February 2021 and \$30 million which will be received from the unwinding of working capital balances. The acquisition is being funded by an \$130 million acquisition debt facility with Commonwealth Bank of Australia and a \$75 million equity capital raising, comprising an institutional placement and a pro-rata accelerated non-renounceable entitlement offer, which was successfully completed on 16 December 2020. Mining West is a surface contract mining business, which delivered \$400 million in revenue and EBITDA of \$70 million for the financial year ended 30 June 2020. The acquisition will provide MACA with complimentary earnings to its current operations and four large contracts for long-life gold and iron ore mining assets in Western Australia.

*Acquisition of Deepcore Drilling Pty Ltd by Mitchell Services Limited*

On 29 November 2019, Mitchell Services Limited acquired a 100% stake in Deepcore Drilling Pty Ltd for \$32 million. Mitchell Services Limited paid \$15 million in cash along with the issuance of 250 million shares in Mitchell Services Limited. Mitchell Services Limited received credit approval from its current senior lender, National Australia Bank Limited to fund the cash portion of the acquisition. Deepcore Drilling offers underground mobile, acoustic drilling and deep directional drilling in Australia. Deepcore Drilling delivered revenue of \$46.5 million and an EBITDA of \$6.3 million for the year ending 30 June 2019. The acquisition allows Mitchell Services Limited to offer a wider range of drilling services, given Deepcore Drilling's specialist product offerings and its strong exposure to gold mining in Victoria. Therefore, the transaction multiple may reflect a strategic premium.

*Acquisition of Barminto Holdings Pty Ltd by Perenti Global Limited*

On 31 October 2018, Perenti Global Limited (Ausdrill Limited at the time of acquisition) acquired a 100.0% stake in Barminto Holdings Pty Ltd for \$673 million. Perenti's consideration comprised 150.7 million fully paid ordinary ex-dividend Perenti shares and \$25.4 million in cash. Perenti Global Limited assumed net debt of \$423 million as a result of the transaction. For the year ending 30 June 2018, Barminto delivered revenue of \$586.1 million and EBITDA of \$116.2 million. Barminto Holdings was a specialist underground hard-rock mining contractor with operations predominantly in Australia as well as in Africa, Egypt and India. The acquisition allowed Perenti Global to expand the scale of their operations in terms of product offering, customers and geography. Therefore, the transaction multiple may reflect a strategic premium.

*Acquisition of John Nitschke Drilling Pty Ltd by Foraco International SA*

On 19 November 2012, Foraco International SA acquired a 100.0% stake in John Nitschke Drilling Pty Ltd, for a consideration of \$60.0 million in cash and warrants. The consideration included \$30.0 million



in cash, an undisclosed earn-out amount, and the issuance of 7 million warrants to acquire Foraco International shares. The warrants were automatically convertible on the happening of certain events on or after 9 months from the closing date. John Nitschke Drilling Pty Ltd was a privately owned Australian based drilling service, which had a fleet of 15 rigs as of 24 September 2012, including 4 diamond/rotary rigs, 4 reverse circulation rigs, and 7 multi-purpose rigs, as well as ancillary equipment. For the year ending 30 June 2012, the company earned revenues of \$47.9 million and EBITDA of \$12.8 million. This acquisition allowed Foraco International SA to strengthen its Australian operations with access to additional commodities and customers.

*Acquisition of Industrea Limited by General Electric Company*

On 30 November 2012, General Electric Company acquired 100% of Industrea Limited for \$679.3 million, comprising cash consideration of \$470.2 million plus \$209.1 million in net debt. Industrea Limited provided mining products and services through its four divisions, Mining Equipment, Mining Technology, Mining Services and Gas Management. For the year ended 30 June 2011, Mining Services generated the majority of the company's revenue at 47.0%, followed by Mining Technology and Mining Equipment, contributing 33.0% and 20.0% respectively. Of this revenue, 70% was generated in the ASPAC region. For the year ended 31 March 2012, Industrea Limited generated \$365.3 million in revenue and \$117.0 million in EBITDA. This acquisition allowed General Electric to expand their product and service offerings for mining customers. Therefore, the transaction multiple may reflect a strategic premium.

***International transactions***

*Acquisition of Norex Drilling Limited by Major Drilling*

On 1 November 2019, Major Drilling Group acquired a 100.0% stake in Norex Drilling for CA\$19.6 million or \$21.5 million. The consideration included a cash payment of CA\$14.0 million, CA\$1.9 million in Major Drilling shares, a holdback of CA\$1.2 million and an additional payout of CA\$2.5 tied to performance. For 2018, Norex delivered revenue of approximately CA\$22 million and EBITDA of approximately CA\$5 million. Pursuant to the transaction, Major Drilling retained Norex' management team, taking over its existing contracts, gained access to skilled and experienced personnel, and acquired 17 compatible specialised surface drill rigs and five underground drills. The acquisition allowed Major Drilling to expand its operations in both surface and underground exploration drilling services in the North-eastern Ontario region in particular.

*Acquisition of Taurus Drilling Services ULC by Major Drilling*

On 1 August 2014, Major Drilling acquired a 100.0% stake in Taurus Drilling Services ULC for CA\$39.2 million or \$39.7 million. Of this CA\$39.2 million, CA\$15.9 million was paid in cash, CA\$7.5 million in Major Drilling Group International Inc. stock and CA\$4.3 million in assumption of debt on closing. An additional amount of CA\$11.5 million was also paid as a result of Taurus achieving EBITDA run rates above levels from at the time of the acquisition. As a part of the acquisition Major Drilling retained Taurus Drilling's management teams and employees, as well as acquiring 39 drilling rigs, related inventory and contracts. In the LTM leading up to the transaction date the company generated a revenue of CA\$39.0 million and EBITDA of CA\$8.0 million. The acquisition allowed Taurus Drilling Services





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ULC to expand out of their production drilling services and enter the underground percussive/longhole drilling sector. Therefore, the transaction multiple may reflect a strategic premium.

*Acquisition of WFS Sondagem Ltd by Foraco International SA*

On 20 April 2012, Foraco International SA acquired a 51.0% stake in WFS Sondagem Ltda, a Brazilian drilling service provider for US\$44.4 million, implying a total enterprise value of US\$87.1 million or \$83.9 million. As part of the agreement, Foraco International had a call option to acquire the remaining 49.0% three years after the initial acquisition, however Foraco International waived this right on 31 March 2014 and did not acquire the remaining 49%. For the year ending 31 December 2011, WFS Sondagem earned revenues of US\$70 million and EBITDA of US\$16.8 million. WFS Sondagem was a private company that provided mineral drilling services including diamond and reverse circulation drilling services and had a drill rig fleet consisting of 72 diamond rigs, 14 reverse circulation drill rigs and ancillary equipment. The acquisition allowed Foraco International to increase its total drill rig fleet to 278 rigs and expand and strengthen its operations in Brazil.

## **Appendix 5 – Industry overview**

To provide a context for assessing the future prospects of BLY, we have detailed below an overview of recent trends in commodity markets and the mining services markets both in Australia and globally. We have placed particular focus on the provision of drilling services and products.

### *Mining support services sector in Australia*

Contract mining services companies are primarily hired by the mining, resources and energy industry on a contractual basis to perform various operational functions on mining projects. The scope of work can range from preparation of mine sites for mining to undertaking the entire mining process for an agreed period of time. Contract miners have access to a large pool of machinery and a skilled workforce, which can assist in reducing costs for resource companies.

BLY operates in a niche division of the mining services market, providing drilling services and drilling products for all stages of the mining lifecycle.

### *Key industry trends*

The demand for contract mining services, particularly drilling services, is closely related to the underlying performance of the overall resources industry and has historically been cyclical in nature. The sustainability of BLY is directly related to the demand for drilling services and products primarily from the mining, resources, mining services and energy sectors, and to a lesser extent the non-mining markets.

There are currently two core identified industry trends which significantly impact the level of demand for mining services, particularly drilling services, in Australia and globally:

- *rising commodity prices* – despite the COVID-19 pandemic impacting global markets, many key commodities experienced rising prices over the course of 2020, including gold, iron ore, silver and copper, while oil and coal experienced weaker prices. Economic commentators have noted that many of the commodities which performed well through 2020 are likely to maintain their high prices in the short-term<sup>33</sup>, supporting production and exploration activity for these commodities in future periods.
- *reduced mining-related capital expenditure* – the economic impact from the COVID-19 pandemic resulted in many exploration projects being cancelled or postponed. As a result, global spending on mining exploration activities decreased by 10.3% from 2019 to 2020, as shown in figure 7 on the following page. Mining-related capital expenditure is expected to remain low in the short-term, before improving in the medium-term as high commodity prices should support mining exploration activity<sup>34</sup>.

A graph illustrating global exploration expenditure from 2011 through to 2020 is included below. Global exploration expenditure has been consistently lower from 2014 to 2020 compared to the high levels of

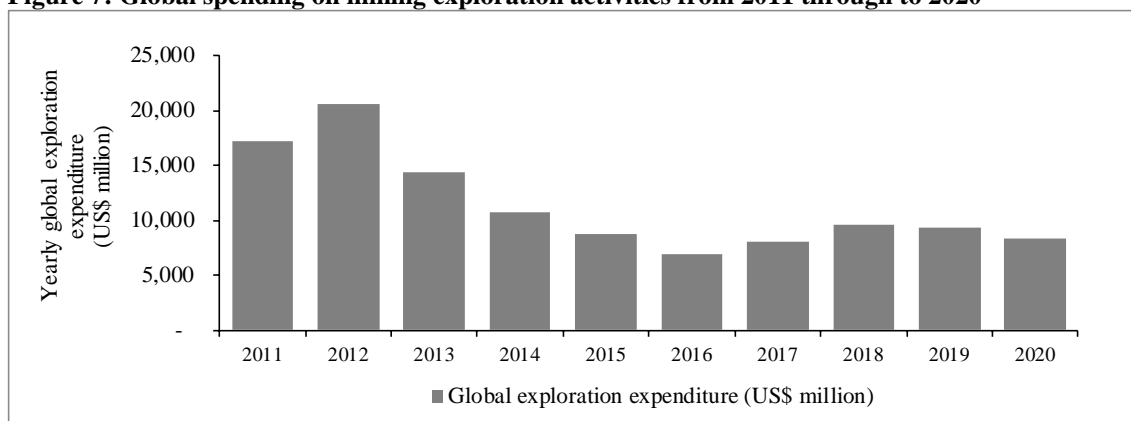
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<sup>33</sup> Reuters, *Volatile markets end 2020 strong with vaccines, stimulus in sight*, December 2020.

<sup>34</sup> IBISWorld, *Industry Report - Mineral Exploration in Australia*, February 2021

expenditure from 2011-2013 during the commodities ‘super-cycle,’ where there was strong demand for commodities due to the rapid industrialisation of emerging economies such as China.<sup>35</sup>

**Figure 7: Global spending on mining exploration activities from 2011 through to 2020**



Source: SNL Metals & Mining<sup>36</sup>

#### *Demand expectations for commodities*

We have set out demand expectations below for gold and copper, as we note that gold and copper miners comprise the majority of BLY’s customer base.

#### *Demand expectations for gold*

According to IBISWorld<sup>37</sup>, gold is a counter-cyclical commodity, which means that global demand for gold is inversely related to global economic performance due to gold being viewed as a store of value. Hence, gold demand and gold prices were high during 2020 due to the economic headwinds and uncertainty caused by the onset of the COVID-19 pandemic. Gold prices reached an all-time high of US\$2,053/oz<sup>38</sup> in August 2020. This represents a strong appreciation in the gold price compared to prices noted during 2017 to 2019 as seen in figure 8, where there were more stable global economic conditions.

<sup>35</sup> IHS Markit, *Lessons from the fading commodity super-cycle*, August 2015

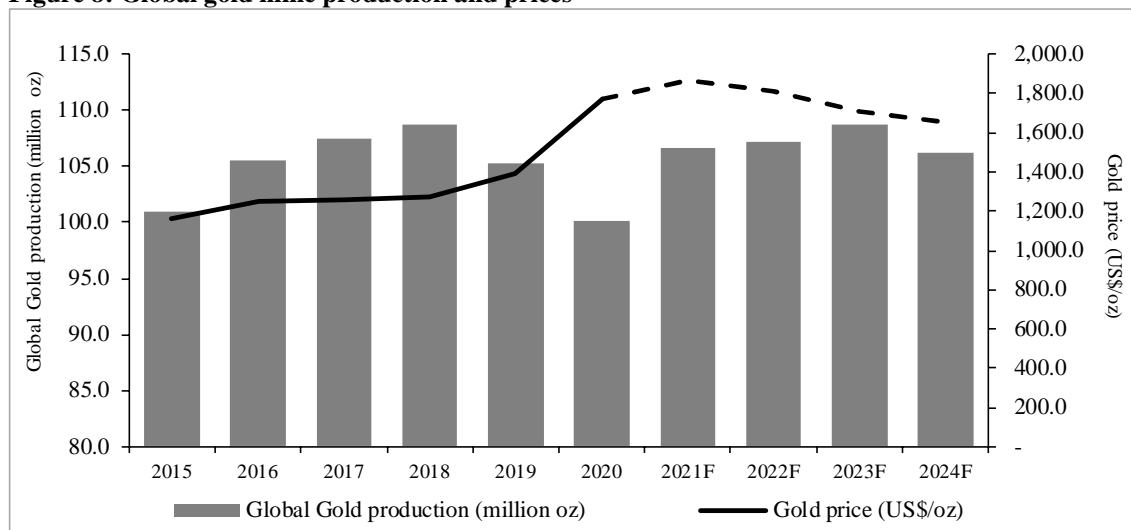
<sup>36</sup> SNL Metals & Mining, *Global Exploration Expenditure*, March 2021

<sup>37</sup> IBISWorld, *Industry Report - Gold Ore Mining in Australia*, December 2020

<sup>38</sup> SNL Metals & Mining, *Historical Gold prices*, March 2021

The graph below illustrates the historical and forecast global gold production volumes and gold prices.

**Figure 8: Global gold mine production and prices**



Source: SNL Metals & Mining<sup>39</sup>, Consensus Economics<sup>40</sup>

As seen in figure 8, global gold production decreased compared to the previous year in both 2019 and 2020. Economic commentators are forecasting the gold price to remain high, albeit to decrease slightly from 2021 to 2024 as the global economy is expected to recover from the impact of COVID-19, and many central banks are expected to maintain low interest rates. As a result, gold production is forecast to increase strongly in 2021, and remain high from 2022 to 2024 as gold producers take advantage of the estimated high gold price. Additionally, there is likely to be greater exploration activity over this period, as exploration for gold typically increases in line with the gold price<sup>41</sup>.

### ***Demand expectation for copper***

Copper is extensively used in the building and construction, electrical energy applications and telecommunications sectors<sup>42</sup>. The global demand for copper is directly related to economic growth and investment levels in the infrastructure sector, along with technological manufacturing. The copper price has increased steadily from decade-low prices in 2016, due to demand from manufacturing-intensive and technologically advanced countries such as China, South Korea, Japan and Germany.

As seen in the graph on the following page, the copper price was resilient during 2020, and is forecast to remain high from 2021 to 2024, particularly given copper's application in growth industries such as renewable energy and electric vehicle manufacturing. Additionally, according to S&P Global<sup>43</sup>, there is a forecast supply deficit of copper in the short-term, due to an insufficient pipeline of copper exploration

<sup>39</sup> SNL Metals & Mining, Gold Production March 2021

<sup>40</sup> Consensus Economics, Gold Price Forecasts February 2021

<sup>41</sup> IBISWorld, Industry Report – Mineral Exploration in Australia, November 2020

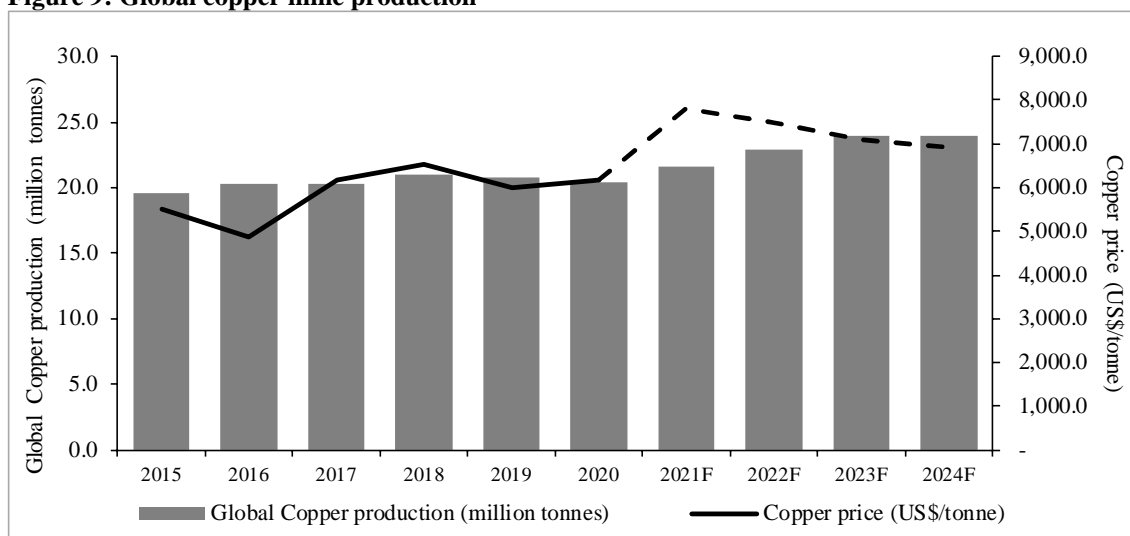
<sup>42</sup> IBISWorld, Industry Report – Copper Ore Mining in Australia, June 2020

<sup>43</sup> S&P Global, *Copper supply faces struggle to keep up with growing demand*, October 2020

projects and limited greenfield exploration success in recent years. A supply deficit of copper is likely to keep the copper price high in future years.

The figure below illustrates the historical and forecast global copper production volumes and copper prices.

**Figure 9: Global copper mine production**



Source: SNL Metals & Mining<sup>44</sup>, Consensus Economics<sup>45</sup>

#### Industry participants

The global mining services market is geographically dispersed with businesses skewed towards regions with high levels of minerals and commodities mining, as these form the key markets for contract mining services. From 2016 onwards, BLY has suffered a decline in its market share in the period corresponding to the decline in mining investment as shown above.

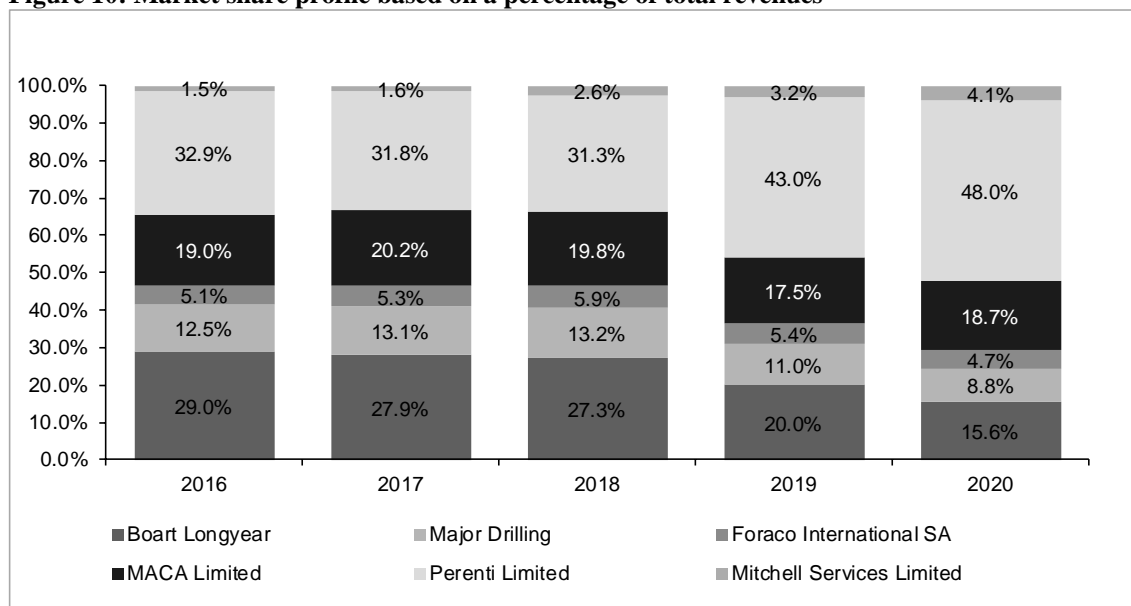
The graph below illustrates BLY's market share profile (based on revenues) compared to the worldwide top 5 revenue earners from our comparable company peer group. For further detail on the comparable companies, see Appendix 4<sup>46</sup>.

<sup>44</sup> SNL Metals & Mining, Copper Production March 2021

<sup>45</sup> Consensus Economics, Copper Price Forecasts February 2021

<sup>46</sup> Source: S&P Capital IQ downloaded as at 16 March 2021

**Figure 10: Market share profile based on a percentage of total revenues**



Source: S&P Capital IQ and KPMG Corporate Finance Analysis

These companies operate in a variety of jurisdictions and markets in addition to core business activities in mining and resources, which may have had a significant impact on market share overtime compared to BLY. When considering the industry specific nature of these businesses they may not be comparable on a like for like basis. In addition, fluctuations in foreign currency exchange rates as well as acquisitions during the time period analysed have impacted the market share profile shown above, as they are reported in US dollars.

According to IBISWorld<sup>47</sup>, the mining support services market in Australia is fragmented. Leading players include large contract miners and exploration companies which provide mining services in addition to their primary activities. These companies place competitive pressures on pure play mining support services companies and those that operate in a niche division, such as BLY and major competitors Perenti Ltd and MACA Ltd.

### Conclusion

The major factors influencing the demand for drilling services in Australia and globally include the amount of capital expenditure on mining projects and exploration projects, and the demand for commodities.

While there is expected to be reduced mining-related capital expenditure in the short-term as a result of the economic impact of the COVID-19 pandemic, the mining and resources industries in Australia and globally are predicted to recover strongly. As a result, demand for drilling and contract mining services

<sup>47</sup>IBISWorld, Industry Report – Mining Support Services in Australia, December 2020



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may improve, supported by high commodity prices and an increase in exploration activity in the medium term.

## Appendix 6 – Maintainable Earnings Analysis

The below table summarises the maintainable earnings analysis for BLY based on historical revenue and EBITDA for FY14 to FY20 and the mid-point of a business scenario for FY21. The FY22 and FY23 EBITDA have not been reflected in our maintainable earnings analysis to be consistent with ‘through-the-cycles’ earnings multiples derived.

The below FY21 to FY23 revenue and earnings ranges are based on business scenarios produced by BLY which are based on a certain set of assumptions regarding the market environment and other business conditions. These ranges reflect the company’s base case as well as its revised budgets. Should any of the underlying assumptions change, the FY21 to FY23 business scenario figures will also change. Therefore, these scenarios are inherently unreliable and do not in any way constitute guidance by BLY. The business scenario information was prepared for the particular purpose of undertaking discussions with certain lenders.<sup>48</sup>

**Table 23: Maintainable earnings analysis**

For the period	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21			FY22			FY23		
US\$ million								Business scenario <sup>2</sup>			Business scenario <sup>2</sup>			Business scenario <sup>2</sup>		
								Low	Mid	High	Low	Mid	High	Low	Mid	High
Boart Longyear Revenue	866.6	735.2	642.4	739.1	770.2	745.0	657.3	650.0	765.0	880.0	750.0	875.0	1,000.0	825.0	962.5	1,100.0
Boart Longyear EBITDA	(82.6)	(115.3)	1.6	(36.6)	54.2	66.5	40.3	60.0	87.5	115.0	100.0	150.0	200.0	125.0	187.5	250.0
Recapitalisation costs	45.5	0.6	7.5	50.5	-	-	-	-	-	-	-	-	-	-	-	-
Add: Impairment charges (Intangibles)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Add: Impairment charges (PP&E)	46.1	36.8	0.9	0.1	0.1	0.2	8.3	-	-	-	-	-	-	-	-	-
Add: Impairment charges (Inventory)	0.7	34.5	-	-	10.9	0.8	5.0	-	-	-	-	-	-	-	-	-
Add: Employee separation and related costs	12.5	16.0	8.0	15.1	2.6	1.7	1.3	-	-	-	-	-	-	-	-	-
Add: Impairment charges (Development asset)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Add: Impairment charges (Intangibles)	1.6	0.6	1.0	-	-	9.0	0.5	-	-	-	-	-	-	-	-	-
Add: Other restructuring and impairment charges	7.6	9.5	10.1	14.0	12.9	6.2	4.7	-	-	-	-	-	-	-	-	-
Less: Gain on termination of post-retirement medical pl	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other non-recurring items	-	17.2	2.9	-	-	2.9	-	-	-	-	-	-	-	-	-	-
Other income/expenses	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Normalised EBITDA of business operations</b>	<b>31.4</b>	<b>(0.1)</b>	<b>32.0</b>	<b>43.1</b>	<b>80.7</b>	<b>87.3</b>	<b>60.1</b>	<b>60.0</b>	<b>87.5</b>	<b>115.0</b>	<b>100.0</b>	<b>150.0</b>	<b>200.0</b>	<b>125.0</b>	<b>187.5</b>	<b>250.0</b>
<b>Averages</b>																
3 Year Average EBITDA (FY18-20)	76.0															
3 Year Average EBITDA (FY19-21)	78.3															
5 Year Average EBITDA (FY16-20)	60.6															
5 Year Average EBITDA (FY17-21)	71.7															
7 Year Average EBITDA (FY14-20)	47.8															
7 Year Average EBITDA (FY15-21)	55.8															

Source: Management and KPMG Corporate Finance Analysis

Note 1: nmf= not meaningful figure

Note 2: FY21 is based on business scenario

<sup>48</sup> ASX announcement, BLY proposed amendments to Senior Secured Notes, 17 May 2021



## Appendix 7 – Glossary

Abbreviation	Description
US\$	United States dollars
2021 Existing PNC ABL Amendment	Seventh Amendment to the Amended and Restated Revolving Credit and Security Agreement to amend the Existing PNC ABL
AASB	Australian Accounting Standard Board
ABL	Asset backed loan
Ad Hoc Group	Ascribe, Ares, Corre, FPA and Nut Tree
Announcement Date	13 May 2021
APESB	Accounting Professional & Ethical Standards Board
Ares	Ares Management, LLC, on behalf of its affiliated funds and accounts
Ascribe	Ascribe II Investments LLC on behalf of itself and its managed funds
ASIC	Australian Securities and Investments Commission
APAC	Asia Pacific
ASX	Australian Securities Exchange
\$	Australian Dollar
Authorised Representative	Authorised representative of KPMG Corporate Finance
Board	Board of Directors of BLY
BLY or the Company	Boart Longyear Limited
CA\$	Canadian dollars
Centerbridge	Centerbridge Partners, L.P.
CEO	Chief Executive Officer
CFO	Chief Financial Officer
COGS	Cost of Goods Sold
Corporations Act / the Act	Corporations Act 2001 (Cth)
Corre	Corre Partners Management LLC
CRA	Canadian Revenue Authority
CSG	Coal seam gas
CSPO	Creditor share purchase option for creditors to purchase shares in the Company capped at a maximum total amount of \$2.5 million (as increased by the extent of any SPP undersubscription)
DCF	Discounted cash flow
Director	A director of BLY
Drilling Services	BLY's global drilling services business division
DTA	Deferred Tax Asset
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax depreciation and amortisation
EMEA	Middle East and Africa
FOS	Financial Ombudsman Service



Abbreviation	Description
FPA	First Pacific Advisers LP
FSG	Financial Services Guide
FYxx	Financial Year ended 31 December 20xx
GFC	Global Financial Crisis
IER	Independent Expert Report
Implementation Date	Date of the implementation of the Recapitalisation
Incremental Finance Facility	The provision of debt financing in an aggregate maximum amount of US\$50 million by Corre, FPA and Nut Tree
Independent Directors	Independent Directors of BLY
KPMG Corporate Finance	KPMG Financial Advisory Services (Australia) Pty Ltd (of which KPMG Corporate Finance is a division)
LAM	Latin America
LTI	Long term incentive
LTM	Last twelve months of available financial information
Major Drilling	Major Drilling Group International Inc.
Management	Management of BLY
Moody's	Moody's Investors Service
n/a	Not available
NAM	North America
New Warrants	New warrants to purchase shares of up to 10% of BLY's post-recapitalisation equity (with the total number of Shares on issue for the purposes of this calculation determined (1) including the new Shares that would be issued on exercise of the New Warrants, (2) before the issue of any Shares on the exercise of any Existing Warrants and Existing Options, (3) before the issue of any Shares under the SPP and the CSPO, (4) before any buy-back of Shares under the SBB and (5) before the issue of any Shares under any management incentive plan)
nmf	Not meaningful figure
Non-Associated Shareholders	Non-Associated Shareholders means a Shareholder who is not a Secured or Unsecured Scheme creditor or an associate of a Secured or Unsecured Scheme Creditor
NPAT	Net profit after tax
NTM	Next twelve months (based upon broker forecasts)
Nut Tree	Nut Tree Capital Management
PDS	Product Disclosure Statement
PIK	Payable in kind
Products	BLY's global drilling products business division
R&D	Research and development
RG 111	ASIC Regulatory Guide 111 "Content of expert reports"
RG 74	ASIC Regulatory Guide 74 "Acquisitions approved by members"
RSA	Recapitalisation support agreement



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Abbreviation	Description
S&P	Standard & Poor's
SBB	Selective buy-back programme under which, subject to the Re-Domiciliation being approved, BLY will allow Shareholders who hold parcels of shares valued at less than \$3,000 the opportunity, under certain conditions, to offer to sell their BLY shares to BLY
SG&A	General, administrative, sales and marketing expenses
Share consolidation	20 to 1 share consolidation of BLY shares as part of the Recapitalisation
Shareholder	Shareholders of BLY
SNL MEG	SNL Metals Economics Group
SPP	Share purchase plan to purchase shares in the Company capped at a maximum total amount of \$2.5 million
SSNs	Senior Secured Notes
SUNs	Senior Unsecured Notes
Supporting Creditors	Ares Management LLC (Ares), Ascribe II Investments LLC (Ascribe), Centerbridge Partners, L.P. (Centerbridge), Corre Partners Management LLC (Corre), First Pacific Advisers LP (FPA) and Nut Tree Capital Management (Nut Tree)
the Recapitalisation	The conversion of approximately \$795 million of BLY's debt (plus further accrued interest post Announcement Date) into 98.5% of the post-recapitalisation ordinary shares of BLY
the Restructuring	The implementation of a restructuring support agreement between the Company and the Supporting Creditors
US	United States
VP	Vice President
VWAP	Volume weighted average price
WACC	Weighted average cost of capital
YTD	Year to date



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## **PART TWO – FINANCIAL SERVICES GUIDE**

Dated 29 July 2021

### **What is a Financial Services Guide (FSG)?**

This FSG is designed to help you to decide whether to use any of the general financial product advice provided by **KPMG Financial Advisory Services (Australia) Pty Ltd ABN 43 007 363 215**, Australian Financial Services Licence Number 246901 (of which KPMG Corporate Finance is a division) ('**KPMG Corporate Finance**'), Ian Jedlin as an authorised representative of KPMG Corporate Finance, authorised representative number 404177 and Adele Thomas as an authorised representative of KPMG Corporate Finance, authorised representative number 404180 (**Authorised Representative**).

### **This FSG includes information about:**

- KPMG Corporate Finance and its Authorised Representative and how they can be contacted
- The services KPMG Corporate Finance and its Authorised Representative are authorised to provide;
- How KPMG Corporate Finance and its Authorised Representative are paid;
- Any relevant associations or relationships of KPMG Corporate Finance and its Authorised Representative;
- How complaints are dealt with as well as information about internal and external dispute resolution systems and how you can access them; and
- The compensation arrangements that KPMG Corporate Finance have in place.

The distribution of this FSG by the Authorised Representative has been authorised by KPMG Corporate Finance.

This FSG forms part of an Investigating Expert's Report (Report) which has been prepared for inclusion in a disclosure document or, if you are offered a financial product for issue or sale, a Product Disclosure Statement (PDS). The purpose of the disclosure document or PDS is to help you make an informed decision in relation to a financial product. The contents of the disclosure document or PDS, as relevant, will include details such as the risks, benefits and costs of acquiring the particular financial product.

### **Financial services that KPMG Corporate Finance and the Authorised Representative are authorised to provide**

KPMG Corporate Finance holds an Australian Financial Services Licence, which authorises it to provide, amongst other services, financial product advice for the following classes of financial products:

- deposit and non-cash payment products;
- derivatives;
- foreign exchange contracts;
- government debentures, stocks or bonds;
- interests in managed investment schemes including investor directed portfolio services;
- securities;
- superannuation;
- carbon units;
- Australian carbon credit units; and
- eligible international emissions units,

to retail and wholesale clients. We provide financial product advice when engaged to prepare a report in relation to a transaction relating to one of these types of financial products. The Authorised Representative is authorised by KPMG Corporate Finance to provide financial product advice on KPMG Corporate Finance's behalf.

### **KPMG Corporate Finance and the Authorised Representative's responsibility to you**

KPMG Corporate Finance has been engaged by BLY Limited (Client) to provide general financial product advice in the form of a Report to be included in Explanatory Memorandum (Document) prepared by BLY in relation to the Re-domicile Transaction (Transaction).

You have not engaged KPMG Corporate Finance or the Authorised Representative directly but have received a copy of the Report because you have been provided with a copy of the Document. Neither KPMG Corporate Finance nor the Authorised Representative are acting for any person other than the Client.

KPMG Corporate Finance and the Authorised Representative are responsible and accountable to you for ensuring that there is a reasonable basis for the conclusions in the Report.

### **General Advice**

As KPMG Corporate Finance has been engaged by the Client, the Report only contains general advice as it has been prepared without taking into account your personal objectives, financial situation or needs.



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You should consider the appropriateness of the general advice in the Report having regard to your circumstances before you act on the general advice contained in the Report.

You should also consider the other parts of the Document before making any decision in relation to the Transaction.

**Fees KPMG Corporate Finance may receive and remuneration or other benefits received by our representatives**

KPMG Corporate Finance charges fees for preparing reports. These fees will usually be agreed with, and paid by, the Client. Fees are agreed on either a fixed fee or a time cost basis. In this instance, the Client has agreed to pay KPMG Corporate Finance \$250,000 for preparing the Report. KPMG Corporate Finance and its officers, representatives, related entities and associates will not receive any other fee or benefit in connection with the provision of the Report.

KPMG Corporate Finance officers and representatives (including the Authorised Representative) receive a salary or a partnership distribution from KPMG's Australian professional advisory and accounting practice (the KPMG Partnership). KPMG Corporate Finance's representatives (including the Authorised Representative) are eligible for bonuses based on overall productivity. Bonuses and other remuneration and benefits are not provided directly in connection with any engagement for the provision of general financial product advice in the Report.

Further details may be provided on request.

**Referrals**

Neither KPMG Corporate Finance nor the Authorised Representative pay commissions or provide any other benefits to any person for referring customers to them in connection with a Report.

**Associations and relationships**

Through a variety of corporate and trust structures KPMG Corporate Finance is controlled by and operates as part of the KPMG Partnership. KPMG Corporate Finance's directors and Authorised Representatives may be partners in the KPMG Partnership. The Authorised Representative is a partner in the KPMG Partnership. The financial product advice in the Report is provided by KPMG Corporate Finance and the Authorised Representative and not by the KPMG Partnership.

From time to time KPMG Corporate Finance, the KPMG Partnership and related entities (KPMG entities) may provide professional services, including audit, tax and financial advisory services, to companies and issuers of financial products in the ordinary course of their businesses.

KPMG entities have provided a range of services to BLY for which professional fees are received. Over the past two years professional fees of approximately US\$2.2 million have been received from BLY. Tax services have been provided in relation to the impact of the Restructuring. No other services have related to the Restructuring or alternatives to the Restructuring.

No individual involved in the preparation of this Report holds a substantial interest in, or is a substantial creditor of, the Client or has other material financial interests in the transaction.

**Complaints resolution**

Internal complaints resolution process

If you have a complaint, please let either KPMG Corporate Finance or the Authorised Representative know. Formal complaints should be sent in writing to The AFSL Complaints Officer, KPMG, PO Box H67, Australia Square, Sydney NSW 1213. If you have difficulty in putting your complaint in writing, please telephone the Complaints Officer on 02 9335 7000 and they will assist you in documenting your complaint. Written complaints are recorded, acknowledged within 5 days and investigated. As soon as practical, and not more than **45 days** after receiving the written complaint, the response to your complaint will be advised in writing.

External complaints resolution process

If KPMG Corporate Finance or the Authorised Representative cannot resolve your complaint to your satisfaction within 45 days, you can refer the matter to the Australian Financial Complaints Authority (AFCA). AFCA is an independent company that has been established to provide free advice and assistance to consumers to help in resolving complaints relating to the financial services industry.

Further details about AFCA are available at the AFCA website [www.afca.org.au](http://www.afca.org.au) or by contacting them directly at:

Address: Australian Financial Complaints Authority  
Limited, GPO Box 3, Melbourne Victoria 3001

Telephone: 1300 56 55 62

Facsimile: (03) 9613 6399

Email: [info@afca.org.au](mailto:info@afca.org.au).

The Australian Securities and Investments Commission also has a freecall infoline on 1800 931 678 which you may use to obtain information about your rights.

**Compensation arrangements**

KPMG Corporate Finance has professional indemnity insurance cover in accordance with section 912B of the Corporations Act 2001(Cth).

**Contact Details**

You may contact KPMG Corporate Finance or the Authorised Representative using the contact details:

KPMG Corporate Finance

A division of KPMG Financial Advisory Services (Australia)  
Pty Ltd

Level 38, Tower Three  
300 Barangaroo Avenue  
Sydney NSW 2000

PO Box H67  
Australia Square  
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Facsimile: (02) 9335 7200

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C/O KPMG  
PO Box H67  
Australia Square  
NSW 1213

Telephone: (02) 9335 7000

Facsimile: (02) 9335 7200

**Annexure B – Share Registry Virtual Meeting Online Guide**



# Virtual Meeting Online Guide

## Before you begin

Ensure your browser is compatible.  
Check your current browser by going to the website: **[whatismybrowser.com](http://whatismybrowser.com)**

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Supported browsers are:

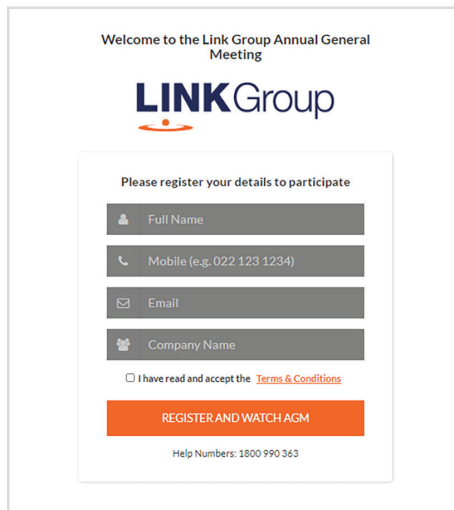
- Chrome – Version 44 & 45 and after
- Firefox – 40.0.2 and after
- Safari – OS X v10.9 & OS X v10.10 and after
- Internet Explorer 9 and up

**To attend and vote you must have your securityholder number and postcode.**

Appointed Proxy: Your proxy number will be provided by Link before the meeting.

**Please make sure you have this information before proceeding.**

# Virtual Meeting Online Guide



Welcome to the Link Group Annual General Meeting

**LINK**Group

Please register your details to participate

Full Name

Mobile (e.g. 022 123 1234)

Email

Company Name

☐ I have read and accept the [Terms & Conditions](#)

**REGISTER AND WATCH AGM**

Help Numbers: 1800 990 363

## Step 1

Open your web browser and go to

**Extraordinary General Meeting**  
<https://agmlive.link/BLYEGM21>

**Scheme Meeting**  
<https://agmlive.link/BLYSM21>

## Step 2

Log in to the portal using your full name, mobile number, email address, and company name (if applicable).

Please read and accept the terms and conditions before clicking on the blue **‘Register and Watch Meeting’** button.

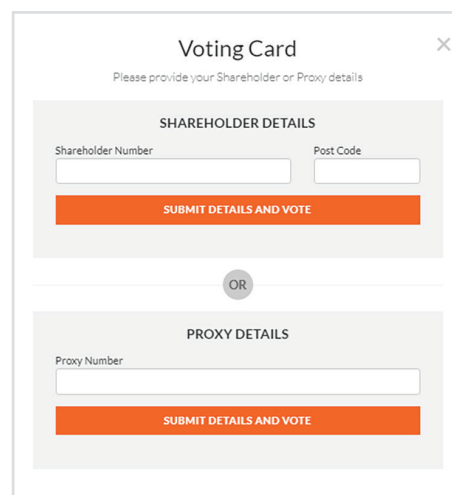
- On the left – a live audio webcast of the Meeting
- On the right – the presentation slides that will be addressed during the Meeting
- At the bottom – buttons for ‘Get a Voting Card’, ‘Ask a Question’ and a list of company documents to download

**Note:** If you close your browser, your session will expire and you will need to re-register. If using the same email address, you can request a link to be emailed to you to log back in.

## 1. Get a Voting Card

To register to vote – click on the ‘Get a Voting Card’ button.

This will bring up a box which looks like this.



**Voting Card**

Please provide your Shareholder or Proxy details

**SHAREHOLDER DETAILS**

Shareholder Number  Post Code

**SUBMIT DETAILS AND VOTE**

OR

**PROXY DETAILS**

Proxy Number

**SUBMIT DETAILS AND VOTE**

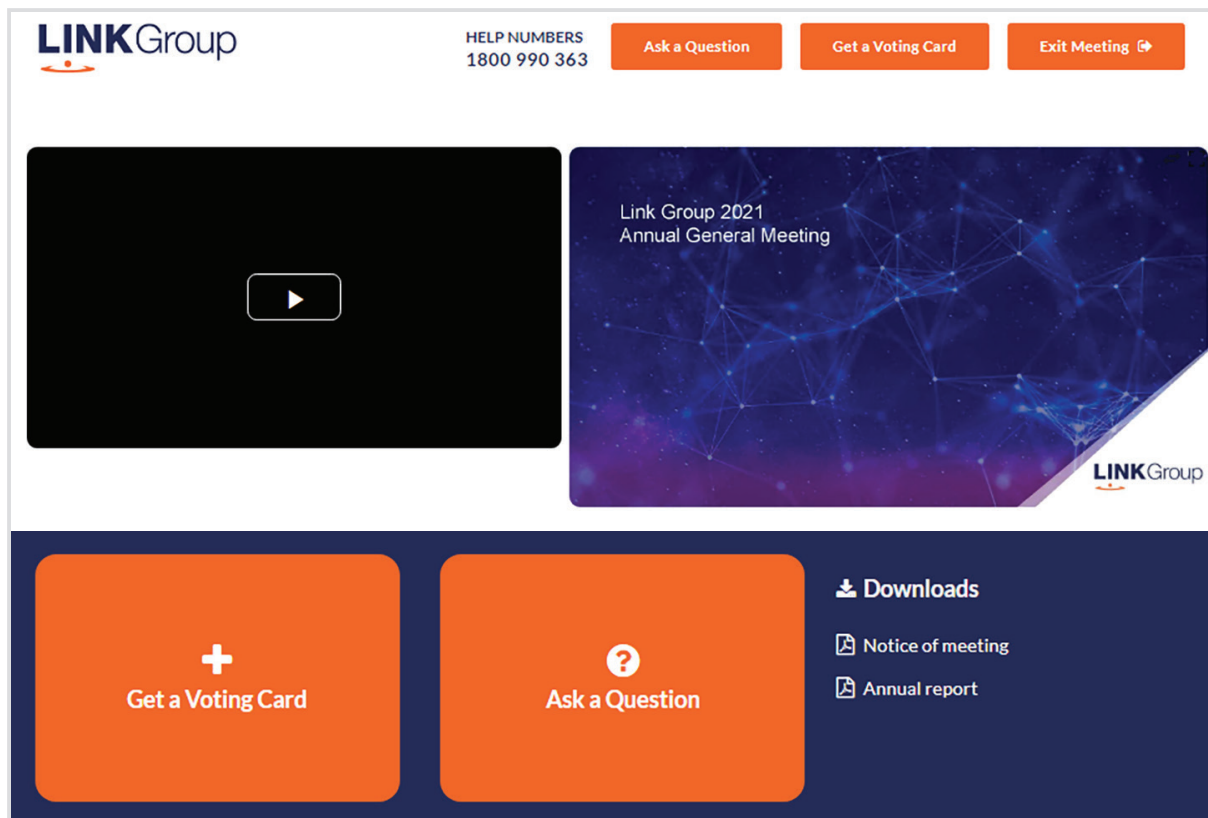
If you are an individual or joint securityholder you will need to register and provide validation by entering your securityholder number and postcode.

If you are an appointed Proxy, please enter the Proxy Number issued by Link in the PROXY DETAILS section. Then click the **‘SUBMIT DETAILS AND VOTE’** button.

Once you have registered, your voting card will appear with all of the resolutions to be voted on by securityholders at the Meeting (as set out in the Notice of Meeting). You may need to use the scroll bar on the right hand side of the voting card to view all resolutions.

Securityholders and proxies can either submit a Full Vote or Partial Vote.





ABC COMPANY PTY LTD
X123456789

### Voting Card

Please complete your vote by selecting the required voting instruction (For, Against or Abstain) for each resolution. If you would like complete a partial vote, please specify the number of votes for each resolution in the Partial Vote section. Proxy holder votes will only be applied to discretionary (undirected) votes. Directed votes will be applied as per the the Unitholder's voting instructions.

Full Vote
Partial Vote

<b>Resolution 2B</b> RE-ELECTION OF MRL ABC AS A DIRECTOR	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain
<b>Resolution 2C</b> RE-ELECTION OF MS XYZ AS A DIRECTOR	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain
<b>Resolution 3</b> INCREASE TO DIRECTORS' MAXIMUM FEE POOL LIMIT	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain
<b>Resolution 4</b> ADOPTION OF REMUNERATION REPORT	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain

SUBMIT VOTE

## Full Votes

To submit a full vote on a resolution ensure you are in the **'Full Vote'** tab. Place your vote by clicking on the **'For'**, **'Against'**, or **'Abstain'** voting buttons.

## Partial Votes

To submit a partial vote on a resolution ensure you are in the **'Partial Vote'** tab. You can enter the number of votes (for any or all) resolution/s. The total amount of votes that you are entitled to vote for will be listed under each resolution. When you enter the number of votes it will automatically tally how many votes you have left.

**Note:** If you are submitting a partial vote and do not use all of your entitled votes, the un-voted portion will be submitted as No Instruction and therefore will not be counted.

Once you have finished voting on the resolutions scroll down to the bottom of the box and click on the **'Submit Vote'** or **'Submit Partial Vote'** button.

**Note:** You can close your voting card without submitting your vote at any time while voting remains open. Any votes you have already made will be saved for the next time you open up the voting card. The voting card will appear on the bottom left corner of the webpage. The message **'Not yet submitted'** will appear at the bottom of the page.

You can edit your voting card at any point while voting is open by clicking on **'Edit Card'**. This will reopen the voting card with any previous votes made.

Once voting has been closed all submitted voting cards cannot be changed.

# Virtual Meeting Online Guide *continued*

## 2. How to ask a question

**Note:** Only securityholders are eligible to ask questions.

If you have yet to obtain a voting card, you will be prompted to enter your security holder number or proxy details before you can ask a question. To ask a question, click on the 'Ask a Question' button either at the top or bottom of the webpage.

The '**Ask a Question**' box will then pop up with two sections for completion.

### Ask a Question

We welcome any questions that you may have and will endeavour to answer all questions during the AGM. To submit a question, please select what the question pertains to and type your question in the provided area. If you have multiple questions please submit each individually.

Regarding General Business

Question

Type your question here...

Submit Question

In the '**Regarding**' section click on the drop down arrow and select the category/resolution for your question.

Click in the '**Question**' section and type your question and click on 'Submit'.

A '**View Questions**' box will appear where you can view your questions at any point. Only you can see the questions you have asked.

If your question has been answered and you would like to exercise your right of reply, you can submit another question.

Note that not all questions are guaranteed to be answered during the Meeting, but we will do our best to address any questions.

### View Questions

Your submitted questions can be viewed below. We will endeavour to answer all questions during the AGM.

When will the next AGM be held?

Asked regarding General Business

Asked at: 7:18AM Updated: 7:18AM

OPEN COMMENTS

SUBMIT ANOTHER QUESTION

## 3. Downloads

View relevant documentation in the Downloads section.

## 4. Voting closing

Voting will end at the close of the Meeting.

## Contact us

### Australia

T 1300 554 474

E [info@linkmarketservices.com.au](mailto:info@linkmarketservices.com.au)

### New Zealand

T +64 9 375 5998

E [enquiries@linkmarketservices.co.nz](mailto:enquiries@linkmarketservices.co.nz)



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**ASX ANNOUNCEMENT (ASX:BLY)**

**Appendix C – Re-domiciliation Scheme Explanatory Memorandum**

**BOART LONGYEAR LIMITED**  
**EXPLANATORY MEMORANDUM**  
**ABN 49 123 052 728**

**NOTICE IS GIVEN OF A SCHEME MEETING TO BE HELD ON 8 SEPTEMBER 2021  
COMMENCING AT 10:30 AM (SYDNEY TIME) AT ASHURST, LEVEL 11, 5 MARTIN PLACE,  
SYDNEY NEW SOUTH WALES 2000 AND ONLINE**

**THIS EXPLANATORY MEMORANDUM COMPRISES:**

- An Explanatory Memorandum to explain the proposed scheme of arrangement between Boart Longyear Limited and its shareholders
- An information memorandum for the listing of Boart Longyear Ltd (the proposed holding company of Boart Longyear Limited) on ASX

**THE DIRECTORS OF BOART LONGYEAR LIMITED UNANIMOUSLY RECOMMEND THAT  
SHAREHOLDERS VOTE IN FAVOUR OF THE RE-DOMICILIATION SCHEME RESOLUTION**

**THE RE-DOMICILIATION INDEPENDENT EXPERT HAS CONCLUDED THE RE-  
DOMICILIATION SCHEME IS, ON BALANCE, IN THE BEST INTERESTS OF SHAREHOLDERS**

This is an important document and requires your immediate attention.

You should read the whole of this document before you decide whether and how to vote on the Re-domiciliation Scheme Resolution. If you are in doubt as to what you should do, please consult your financial or other professional adviser.

**Attention! This investment falls outside AFM supervision.  
No prospectus required for this activity.**



# DISCLAIMER AND IMPORTANT NOTICE

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## General

This Explanatory Memorandum is important. You should read this Explanatory Memorandum and the accompanying appendices in its entirety before making a decision as to how to vote on the Re-domiciliation Scheme Resolution.

## Purpose of the Explanatory Memorandum

The purpose of this Explanatory Memorandum is to explain the terms of the Re-domiciliation and the manner in which the Re-domiciliation will be considered and implemented (if approved), to set out certain information required by law and to provide all other information (other than information previously disclosed to Shareholders) which is known to BLY, and which is material to the decision of Shareholders whether or not to vote in favour of the Re-domiciliation Scheme Resolution.

This Explanatory Memorandum contains the explanatory statement required by section 412(1) of the Corporations Act in relation to the Scheme.

This Explanatory Memorandum is also an information memorandum for the listing of New BLY Parent on ASX and the official quotation of New BLY Parent Shares (represented by New BLY Parent CDIs) and the Ordinary Warrants on ASX.

This Explanatory Memorandum is not a prospectus lodged under Chapter 6D of the Corporations Act in respect of BLY's securities. Section 708(17) of the Corporations Act provides that an offer of securities does not need disclosure under Chapter 6D if it is made under a compromise or arrangement under Part 5.1 of the Corporations Act, approved at a meeting held as a result of an order made by the Court under section 411(1) or section 411(1A) of the Corporations Act.

## Preparation and responsibility

This Explanatory Memorandum (other than the Re-domiciliation Independent Expert's Report) has been prepared by BLY. BLY takes responsibility for the content of this Explanatory Memorandum other than

the Re-domiciliation Independent Expert's Report.

KPMG Financial Advisory Services (Australia) Pty Ltd ABN 43 007 363 215 (**KPMG**) has prepared the Re-domiciliation Independent Expert's Report. KPMG takes responsibility for the Re-domiciliation Independent Expert's Report. To the maximum extent permitted by law, none of BLY, New BLY Parent nor any of their subsidiaries, directors, officers, employees or advisers assumes any responsibility for the accuracy or completeness of the Re-domiciliation Independent Expert's Report.

## Court

The fact that the Court, under section 411(1) of the Corporations Act, has ordered that the Re-domiciliation Scheme Meeting be convened and has approved the Explanatory Memorandum required to accompany the Notice of the Re-domiciliation Scheme Meeting does not mean that the Court:

- has approved or will approve the terms of the Re-domiciliation;
- has formed any view as to the merits of the Re-domiciliation or as to how Shareholders should vote; or
- has prepared, or is responsible for, the content of this Explanatory Memorandum.

## Regulatory Authorities

A copy of this Explanatory Memorandum was provided to ASIC for examination in accordance with section 411(2) of the Corporations Act and registered by ASIC in accordance with section 412(6) of the Corporations Act. BLY has asked ASIC to provide a statement, in accordance with section 411(17)(b) of the Corporations Act, that ASIC has no objection to the Re-domiciliation Scheme. If ASIC provides that statement, it will be produced to the Court on the Second Court Date.

A copy of this Explanatory Memorandum has also been lodged with ASX. New BLY Parent will also progress an application for New BLY Parent to be admitted to the official list and for official quotation of the

New BLY Parent Shares (represented by New BLY Parent CDIs) and Ordinary Warrants on ASX.

The fact that ASX may admit New BLY Parent to the official list of ASX does not make any statement regarding, and should not be taken in any way as an indication of, the merits of an investment in New BLY Parent.

None of ASIC, ASX nor any of their officers takes any responsibility for the contents of this Explanatory Memorandum.

## No investment advice

This Explanatory Memorandum has been prepared without reference to the investment objectives, financial and taxation situation or particular needs of any Shareholder or any other person. The information and recommendations contained in this Explanatory Memorandum do not constitute, and should not be taken as, financial product advice. Before making any investment decision you should carefully consider whether that decision is appropriate in light of your particular investment needs, objectives and financial circumstances. The BLY Board encourages you to consult your financial, legal, taxation or other an independent and appropriately licensed and authorised professional adviser before making any investment decision and any decision as to whether or not to vote in favour of the Re-domiciliation.

## Forward looking statements

Certain statements in this Explanatory Memorandum relate to the future. These statements may include, without limitation, any statements preceded by, followed by, or including words such as "target", "believe", "expect", "aim", "intend", "may", "anticipate", "estimate", "plan", "project", "will", "can have", "likely", "should", "would", "could" and other words and terms of similar meaning or the negative thereof. These forward looking statements involve known and unknown risks, uncertainties, assumptions and other important factors that could cause the actual results, performance or achievements of BLY or New BLY Parent to be materially different from future results, performance or

achievements expressed or implied by such statements. Such forward looking statements are based on numerous assumptions regarding present and future business strategies, an assessment of present economic and operating conditions and the environment in which the New BLY Parent will operate in the future, which may prove to be incorrect. Certain important factors that could cause actual results, performance or achievements to differ materially from those in the forward looking statements include, among others, the risk factors described in this Explanatory Memorandum, and other unknown risks and uncertainties. Forward looking statements should, therefore, be construed in light of such risk factors and reliance should not be placed on forward looking statements.

Other than as required by law, neither BLY nor New BLY Parent nor any other person, gives any representation, assurance or guarantee that the occurrence of the events, results and outcomes expressed or implied in any forward looking statements in this Explanatory Memorandum will actually occur.

The forward looking statements in this Explanatory Memorandum reflect views held only at the date of this Explanatory Memorandum. Subject to the Corporations Act, the ASX Listing Rules or any other applicable laws, BLY and their directors and officers and New BLY Parent and their directors and officers disclaim any obligation or undertaking to disseminate after the date of this Explanatory Memorandum any updates or revisions to any forward looking statements to reflect any change in expectations in relation to those statements or any change in events, conditions or circumstances on which any such statement is based.

### **Estimates and rounding**

Unless otherwise indicated, all references to estimates (and derivations of the same) in this Explanatory Memorandum are references to estimates by BLY as appropriate. BLY estimates are based on views at the date of this Explanatory Memorandum and actual facts or outcomes may be materially different.

A number of figures, amounts, percentages, prices, estimates, calculations of value and fractions in this Explanatory Memorandum are subject to the effect of rounding.

Accordingly, the actual calculation of these figures, amounts, percentages, prices, estimates, calculations of value and fractions may differ from the figures, amounts, percentages, prices, estimate, calculations of value and fractions set out in this Explanatory Memorandum.

Any discrepancies between totals in tables or financial statements, or in calculations, graphs or charts are due to rounding.

### **Foreign Jurisdictions**

The release, publication or distribution of this Explanatory Memorandum (electronically or otherwise) outside of Australia may be restricted by law or regulation in such other jurisdictions and persons outside Australia who come into possession of it should seek advice and observe the restrictions set out in section 11.12 of the Explanatory Memorandum. Any failure to comply with those restrictions may contravene applicable laws or regulations. BLY disclaims all liabilities to such persons.

This Explanatory Memorandum has been prepared in accordance with the laws and regulations of Australia and the information contained in this Explanatory Memorandum may not be the same as that which would have been disclosed if this Explanatory Memorandum had been prepared in accordance with the laws and regulations of any other country.

This Explanatory Memorandum and the Re-domiciliation do not in any way constitute an offer of securities in any place in which, or to any person to whom, it would be unlawful to make such an offer. No action has been taken to register or qualify this Explanatory Memorandum, the Re-domiciliation, the New BLY Parent Shares or the New BLY Parent CDIs, or otherwise permit a public offering of New BLY Parent CDIs, in any jurisdiction outside of Australia

Shareholders who are not resident in Australia should have regard to the additional information in section 11.12 of this Explanatory Memorandum.

### **Timetable and dates**

All times and dates referred to in this Explanatory Memorandum are Sydney, Australia time, unless otherwise indicated. All times and dates relating to the implementation of the Re-domiciliation referred to in this Explanatory Memorandum may change and, among other things, are subject to all the necessary approvals from regulatory authorities.

### **External websites**

Unless expressly stated otherwise, the content of BLY's website (<https://www.boartlongyear.com/>) does not form part of this Explanatory Memorandum and Shareholders should not rely on any such content.

### **Further information**

Shareholders requiring assistance in understanding the matters raised in this document should call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) on Business Days from 9.00 am to 5.00 pm (Sydney time) Monday to Friday (excluding public holidays).

### **Date of this Explanatory Memorandum**

This Explanatory Memorandum is dated 29 July 2021. Unless otherwise indicated, all information included in this Explanatory Memorandum (including views, recommendations and statements of intention) is current as at that date.

# CHAIRMAN'S LETTER

---

29 July 2021

Dear Shareholder,

I am pleased to invite you to attend the Re-domiciliation Scheme Meeting to consider and vote on the proposal to transfer Boart Longyear Limited's (**BLY** or the **Company**) domicile from Australia to Canada (the **Re-domiciliation**) by way of scheme of arrangement between BLY and its shareholders.

## Overview of the Recapitalisation Transactions

As announced on 13 May 2021, BLY entered into the Restructuring Support Agreement (**Restructuring Support Agreement**) with an overwhelming majority of BLY's lenders, including affiliates of Ares, Ascribe, CBP, Corre, FPA and Nut Tree, under which the parties have agreed, subject to the satisfaction of certain conditions, to pursue and implement a recapitalisation transaction as summarised below (the **Recapitalisation**). The Restructuring Support Agreement also reflects BLY's desire to pursue and implement the Re-domiciliation in connection with the Recapitalisation.

The Recapitalisation will convert approximately US\$795 million of BLY's debt and accrued interest costs owing to Scheme Creditors under the Term Loan A, Term Loan B, the SSN Indenture and the SUN Indenture into approximately 98.5% of BLY's post-Recapitalisation ordinary shares (before (1) the issue of any Shares under the Share Purchase Plan or the Creditor Share Purchase Option, (2) the issue of any Shares on exercise of any New Warrants, Existing Warrants and BLY Options, (3) any buy back of Shares under the Selective Buy-Back and (4) the issue of any Shares under any management incentive plan). If approved and implemented the Recapitalisation will significantly reduce BLY's debt, strengthen the balance sheet, lower interest expenses and enhance liquidity to support BLY's operations and future growth.

The Recapitalisation will primarily be implemented by two interdependent creditors' schemes of arrangement between BLY and its creditors under Part 5.1 of the Corporations Act. These schemes of arrangement comprise the Secured Creditors' Scheme and the Unsecured Creditors' Scheme (together, the **Creditors' Schemes**) and will effect a release of all outstanding amounts under the Term Loan A, Term Loan B, SSN Indenture and SUN Indenture, in consideration for:

- (a) the issuance to the TLA Purchasers, TLB Purchasers, SSN Noteholders and SUN Noteholders of Shares equal to in aggregate 98.5% of BLY's post-Recapitalisation ordinary shares (before (1) the issue of any Shares on the exercise of any New Warrants, Existing Warrants and BLY Options (2) the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option, (3) any buy-back of Shares under the Selective Buy-Back, and (4) the issue of any Shares under any management incentive plan) (the **New Common Equity**);
- (b) the issuance of the New Warrants to SUN Noteholders in accordance with the terms of the Unsecured Creditors' Scheme with a strike price per Warrant Share of A\$2.79 (the **New Warrants Issuance**); and
- (c) the offer, first to SUN Noteholders, then to TLA Purchasers, TLB Purchasers and SSN Noteholders of the opportunity to purchase Shares at a price of A\$2.48 per Share (calculated on a post-Share Consolidation basis), up to an aggregate cap of US\$2.5 million plus any unsubscribed amount under the Share Purchase Plan (the **Creditor Share Purchase Option**).

BLY is also proposing to undertake the following in connection with the Recapitalisation:

- **Share Consolidation:** a 20 for 1 share consolidation to reduce the number of Shares on issue which will be effected prior to issue of any new Shares under the Creditors' Schemes, Share Purchase Plan and Creditor Share Purchase Option and the completion of the Selective Buy-Back;
- **Selective Buy-Back:** provided that the Re-domiciliation Scheme Resolution is approved by the Requisite Majorities, Shareholders approve the Selective Buy-Back at the EGM and the Creditors' Schemes become Effective, Eligible SBB Shareholders who hold parcels of Shares valued at less than AU\$3,000 will have the opportunity, under certain conditions, to offer to sell their Shares to BLY under a Selective Buy-Back for A\$2.48 per Share (calculated on a post-Share Consolidation basis) which is the same price as the implied issue price of Shares issued under the Creditors' Schemes. BLY may in its absolute discretion determine whether to accept (in whole or in part) or reject an offer from Eligible SBB Shareholders to sell Shares under the Selective Buy-Back and the maximum aggregate amount that BLY will spend to buy-back Shares under the Selective Buy-Back will be US\$500,000.

The Selective Buy-Back is intended to give Eligible SBB Shareholders who hold small parcels of Shares the opportunity to exercise a cash-out option in lieu of retaining their existing Shares, noting that existing Shareholders will be significantly diluted following implementation of the Creditors' Schemes and may not wish to hold CDIs in the redomiciled Canadian company. The Selective Buy-Back will provide Eligible SBB Shareholders with the opportunity to sell their Shares without incurring brokerage fees and other expenses.

- **Share Purchase Plan:** offer Eligible SPP Shareholders the opportunity to subscribe for up to AU\$30,000 of Shares at a price of A\$2.48 per Share (calculated on a post-Share Consolidation basis) under a share purchase plan, to raise up to a maximum of US\$2.5 million.
- **Exit Financing Facility:** refinance the Existing Backstop ABL and the Incremental Finance Facility pursuant to the Exit Financing Facility.

The table set out below provides an overview of the share price for each of the Share Purchase Plan and the Selective Buy-Back (being options available to Shareholders) and the CSPO (being an option available to Scheme Creditors).

Shareholder Transactions		Pricing (on a post-Share Consolidation basis)
Issue of new shares under Share Purchase Plan		A\$2.48 per share
Buy back of existing shares under Selective Buy-Back		A\$2.48 per share
Scheme Transactions	Creditor	Pricing (on a post-Share Consolidation basis)
Issue of new shares under Creditor Share Purchase Option		A\$2.48 per share

Implementation of the Recapitalisation is subject to a number of conditions, including (amongst others):

- Creditors of BLY approving the Creditors' Schemes by the requisite majorities;
- Court approval of the Creditors' Schemes; and



- Shareholders of BLY approving the Recapitalisation Resolutions by the requisite majorities.

### Overview of the Re-domiciliation

In connection with the Recapitalisation, BLY proposes to re-domicile its corporate and tax domicile to Ontario, Canada. Canada was chosen after a review of the benefits, disadvantages and risks as against remaining incorporated in Australia and re-domiciling to the United States. The BLY Board is unanimously of the view that the advantages of the Re-domiciliation significantly outweigh the disadvantages and risks.

The Re-domiciliation is subject to, amongst other things:

- (d) approval of the Re-domiciliation Scheme by:
  - (i) greater than 50% in number of Shareholders present and voting at the Re-domiciliation Scheme Meeting (in person, by proxy, by attorney or by a corporate representative); and
  - (ii) at least 75% of the total number of votes cast on the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting,
 (the **Requisite Majorities**); and
- (e) approval by the Court of the Re-domiciliation Scheme; and
- (f) the Creditors' Schemes becoming effective.

If the Re-domiciliation Scheme is approved by Shareholders and the Court and becomes Effective:

- All of the Shares will be transferred to a new holding company incorporated in Ontario, Canada, Boart Longyear Ltd (**New BLY Parent**) and BLY will become a wholly owned subsidiary of New BLY Parent.
- Scheme Shareholders (other than Ineligible Foreign Shareholders) will receive in exchange for each Share held by them on the Re-domiciliation Scheme Record Date a CHESS Depositary Interest representing a beneficial interest in a New BLY Parent Share (**New BLY Parent CDI**) which will be able to be traded on the ASX.
- Ineligible Foreign Shareholders will not be eligible to receive New BLY Parent CDIs under the Re-domiciliation Scheme. Instead, the New BLY Parent CDIs to which Ineligible Foreign Shareholders would otherwise be entitled will be issued to a nominee appointed by BLY who will sell those New BLY Parent CDIs and Ineligible Foreign Shareholders will receive the net proceeds from the sale of those New BLY Parent CDIs.

The diagrams below show the simplified current structure of the BLY Group and the proposed structure of the group following implementation of the Re-domiciliation Scheme.



Advantages	Disadvantages	Associated Risks
<ul style="list-style-type: none"> <li>✓ Potential for improved access to capital</li> <li>✓ Greater organisational efficiency</li> <li>✓ Better alignment of post-Recapitalisation capital structure with revenue sources</li> <li>✓ Aligning shareholder base and management with a familiar jurisdiction</li> <li>✓ Retention of ASX listing and familiarity with local exchange</li> <li>✓ Comparable shareholder protection</li> <li>✓ Reduced cost of insurance</li> </ul>	<ul style="list-style-type: none"> <li>✗ Additional cost and administrative burden to implement the Re-domiciliation Scheme</li> <li>✗ For Australian based shareholders, a change in jurisdiction</li> <li>✗ Ineligible Foreign Shareholders will not be able to receive New BLY Parent CDIs</li> <li>✗ The Re-domiciliation Scheme may have adverse taxation implications for individual Shareholders</li> </ul>	<ul style="list-style-type: none"> <li>○ The Re-domiciliation may fail to realise the full anticipated benefits</li> <li>○ The exact value of New BLY Parent CDIs is not certain</li> <li>○ Tax risks for BLY associated with the Re-domiciliation</li> </ul>

You are also encouraged to consider:

- the taxation report summarising the **Australian tax implications** for certain eligible Shareholders who dispose of their Shares and acquire New BLY Parent CDIs under the Re-domiciliation Scheme (see Section 9);
- the taxation report summarising the **Canadian tax implications** for certain Shareholders in respect of the exchange of Shares and the acquisition and holding of New BLY Parent Shares received pursuant to the Re-domiciliation Scheme (see Section 10); and
- the **comparison of Australian and Canadian company rules** (Section 8.4), particularly in the context of the explanation of CDI arrangements in Appendix E.

### Governance and management

Under the terms of the Restructuring Support Agreement, BLY has agreed that the post-Recapitalisation composition of the BLY Board, and if the Re-domiciliation is implemented, the New BLY Parent Board, will consist of nine directors and include:

- (a) the Chief Executive Officer;
- (b) the CBP Nominee Directors, comprising five directors nominated by CBP; and
- (c) the Ad Hoc Group Nominee Directors, comprising three directors nominated by the Ad Hoc Group.

The director nomination rights will be documented through the entry into director nomination agreements pursuant to which, whilst the BLY Board is comprised of nine directors, BLY will grant to CBP the right to nominate up to five persons for appointment to the BLY Board, and the Ad Hoc Group the right to nominate up to three persons for appointment to the BLY Board (**BLY Director Nomination Agreements**).

If the Re-domiciliation is approved and implemented, the director nomination rights contemplated by the Restructuring Support Agreement will be documented by director nomination agreements pursuant to which New BLY Parent will grant each of CBP and the Ad Hoc Group rights to nominate

the same number of persons for appointment as directors on the board of New BLY Parent (**New BLY Parent Director Nomination Agreements**). The New BLY Parent Director Nomination Agreements will be governed by Canadian law.

The BLY Director Nomination Agreements (and, if the Re-domiciliation is approved and implemented, the New BLY Parent Director Nomination Agreements) will replace existing director nomination rights granted to CBP, Ares and Ascribe under the current director nomination agreements between those parties and BLY.

In the event that the BLY Board increases in size from nine to ten directors at any time (excluding alternate directors) in accordance with BLY's constitution, and provided that increase was not caused by an act of the Centerbridge Board Nominees, Centerbridge or an associate of Centerbridge, so long as Centerbridge holds, in aggregate, Retained Shares which represent 40% or more of the issued Shares in the Company, Centerbridge will have the right to nominate six directors for appointment to the BLY Board.

In accordance with the Articles and By-Laws, the New BLY Parent Board shall comprise a maximum of nine directors.

### **Your vote is important**

Your vote is important, as the Re-domiciliation can only be implemented if the Re-domiciliation Scheme Resolution is approved by the Requisite Majorities at the Re-domiciliation Scheme Meeting to be held at Ashurst, Level 11, 5 Martin Place Sydney NSW 2000 at 10:30am (Sydney time) on 8 September 2021. Shareholders will also be able to attend and participate in the Re-domiciliation Scheme Meeting via an online platform. Further details relating to the Re-domiciliation Scheme Meeting are set out in the Notice of Re-domiciliation Scheme Meeting set out at Appendix F to this Explanatory Memorandum.

In considering your vote, I strongly encourage you to read this Explanatory Memorandum (including the Re-domiciliation Independent Expert's Report) in full. You should also consider seeking your own independent professional advice.

I strongly encourage you to vote on this important transaction for BLY.

Section 2.4 provides further information on how you can vote by proxy, by attorney, or if you are a body corporate, a corporate representative, or by attending the Re-domiciliation Scheme Meeting.

### **Further information**

If you have any questions about the Explanatory Memorandum or the Re-domiciliation, please call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) on Business Days from 9.00 am to 5.00 pm (Sydney time) Monday to Friday (excluding public holidays) or consult your financial, legal, taxation or other professional adviser.

I look forward to your continuing involvement with the new Boart Longyear group.

Yours sincerely,



Kevin McArthur  
Chairman  
Boart Longyear Limited

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## 1. WHAT ARE THE KEY DATES AND TIMES?

All dates and times referred to in this Explanatory Memorandum and the documents attached to it are to times in Sydney, Australia except where otherwise stated. The dates set out in the below table are indicative only and may be subject to change. BLY reserves the right to vary the times and dates set out below, subject to the Corporations Act and the approval of any variations by the Court or ASIC where required.

Event	Indicative time/date
<b>Date of this Explanatory Memorandum</b>	29 July 2021
<b>Proxy Cut-Off Time</b> Latest time and date by which completed Proxy Forms must be received by the Registry	10:30am (Sydney time) on 6 September 2021
<b>Voting Entitlement Record Date</b> Time and date for determining eligibility to vote at the Re-domiciliation Scheme Meeting	7.00 pm (Sydney time) on 6 September 2021
<b>Time and date of Re-domiciliation Scheme Meeting</b> To be held at Ashurst, Level 11, 5 Martin Place Sydney NSW 2000.  Shareholders will also be able to attend and participate in the Re-domiciliation Scheme Meeting via an online platform. Further details relating to the Re-domiciliation Scheme Meeting are set out in the Notice of Re-domiciliation Scheme Meeting set out at Appendix F to this Explanatory Memorandum.	10:30am (Sydney time) on 8 September 2021

### Following Shareholder approval of the Re-domiciliation

Event	Indicative time/ date
<b>Second Court Hearing for the Creditors' Schemes</b> Date of the Second Court Hearing for approval of the Creditors' Schemes	16 September 2021
<b>Creditors' Scheme Effective Date</b> (if Creditors' Schemes are approved by Scheme Creditors and the Court)	17 September 2021
<b>Creditors' Scheme Implementation Date</b> The Creditors' Scheme Implementation Date will be the date notified by the Scheme Administrators pursuant to the Restructuring Implementation Deed as the "Proposed Creditors' Scheme Implementation Date", unless another date is determined and notified by a Scheme Administrator in accordance with the Restructuring Implementation Deed, in which case that new date will be the Creditors' Scheme Implementation Date.	23 September 2021
<b>Second Court Hearing for the Re-domiciliation Scheme</b>	28 September 2021

<b>Event</b>	<b>Indicative time/ date</b>
Date of the Second Court Hearing for approval of the Re-domiciliation Scheme	
<b>Re-domiciliation Scheme Effective Date</b> BLY's Shares are suspended from trading at the close of trading on ASX	29 September 2021
<b>Listing of New BLY Parent on ASX</b> New BLY Parent CDIs commence trading on ASX on a deferred settlement basis <sup>1</sup>	30 September 2021
<b>Re-Domiciliation Scheme Record Date</b> Time and date for determining entitlements to New BLY Parent CDIs	7.00 pm (Sydney time) on 1 October 2021
<b>Re-domiciliation Scheme Implementation Date</b> The date of transfer of all Shares to New BLY Parent and issue of New BLY Parent Shares (to be held in the form of New BLY Parent CDIs)	5 October 2021
<b>Commencement of normal trading of New BLY Parent CDIs</b> New BLY Parent CDIs commence trading on ASX on a normal settlement basis and dispatch of holding statements	6 October 2021

This timetable is indicative only and, among other things, is subject to all necessary Court and regulatory approvals and the satisfaction (or waiver, if applicable) of the Re-domiciliation Conditions Precedent. BLY has the right to vary any or all of these dates and times, subject to the approval of the variation by ASX, ASIC, or the Court, where required. Any variation to the timetable set out above will be announced to ASX and notified on BLY's website (<https://www.boartlongyear.com>).

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<sup>1</sup> Assuming New BLY Parent is admitted to the official list of ASX.

## 2. WHAT TO DO AND HOW TO VOTE

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### 2.1 Read the Explanatory Memorandum

You should read this Explanatory Memorandum in full, including Section 5, which contains the BLY Board's beliefs as to the advantages, disadvantages and risks of the Re-domiciliation, before making any decision on how to vote on the Re-domiciliation Scheme Resolution.

It is important that you consider the information disclosed in light of your own particular investment needs, objectives and financial circumstances.

### 2.2 Details of the Re-domiciliation Scheme Meeting

The Re-domiciliation Scheme Meeting will be held on 8 September 2021 at 10:30 am (Sydney time) at Ashurst, Level 11, 5 Martin Place Sydney NSW 2000 .

Shareholders (or their appointed proxies, attorneys or corporate representatives) will also be able to participate in the Re-domiciliation Scheme Meeting online via an online platform at <https://agmlive.link/BLYSM21>. Shareholders who participate in the Re-domiciliation Scheme Meeting via the online platform will be able to listen to the Re-domiciliation Scheme Meeting, cast an online vote and ask questions online. Details of how to access the online platform are contained in the Notice of Re-domiciliation Scheme Meeting at Appendix F.

### 2.3 Entitlement to Attend and Vote

In accordance with Regulation 7.11.37 of the Corporations Regulations and section 5.6.1 of the ASX Settlement Operating Rules, the BLY Board has determined that persons who are registered as a Shareholder on the BLY Share Register as at the Voting Entitlement Record Date (being 7pm (Sydney time) on 6 September 2021) will be entitled to attend and vote at the Re-domiciliation Scheme Meeting. Accordingly, transactions registered after that time will be disregarded for determining which Shareholders are entitled to attend and vote at the Re-domiciliation Scheme Meeting.

### 2.4 Voting

#### **Your vote is important.**

BLY Directors have determined that the Re-domiciliation Scheme is in the best interests of Shareholders and unanimously recommend that Shareholders vote in favour of the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting.

Even if you plan to attend the Re-domiciliation Scheme Meeting online, we encourage you to submit a directed proxy vote as early as possible by completing and returning the proxy form Shareholders will receive either electronically or in hard copy, or lodging your proxy form online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

The Re-domiciliation Independent Expert has concluded that the Re-domiciliation Scheme is, on balance, in the best interests of Shareholders.

Shareholders entitled to attend and vote at the Re-domiciliation Scheme Meeting may vote by:

- attending the Re-domiciliation Scheme Meeting in person;
- attending the Re-domiciliation Scheme Meeting online via the online platform at <https://agmlive.link/BLYSM21>. Details of how to access the online platform are contained in the Notice of Re-domiciliation Scheme Meeting set out in Appendix F;



- appointing a proxy to attend the Re-domiciliation Scheme Meeting in person or via the online platform and vote on your behalf;
- appointing an attorney to attend the Re-Domiciliation Scheme Meeting in person or via the online platform and vote on your behalf; or
- in the case of corporate Shareholders, appointing a corporate representative to attend the Re-domiciliation Scheme Meeting in person or via the online platform and vote on your behalf.

As a result of the potential health risks and the government's restrictions in response to the COVID-19 pandemic from time to time, BLY encourages Shareholders to attend the Re-domiciliation Scheme Meeting online or lodge a proxy in advance of the Re-domiciliation Scheme Meeting, rather than attending the meeting in person.

For the health and safety of all attendees, BLY will be observing social distancing and any other government requirements that apply at the time of the Re-domiciliation Scheme Meeting. BLY will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the Re-domiciliation Scheme Meeting will be held or conducted, information will be provided on BLY's website at <https://www.boartlongyear.com/> and lodged with ASX.

#### **(a) Voting by proxy**

To vote by proxy, you must complete and lodge your Proxy Form by no later than Proxy Cut-Off Time, in accordance with the instructions on the Proxy Form. The Proxy Cut-Off Time is 10:30am (Sydney time), 6 September 2021.

Even if you plan to attend the Re-domiciliation Scheme Meeting online, we encourage you to submit a directed proxy vote as early as possible by completing and returning the proxy form Shareholders will receive either electronically or in hard copy, or lodging your proxy form online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

A Shareholder entitled to cast two or more votes may appoint up to two proxies and specify the proportion or number of votes each proxy may exercise. If the Shareholder does not specify the proportion or number of votes to be exercised, each proxy may exercise half of the Shareholder's votes.

If a body corporate is appointed as a proxy, that body corporate must ensure that it appoints a corporate representative in accordance with section 250D of the Corporations Act to exercise its powers as proxy at the Re-domiciliation Scheme Meeting.

Details for completion and lodgement of proxies are on the reverse side of the **Proxy Form**. To be effective, the proxy must be received at the Registry no later than 10:30am (Sydney time) on 6 September 2021. Proxies must be received before that time by one of the following methods:

Online: [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au)

By post: Boart Longyear Limited  
c/ - Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia

Facsimile: In Australia (02) 9287 0309  
From outside Australia +61 2 9287 0309

By delivery: Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia

(b) **Voting by attorney**

If voting by attorney, the power of attorney appointing the attorney must be duly signed by you and specify the name of each of the Shareholder, the Company and the attorney, and also specify the meetings at which the appointment may be used.

The power of attorney, or a certified copy of the power of attorney, must be received by the Registry by 10:30am (Sydney time) on 6 September 2021 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- (i) by post in the provided reply-paid envelope to the Registry at the following address:

Boart Longyear Limited  
c/ - Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia

- (ii) by delivery to the following address:

Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia

- (iii) by fax to the Registry on:

In Australia (02) 9287 0309

From outside Australia +61 2 9287 0309

Please note that the power of attorney or a certified copy of the power of attorney cannot be lodged online or by a mobile device.

If attending:

- in **person**, attorneys of eligible Shareholders will be admitted to the Re-domiciliation Scheme Meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, (as previously provided to the Registry in accordance with the requirements set out above), their name and address, and the name of their appointors;
- **online**, by logging into the virtual meeting platform at <https://agmlive.link/BLYSM21> and register to view the meeting by entering your name and contact details, to register as a shareholder and vote, click the "get a Voting Card" option on the screen. You will be required to enter your SRN or HIN and postcode or country to proceed. Once you have your voting card, it may be submitted at any time during the meeting.

For further information, please refer to the Virtual Meeting Guide at Annexure G to the Explanatory Memorandum.

Your appointment of an attorney does not preclude you from attending in person and voting at the meeting.

(c) **Voting by corporate representative**

A body corporate that is a Shareholder who is eligible to vote on the Re-domiciliation Scheme Resolution, or that has been appointed as a proxy by a Shareholder eligible to vote on the Re-domiciliation Scheme Resolution, is entitled to appoint any person to act as its representative at the Re-domiciliation Scheme Meeting. The appointment of the representative must comply with the requirements under section 250D of the Corporations Act meaning that BLY will require a certificate of appointment of body corporate representative to be executed by you in accordance with the Corporations Act.. An appointment form may be obtained from the Registry by calling + 61 1800 781 633 (within and outside Australia) Monday to Friday between 9:00am to 5:00pm (AEST). The certificate of appointment may set out restrictions on the representative's powers.

If the corporate representative will be attending the Re-domiciliation Scheme Meeting in person, the corporate representative must bring a copy of the appointment form with it to the Re-domiciliation Scheme Meeting.

Except where the corporate representative is attending the Re-domiciliation Scheme Meeting in person, the appointment form must be received by the Registry by 10:30am (Sydney time), 6 September 2021 (or, if the Re-domiciliation Scheme Meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- (i) by post in the provided reply-paid envelope to the Registry at the following address:

Boart Longyear Limited  
c/ - Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia

- (ii) by delivery to the following address:

Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia

- (iii) by fax to the Registry on:

In Australia (02) 9287 0309

From outside Australia +61 2 9287 0309

Please note that an appointment form for appointing body corporate representative cannot be lodged online or by a mobile device.

If an appointment form is completed by an individual or corporation under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed appointment form unless the power of attorney or other authority has previously been noted by the Registry.

If attending:

- **in person**, corporate representatives of eligible Shareholders will be admitted to the Re-domiciliation Scheme Meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, their name and address and the name of their appointors; or
- **online**, by logging into the virtual meeting platform at <https://agmlive.link/BLYSM21> and register to view the meeting by entering your name and contact details, to register as a shareholder and vote, click the "get a Voting Card" option on the screen. You will be required to enter your SRN or HIN and postcode or country to proceed. Once you have your voting card, it may be submitted at any time during the meeting.

For further information, please refer to the Virtual Meeting Online Guide at Annexure G.

## 2.5 **How to ask questions**

Shareholders who would like to ask questions at the Re-domiciliation Scheme Meeting are encouraged to do so in writing by submitting your question to the Registry by 5.00 pm on Wednesday, 1 September 2021. You can also submit your questions in advance of the Re-domiciliation Scheme Meeting online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) by 10.30 am on Monday, 6 September 2021.

Alternatively, Shareholders can submit questions when attending the Re-domiciliation Scheme Meeting either in person or, if attending online, via the online platform. More information regarding how to participate in the Re-domiciliation Scheme Meeting online (including how to ask questions online during the meeting) is available in the Virtual Meeting Online Guide which is set out in Appendix G.

## 2.6 **Technical difficulties**

Technical difficulties may arise during the course of the Re-domiciliation Scheme Meeting. The Chairman has discretion as to whether and how the Re-domiciliation Scheme Meeting should proceed in the event that a technical difficulty arises. In exercising their discretion, the Chairman will have regard to the number of Shareholders impacted and the extent to which participation in the business of the Re-domiciliation Scheme Meeting is affected. In these circumstances, where the Chairman considers it appropriate, the Chairman may continue to hold the Re-domiciliation Scheme Meeting and transact business, including conducting a poll and voting in accordance with valid proxy instructions. For this reason, Shareholders are encouraged to lodge a proxy by 10:30am (Sydney time) on 6 September 2021 even if they plan to attend the Re-domiciliation Scheme Meeting online.

## 2.7 **Further information**

If you have any additional questions in relation to this Explanatory Memorandum or the Re-domiciliation, please call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) on Business Days from 9.00am to 5.00pm (Sydney time) Monday to Friday (excluding public holidays).

Alternatively, you should consult your financial, legal, taxation or other independent and appropriately licensed and authorised professional adviser.

### 3. OVERVIEW OF THE RE-DOMICILIATION SCHEME

#### 3.1 Background

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In considering the proposed Re-domiciliation, the Company has reviewed the benefits, disadvantages and risks of maintaining its corporate and tax domiciliation in Australia, as compared to a re-domiciliation to Canada or the United States. The Company's analysis included a review of several factors including, but not limited to, the existing business substance in Canada, the desires of the major shareholders, political stability, the general regulatory environment, the ease and access to the Canadian legal system and the sophistication of the Canadian financial market (specifically within the mining sector).

The BLY Board has determined that New BLY Parent should be incorporated in Ontario, Canada and listed on ASX.

The reasons why the BLY Board decided to re-domicile to Canada rather than the United States include that BLY considers that:

- (a) there is a greater understanding of BLY's history in Canada given the longstanding mining heritage and familiarity in Canada with BLY's brand.
- (b) there is a larger pool of mining and drilling peers located in Canada as compared to the United States which is more likely to create incremental liquidity for BLY if New BLY Parent pursues a dual listing in Canada as compared to the United States;
- (c) the Canadian investor base will be a more receptive audience having regard to the larger pool of mining and drilling peers located in Canada;
- (d) analyst coverage in Canada tends to be broader for companies of BLY's size and that should increase the likelihood of analyst coverage of BLY;
- (e) there is less onerous ongoing regulatory and reporting obligations in Canada compared to the United States; and
- (f) there is a higher likelihood of appropriate index inclusion for BLY.

The Re-domiciliation will not be implemented until after the Recapitalisation has been implemented in accordance with the Recapitalisation Documents. Further information regarding the Recapitalisation and the Recapitalisation Transactions is set out in Section 3.5 to 3.8 below.

#### 3.2 Re-domiciliation

If the Re-domiciliation is implemented, BLY will become a wholly-owned subsidiary of New BLY Parent and those Shareholders who are Scheme Shareholders (other than Ineligible Foreign Shareholders) will hold New BLY Parent CDIs instead of Shares. The New BLY Parent will apply to be listed on ASX and BLY will be delisted from ASX. New BLY Parent will effectively replace BLY as the listed entity on ASX.

A New BLY Parent CDI is a CHESS Depository Interest (**CDI**) over a New BLY Parent Share. New BLY Parent CDIs will be traded on ASX using CHESS, whereas New BLY Parent Shares cannot be traded on ASX. Each New BLY Parent CDI will represent a beneficial interest in one New BLY Parent Share. A New BLY Parent CDI has the same economic benefits (such as dividends, bonus issues, rights issues) as a New BLY Parent Share, and substantially the same voting rights. Trading in New BLY Parent CDIs is not substantially different to trading in other CHESS approved securities (such as Shares).

All Scheme Shareholders (other than Ineligible Foreign Shareholders) will receive one New BLY Parent Share (held in the form of a New BLY Parent CDI) for each Share held on the Re-domiciliation Scheme Record Date. There is no option for Scheme Shareholders to elect to receive cash instead of New BLY Parent CDIs. However, once New BLY Parent CDIs have commenced trading on ASX, New BLY Parent CDIs will be able to be bought and sold on ASX.

Ineligible Foreign Shareholders will not receive New BLY Parent CDIs and instead will receive the net proceeds from the sale of the New BLY Parent CDIs to which they would otherwise have been entitled under the Sale Facility (see Section 3.19 for more information).

### 3.3 Selective Buy-Back

Prior to the implementation of the Re-domiciliation, the Company will offer certain eligible Shareholders holding small parcels of Shares worth less than A\$3,000 (being the "**Eligible SBB Shareholders**") the opportunity to participate in a selective buy-back of their shares. The maximum aggregate amount that BLY will spend to buy-back Shares under the Selective Buy-Back will be US\$500,000. The Selective Buy-Back is subject to Shareholders approving the Re-domiciliation Scheme Resolution by the requisite majorities, Shareholders approving the Selective Buy-Back at the EGM and the Creditors' Schemes becoming Effective.

Under the Selective Buy-Back, Eligible SBB Shareholders will be entitled to offer to sell their Shares to the Company at a sale price of A\$2.48 per Share (calculated on a post Share Consolidation basis) which is the same price as the implied issue price of Shares issued under the Creditors' Schemes.

The Company may in its absolute discretion determine whether to accept (in whole or in part) or reject an offer to sell Shares received by the Company from Eligible SBB Shareholders.

The Selective Buy-Back is intended to give Eligible SBB Shareholders who hold small parcels of Shares the opportunity to exercise a cash-out option in lieu of retaining their existing Shares, noting that existing Shareholders will be significantly diluted following implementation of the Recapitalisation and may not wish to hold CDIs in the redomiciled Canadian company if the Re-domiciliation proceeds. The Selective Buy-Back will provide Eligible SBB Shareholders with the opportunity to sell their Shares without incurring brokerage fees and other expenses.

### 3.4 What are the conditions precedent to the Re-domiciliation Scheme?

The Re-domiciliation Scheme is conditional upon the satisfaction or waiver of a number of conditions precedent (being the **Re-domiciliation Conditions Precedent**). The Re-domiciliation Conditions Precedent are set out in clause 2.1 to the Re-domiciliation Scheme.

As at the date of this Explanatory Memorandum, the following Re-domiciliation Conditions Precedent remain outstanding:

No.	Condition Precedent	Status
1.	<b>(Re-domiciliation Scheme Resolution)</b> the Re-domiciliation Scheme Resolution is approved by the Requisite Majorities at the Re-domiciliation Scheme Meeting.	The Re-domiciliation Scheme Meeting to consider the Re-domiciliation Scheme Resolution will be held at 10:30am (Sydney time) on 8 September 2021 at Ashurst, Level 11, 5 Martin Place Sydney NSW 2000..

No.	Condition Precedent	Status
2.	<p><b>(Court approval – Re-domiciliation)</b> the Re-domiciliation Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act and an office copy of the order of the Court is lodged with ASIC.</p>	<p>Court approval of the Re-domiciliation Scheme will be sought at the Second Court Hearing on 28 September 2021.</p>
3.	<p><b>(Court approval – Creditors' Schemes)</b> each of the Creditors' Schemes is approved by the Court in accordance with section 411(4)(b) of the Corporations Act and an office copy of the order(s) of the Court is lodged with ASIC.</p>	<p>Court approval of each of the Creditors' Scheme will be sought on 16 September 2021.</p>
4.	<p><b>(Completion of implementation of Creditors' Scheme)</b> Step 1 (<i>Issue of Shares and New Warrants</i>) to Step 8 (<i>Confirmation of Scheme Restructuring Effective Time</i>) (inclusive) of clause 8 to the Restructuring Implementation Deed have been completed in accordance with the Restructuring Implementation Deed</p>	<p>This condition precedent currently remains outstanding</p>
5.	<p><b>(FIRB approval – New BLY Parent)</b> before 8.00am (Sydney time) on the Second Court Date, either:</p> <p>(a) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to New BLY Parent acquiring all Shares pursuant to the Re-domiciliation Scheme (<b>Proposed New BLY Parent Re-domiciliation Acquisition</b>), either without conditions or subject only to standard tax conditions or any other condition which is acceptable to acceptable to New BLY Parent acting reasonably; or</p> <p>(b) following notice of the Proposed New BLY Parent Re-domiciliation Acquisition having been given by New BLY Parent to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.</p>	<p>This condition precedent currently remains outstanding</p>

No.	Condition Precedent	Status
6.	<p>(<b>FIRB approval – CBP</b>) before 8.00am (Sydney time) on the Second Court Date, either:</p> <p>(a) the Treasurer (or the Treasurer's delegate) has provided notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any CBP Member (or any of their respective related bodies corporate) directly or indirectly acquiring an interest in the New BLY Parent Shares pursuant to the Re-domiciliation Scheme (<b>Proposed CBP Re-domiciliation Acquisition</b>) either without conditions or subject only to the standard tax conditions or any other condition which is acceptable to CBP acting reasonably; or</p> <p>(b) following notice of the Proposed CBP Re-domiciliation Acquisition having been given by CBP to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.</p>	This condition precedent currently remains outstanding
7.	<p>(<b>FIRB approval – AHG</b>) before 8.00am (Sydney time) on the Second Court Date, either:</p> <p>(a) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, the Australian government does not object to any AHG Member (or any of their respective related bodies corporate) directly or indirectly acquiring any interest in New BLY Parent Shares pursuant to the Re-domiciliation Scheme (<b>Proposed AHG Re-domiciliation Acquisition</b>) either without conditions or subject only to standard tax conditions or conditions which is acceptable to</p>	This condition precedent currently remains outstanding



No.	Condition Precedent	Status
	<p>that AHG Member acting reasonably; or</p> <p>(b) following notice of the Proposed AHG Re-domiciliation Acquisition having been given by AHG to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.</p>	
8.	<b>(Other authorisations)</b> as at 8:00am (Sydney time) on the Second Court Date, all authorisations which New BLY Parent and BLY agree in writing are necessary for implementation of the Re-domiciliation Scheme are obtained.	Refer to Section 11.7.
9.	<b>(No legal restraint)</b> as at 8:00am (Sydney time) on the Second Court Date, no temporary restraining order, preliminary or permanent injunction or other order being issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the implementation of the Re-domiciliation Scheme is in effect.	As at the date of this Explanatory Memorandum, BLY is not aware of anything that will cause this condition not to be satisfied.
10.	<b>(ASX Admission)</b> before 8:00am (Sydney time) on the Second Court Date, ASX approves the admission of New BLY Parent to the official list of ASX and official quotation of New BLY Parent Shares (represented by New BLY Parent CDIs) on ASX, which approval may be conditional on the Re-domiciliation Scheme becoming Effective and other such conditions as acceptable to BLY and New BLY Parent.	BLY will apply for the official quotation of New BLY Parent Shares (represented by New BLY Parent CDIs) and Ordinary Warrants on ASX as soon as practicable and, in any event, within seven days of this Explanatory Memorandum.
11.	<b>(Authorised Nominee)</b> before 8:00am on the Second Court Date New BLY Parent has appointed the Authorised Nominee and the Authorised Nominee has agreed to the allotment to it of New BLY Parent Shares under the Re-domiciliation Scheme.	BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum
12.	<b>(Sale Agent)</b> before 8:00am on the Second Court Date New BLY Parent has appointed the Sale Agent and the Sale Agent has agreed to sell the Sale	BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum

No.	Condition Precedent	Status
	Securities in the manner contemplated under the Re-domiciliation Scheme.	

### 3.5 Summary of the Recapitalisation Transactions

Subject to the conditions precedent to the Creditors' Schemes, which are summarised in Section 3.6 below, the Recapitalisation Transactions contemplate the transactions set out in Sections 3.5(a) to 3.5(f)

The table set out below provides an overview of the share price for each of the Share Purchase Plan and the Selective Buy-Back (being options available to Shareholders) and the CSPO (being an option available to Scheme Creditors).

Shareholder Transactions	Pricing (on a post-Share Consolidation basis)
Issue of new shares under Share Purchase Plan (as summarised in Section 3.5(b))	A\$2.48 per share
Buy back of existing shares under Selective Buy-Back (as summarised in Section 3.3)	A\$2.48 per share
Scheme Creditor Transactions	Pricing (on a post-Share Consolidation basis)
Issue of new shares under Creditor Share Purchase Option (as summarised in Section 3.5(c))	A\$2.48 per share

#### *The Creditors' Schemes*

- (a) The Creditors' Schemes will effect a release of all outstanding amounts under the Term Loan A, Term Loan B, SSN Indenture and SUN Indenture in consideration for:
- (i) the issuance to the TLA Purchasers, TLB Purchasers, SSN Noteholders and SUN Noteholders of Shares equal to in aggregate 98.5% of BLY's post-Recapitalisation ordinary shares (before (1) the issue of any Shares on the exercise of any New Warrants, Existing Warrants and BLY Options, (2) the issue of any Shares under the Share Purchase Plan and Creditor Share Purchase Option, (3) any buy-back of Shares under the Selective-Buy-Back, and (4) the issue of any Shares under any management incentive plan);
  - (ii) the issuance of the New Warrants to SUN Noteholders in accordance with the terms of the Unsecured Creditors' Scheme with a strike price per Warrant Share of A\$2.79; and
  - (iii) the offer, first to SUN Noteholders, then to TLA Purchasers, TLB Purchasers and SSN Noteholders of the opportunity to purchase Shares under the Creditor Share Purchase Option, described below.

### *Share Purchase Plan*

- (b) BLY proposes to offer Eligible SPP Shareholders the opportunity to subscribe for up to A\$30,000 worth of Shares at the SPP Issue Price (being A\$2.48 per Share) (calculated on a post Share Consolidation basis), subject to an aggregate cap of US\$2.5 million. Shares issued under the Share Purchase Plan will be issued on the Creditors' Scheme Implementation Date (and after the Share Consolidation).

The Share Purchase Plan will allow Eligible SPP Shareholders the opportunity to increase their equity holding in BLY following dilution of their existing shareholding. This will allow certain Eligible SPP Shareholders, whose shareholding will be diluted under the Creditors' Schemes, the opportunity to maintain a more meaningful equity interest in the Company following completion of the Recapitalisation.

To the extent that the Share Purchase Plan is oversubscribed (ie where Eligible SPP Shareholders subscribe for an aggregate amount of Shares that exceeds the US\$2.5 million aggregate cap), participating Eligible SPP Shareholders' subscriptions will be scaled back (such that they will acquire a pro-rata percentage of the US\$2.5 million cap, calculated by reference to the amount that the participating Eligible SPP Shareholder elected to take up under the Share Purchase Plan).

To the extent that the Share Purchase Plan is undersubscribed (ie where Eligible SPP Shareholders do not subscribe for an aggregate amount of Shares that equals or exceeds the US\$2.5 million aggregate cap), the remaining Shares not subscribed for under the Share Purchase Plan will be offered under, and in accordance with the terms of, the Creditor Share Purchase Option (described further below).

Proceeds received by the Company under the Share Purchase Plan will be applied to pay down the outstanding balance under the Existing PNC ABL.

### *Creditor Share Purchase Option*

- (c) SUN Noteholders, TLA Purchasers, TLB Purchasers and SSN Noteholders who are Secured Scheme Creditors or Unsecured Scheme Creditors will have the opportunity to subscribe for Shares at an issue price of A\$2.48 per Share (**CSPO Issue Price**). The total amount to be raised by BLY under the Creditor Share Purchase Option is an amount equal to the aggregate of US\$2.5 million plus any unsubscribed amount under the Share Purchase Plan (the **CSPO Cap Amount**). The Shares will be allocated by BLY under the Creditor Share Purchase Option in accordance with the allocation principles described below. The Shares issued under the Creditor Share Purchase Option will rank equally with BLY's existing fully paid ordinary shares on issue as at the date of their issue (which will occur after the Share Consolidation).

Shares will be allocated by BLY under the Creditor Share Purchase Option in accordance with the following principles (**CSPO Allocation Principles**):

- (i) **(Firstly, allocations to Participating SUN Noteholders)**: Shares will first be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on the following basis:
- (A) *(Initial pro rata allocation to Participating SUN Noteholders)*: the Shares available under the CSPO Cap Amount will initially be allocated to Participating SUN Noteholders (or their Permitted CSPO Nominee) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Participating SUN Noteholder as at the Creditors' Schemes Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Participating SUN Noteholders as at the Creditors'

Schemes Voting Entitlement Record Date, provided that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to the Maximum Committed Securities number specified in the relevant section titled 'Creditor Share Purchase Option' of their SUN Account Holder Letter; and

- (B) *(Allocation of undersubscriptions to other Participating SUN Noteholders)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the initial pro rata allocation to Participating SUN Noteholders (or their Permitted CSPO Nominee) under paragraph (i)(A) above, the remaining available Shares will be allocated to the Participating SUN Noteholders (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (i)(A) above (**Oversubscribing Participating SUN Noteholders**) on a pro rata basis in the same proportions as the amount of SUN Debt held (or deemed to be held) by each particular Oversubscribing SUN Noteholder as at the Creditors' Scheme Voting Entitlement Record Date represents of the total amount of SUN Debt held (or deemed to be held) by all Oversubscribing Participating SUN Noteholders as at the Creditors' Scheme Voting Entitlement Record Date, provided always that the maximum number of Shares that will be allocated to a Participating SUN Noteholder (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:
  - (aa) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
  - (bb) each Participating SUN Noteholder (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their SUN Account Holder Letter; and
- (ii) **(Secondly, allocations to Other CSPO Participants):** If the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocation of Shares to Participating SUN Noteholders (or their Permitted CSPO Nominees) under paragraph (i) above, then the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on the following basis:
  - (A) *(Initial pro rata allocation to Other CSPO Participants)* the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Other CSPO Participant under the Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Other CSPO Participants (or their Permitted CSPO Nominees) pursuant to the Creditor Share Purchase Option will be the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter; and
  - (B) *(Allocation of undersubscriptions to Other CSPO Participants)* if the total number of Shares available under the CSPO Cap Amount are not fully allocated as a result of the allocations under paragraphs (i) and

(ii)(A) above, the remaining available Shares will be allocated to the Other CSPO Participants (or their Permitted CSPO Nominees) whose Maximum Committed Securities exceeded their respective initial pro rata allocation under paragraph (ii)(A) above (**Oversubscribing Other CSPO Participants**) on a pro rata basis in the same proportions as the number of the Shares allocated to each particular Oversubscribing Other CSPO Participant under the Creditors' Schemes (not including Shares under the Creditor Share Purchase Option) represents of the total number of Shares allocated to all Oversubscribing Other CSPO Participants under the Creditors' Schemes (not including Shares under the Creditor Share Purchase Option), provided always that the maximum number of Shares that will be allocated to an Other CSPO Participant (or their Permitted CSPO Nominee) pursuant to the Creditor Share Purchase Option will be equal to their Maximum Committed Securities. This allocations process will be repeated until either:

- (aa) the total number of Shares available under the CSPO Cap Amount have been fully allocated; or
- (bb) each Other CSPO Participant (or their Permitted CSPO Nominee) has been allocated a number of Shares equal to the Maximum Committed Securities number specified in their TLA Proof of Debt Form, TLB Proof of Debt Form or SSN Account Holder Letter.

#### *New Warrants*

- (d) Pursuant to the Unsecured Creditors' Scheme and the Restructuring Implementation Deed, SUN Noteholders will be issued such number of New Warrants which, in aggregate, confer the right to call for the issue of such number of shares (in BLY or the New BLY Parent, depending on whether the Re-domiciliation Scheme is approved) that would result in SUN Noteholders, assuming all New Warrants were exercised, holding 10% of the total post-recapitalisation Shares on issue (with the total number of Shares on issue for the purposes of this calculation determined (1) including the new Shares that would be issued on exercise of the New Warrants, (2) before the issue of any Shares on the exercise of any Existing Warrants and BLY Options (3) before the issue of any Shares under the Share Purchase Plan and the Creditor Share Purchase Option, (4) before any buy-back of Shares under the Selective Buy-Back and (5) before the issue of any Shares under any management incentive plan).

The terms of the New Warrants are set out the New Warrant Deed Poll at Schedule 11 to the Unsecured Creditors' Scheme. The strike price per Warrant Share is A\$2.79.

#### *Share Consolidation*

- (e) As part of the Recapitalisation, BLY is proposing that prior to the issue of Shares under the Creditors' Schemes, the Share Purchase Plan and the Creditor Share Purchase Option (and completion of the purchase by the Company of any Shares under the Selective Buy-Back), the Shares be consolidated through the consolidation of every 20 fully paid ordinary Shares into 1 fully paid ordinary Share (**Share Consolidation**).

The Share Consolidation is proposed to occur prior (rather than subsequent) to implementation of the Creditors' Schemes so that all securities issued under the Recapitalisation Transactions are issued on a post-Share Consolidation basis. The

Share Consolidation will only occur if all of the Recapitalisation Resolutions are passed by the requisite majorities of Shareholders at the EGM. The effective date of the Share Consolidation is expected to be 16 September 2021.

#### *Exit Financing*

- (f) BLY US (or another BLY group member) as borrower, and other BLY Group members as guarantors, will enter into the Exit Financing Facility to fully refinance the Existing Backstop ABL and the Incremental Finance Facility. The Exit Financing Facility will take the form of a five year term loan facility with a total commitment of US\$115,000,000.

#### *Nominee Directors*

- (g) Under the terms of the Restructuring Support Agreement, BLY has agreed that the post-Recapitalisation composition of the BLY Board, and if the Re-domiciliation is implemented, the New BLY Parent Board, will consist of nine directors and include:
  - (i) five (5) directors nominated by CBP;
  - (ii) three (3) directors nominated by the Ad Hoc Group; and
  - (iii) the Chief Executive Officer.

The above nomination rights will be further documented by the BLY Director Nomination Agreements pursuant to which, whilst the BLY Board is comprised of nine directors, BLY will grant to CBP the right to nominate up to five individuals for appointment to the BLY Board, and the Ad Hoc Group the right to nominate up to three individuals for appointment to the BLY Board.

If the Re-domiciliation is approved and implemented, the director nomination rights contemplated by the RSA will be documented by director nomination agreements pursuant to which the New BLY Parent will grant CBP the right to nominate up to five individuals, and the Ad Hoc Group the right to nominate up to three persons, for appointment to the board of directors of the New BLY Parent board. The New BLY Parent Director Nomination Agreements will be governed by Canadian law.

The BLY Director Nomination Agreements (and, if the Re-domiciliation is approved and implemented, the New BLY Parent Director Nomination Agreements) will replace existing director nomination rights granted to CBP, Ares and Ascribe under the current director nomination agreements between those parties and BLY.

In the event that the BLY Board increases in size from nine to ten directors at any time (excluding alternate directors) in accordance with its constitution, and provided that increase was not caused by an act of the Centerbridge Board Nominees, Centerbridge or an associate of Centerbridge, so long as Centerbridge holds, in aggregate, Retained Shares which represent 40% or more of the issued Shares in the Company, Centerbridge will have the right to nominate six directors for appointment to the BLY Board.

In accordance with the Articles and By-Laws, the New BLY Parent Board shall comprise a maximum of nine directors.

### 3.6 Conditions to the Creditors' Schemes

The Creditors' Schemes are conditional upon the satisfaction or waiver of the following conditions precedent:

No	Condition Precedent	Status
1.	<p>(<b>FIRB approval – CBP</b>) before 8.00am (Sydney time) on the Creditors' Scheme Second Court Date, either:</p> <p>(a) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any CBP member (or any of their permitted assignees) directly or indirectly acquiring New Common Equity and, if applicable, New Warrants pursuant to the RSA Transactions (<b>Proposed CBP Acquisitions</b>), and such approval is not subject to any conditions other than the Standard Tax Conditions or any other conditions acceptable to each CBP member acting reasonably; or</p> <p>(b) following notice of the Proposed CBP Acquisitions having been given by CBP to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.</p>	This condition precedent is currently outstanding
2.	<p>(<b>FIRB approval – AHG</b>) before 8.00am (Sydney time) on the Creditors' Scheme Second Court Date, either:</p> <p>(a) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any AHG Member (or any of their permitted assignees) directly or indirectly acquiring the New Common Equity and, if applicable the New Warrants pursuant to the RSA Transactions (<b>Proposed AHG Acquisition</b>), and such approval is not subject to any conditions other than the Standard Tax Conditions or</p>	This condition precedent is currently outstanding

	<p>any other conditions acceptable to each AHG Member acting reasonably; or</p> <p>(b) following notice of the Proposed AHG Acquisition having been given by AHG to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired.</p>	
3.	<p><b>(Non-Associated Shareholder approval)</b> Non-Associated Shareholders approving the Recapitalisation Resolutions at the EGM by the requisite majorities.</p>	<p>The meeting of Non-Associated Shareholders will be held at Ashurst, Level 11, 5 Martin Place Sydney NSW 2000 on 8 September 2021 at 10:00am.</p>
4.	<p><b>(ASX approval)</b> at or before 8.00 am on the Creditors' Scheme Second Court Date, ASX provides written confirmation that the terms of the New Warrants are appropriate and equitable for the purposes of ASX Listing Rule 6.1 or otherwise waives the requirement for the New Warrants to comply with ASX Listing Rule 6.1.</p>	<p>This condition precedent is currently outstanding</p>
5.	<p><b>(Director nomination agreements)</b> at or before 8.00 am on the Creditors' Scheme Second Court Date, the BLY Director Nomination Agreements have been executed by the parties to those agreements.</p>	<p>BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum</p>
6.	<p><b>(deeds poll)</b> at or before 8.00 am on the Creditors' Scheme Second Court Date, the Scheme Administrators Deed Poll and the Obligors Deed Poll has been executed by the Scheme Administrators and the Obligors, respectively and no such deed poll has been terminated.</p>	<p>BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum</p>
7.	<p><b>(undertakings)</b> at or before 8.00 am on the Creditors' Scheme Second Court Date:</p> <ul style="list-style-type: none"> <li>i. the Undertakings have been executed by the Agents, the TLB Collateral Agent, the SSN Trustee and the SUN Trustee and continue to benefit the beneficiaries named in those undertakings in accordance with their terms; and</li> <li>ii. no such Undertakings have been terminated.</li> </ul>	<p>BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum</p>



8.	<p><b>(Exit Financing)</b> as at 8.00 am on the Creditors' Scheme Second Court Date, the credit agreement for the Exit Financing Facility has been duly executed and delivered by all parties to it and all conditions precedent to the initial drawing under the Exit Financing Facility have been satisfied, other than any conditions relating to:</p> <ul style="list-style-type: none"> <li>i. the Secured Creditors' Scheme and the Unsecured Creditors' Scheme becoming Effective;</li> <li>ii. no amendments, waivers or modifications to the Restructuring Support Agreement, the Restructuring Implementation Deed or the Creditors' Schemes having been made since 8:00am on the Creditors' Schemes Second Court Date, other than any amendments, waivers or modifications that are not materially adverse to the interests of the Exit Financiers unless the prior written consent of the Exit Financiers was obtained (such consent not to be unreasonably withheld or delayed);</li> <li>iii. each Implementation Step in clauses 8(a) (<i>Step 1 (Issue of Shares and New Warrants)</i>) and 8(b) (<i>Step 2 (Releases)</i>) of the Restructuring Implementation Deed having been completed in accordance with their terms); and</li> <li>iv. any conditions which the Exit Financier has agreed to waive of defer.</li> </ul>	BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum
9.	<p><b>(Regulatory Approvals)</b> as at 8.00 am on the Creditors' Scheme Second Court Date, any approvals or consents, which are not otherwise described in the conditions precedent to the Creditors' Schemes but which are required by law or by any Government Agency to have been obtained by the Scheme Companies to implement the Creditors' Schemes, have</p>	BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum

	been obtained on an unconditional basis and remain in full force and effect.	
10.	<b>(Restructuring Support Agreement)</b> as at 8.00 am on the Creditors' Scheme Second Court Date, the Restructuring Support Agreement has not been terminated in accordance with its terms and each of the conditions precedent in clause 5.1 of the Restructuring Support Agreement (other than the condition relating to condition 10 ( <i>Court approval</i> ) and condition 17 ( <i>Exit Financing</i> )) have either been satisfied or waived in accordance with the terms of the Restructuring Support Agreement.	As at the date of this Explanatory Memorandum, BLY is not aware of anything that will cause this condition not to be satisfied
11.	<b>(Restructuring Implementation Deed)</b> as at 8.00 am on the Creditors' Scheme Second Court Date, the Restructuring Implementation Deed has been duly executed and delivered by all parties to the Restructuring Implementation Deed, save for each party to that document relying on authorities or instructions given under, or in connection with, the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.	BLY anticipates that this condition precedent will be satisfied shortly after the date of this Explanatory Memorandum
12.	<b>(Court approval)</b> the Creditors' Schemes are approved by the Court, including with such alternations or conditions required by the Court under section 411(6) of the Corporations Act and the alterations or conditions (if any) satisfy at least one of the following: <ul style="list-style-type: none"> <li>i. they do not change the substance of the Secured Creditors' Scheme or the Unsecured Creditors' Scheme in any material respect or impose unduly onerous obligations on any of the parties, acting reasonably; or</li> <li>ii. they have the approval of at least 75% of the Secured Scheme Creditors' or the Unsecured Scheme Creditors who voted at the applicable Creditors' Scheme Meetings and each obligor.</li> </ul>	Court approval of the Creditors Scheme will be sought at the Second Court Hearing on 16 September 2021.
13.	<b>(Effective)</b> The Creditors' Schemes become Effective.	Subject to the Court approving the Creditors' Schemes, BLY anticipates this condition precedent will be satisfied on 17 September 2021

**3.7 What happens to the Re-domiciliation if the Recapitalisation does not proceed?**

The Re-domiciliation is conditional on the Creditors' Scheme becoming effective. If the Creditors' Schemes do not become effective, the Re-domiciliation will not be implemented.

For more information about the potential consequences of the Re-domiciliation not proceeding, see Section 3.20.

**3.8 What happens to the Recapitalisation if the Re-domiciliation fails?**

The Creditors' Schemes are not conditional on the implementation of the Re-domiciliation Scheme. Accordingly, if the Re-domiciliation Scheme Resolution is not approved by the Requisite Majorities or the Court does not approve the Re-domiciliation Scheme, but the Creditors' Schemes are approved by Creditors and the Court and all other applicable conditions to the Creditors' Schemes are satisfied (or, if applicable, waived), the Recapitalisation will still proceed.

Further, if the Re-domiciliation Scheme is not approved by the Requisite Majorities, the Selective Buy-Back will not proceed and Eligible SBB Shareholders will not have the opportunity to sell their Shares under the Selective Buy-Back.

**3.9 What is the opinion of the Re-domiciliation Independent Expert?**

The Re-domiciliation Independent Expert has concluded that the Re-domiciliation Scheme is, on balance, in the best interests of Shareholders. A copy of the Re-domiciliation Independent Expert's Report is set out in Appendix A to this Explanatory Memorandum.

**3.10 What are the consequences of BLY re-domiciling to Canada?**

As the New BLY Parent is a company incorporated in Ontario, Canada, its general corporate activities (apart from any offering of securities in Australia) are not regulated by the Corporations Act or ASIC, but instead are regulated by the Ontario Business Corporations Act (**OBCA**). However, as a foreign company registered in Australia, New BLY Parent will be subject to certain provisions of the Corporations Act and, subject to ASX approving the admission of New BLY Parent to the official list of the ASX and the quotation of the New BLY Parent Shares (represented by New BLY Parent CDIs) and Ordinary Warrants, will be subject to the ASX Listing Rules.

If the Re-domiciliation Scheme is implemented, all Scheme Shareholders (other than Ineligible Foreign Shareholders) will receive New BLY Parent CDIs on the Re-domiciliation Scheme Implementation Date.

For further information on the implications of New BLY Parent being a Canadian company (including the ability to convert New BLY Parent CDIs to New BLY Parent Shares), see Section 8 and Appendix F.

**3.11 What vote is required to approve the Re-domiciliation Scheme?**

For the Re-domiciliation Scheme to proceed, it must be approved by the Requisite Majorities, being:

- (a) a majority in number (more than 50%) of those Shareholders present and voting at the Re-domiciliation Scheme Meeting in person, by proxy, by attorney or (in the case of a corporate Shareholder or proxy) by a corporate representative; and
- (b) at least 75% of the total number of votes cast on the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting by Shareholders.

### 3.12 **What happens if I do not vote at the Re-domiciliation Scheme Meeting or do not vote in favour of the Re-domiciliation?**

The Re-domiciliation cannot be implemented, and the Selective Buy-Back will not proceed, unless the Re-domiciliation Scheme Resolution is passed by the Requisite Majorities at the Re-domiciliation Scheme Meeting.

If you do not vote at the Re-domiciliation Scheme Meeting, or vote against the Re-domiciliation Scheme Resolution, then the Re-domiciliation may not be approved.

However, even if you do not vote, or if you vote against Re-domiciliation Scheme Resolution, the Re-domiciliation may still be approved. If the Re-domiciliation Scheme Resolution is passed by the Requisite Majorities, then, subject to the Court approving the Re-domiciliation Scheme and all other Re-domiciliation Conditions Precedent to the Re-domiciliation Scheme being satisfied or (if applicable) waived, the Re-domiciliation Scheme will be implemented and be binding on all Shareholders, including those who did not vote or voted against the Re-domiciliation Scheme Resolution.

### 3.13 **What are the key steps to the Re-domiciliation Scheme taking effect?**

If the Re-domiciliation Scheme Resolution is passed by the Requisite Majorities, then, subject to the Court approving the Re-domiciliation Scheme and all other Re-domiciliation Conditions Precedent being satisfied or (if applicable) waived, BLY will lodge the Court order approving the Re-domiciliation Scheme with ASIC upon which the Re-domiciliation Scheme will become Effective. For information about the indicative key dates, refer to Section 1

An overview of the key steps to implementing the Re-domiciliation Scheme is as follows:

Event	Detail
The Re-domiciliation Scheme becomes Effective	<ul style="list-style-type: none"><li>The Re-domiciliation Scheme will take effect when BLY lodges with ASIC an office copy of the orders of the Court approving the scheme of arrangement under section 411(4)(b) of the Corporations Act.</li><li>Last day of trading on the ASX with the Shares and Ordinary Warrants suspended from quotation on ASX from close of business (AEST).</li></ul> <p>This date is expected to be 29 September 2021.</p>
New BLY Parent CDIs commence trading on ASX on a deferred settlement basis <sup>2</sup>	<p>On the Business Day following the Re-domiciliation Scheme Effective Date (expected to be 30 September 2021)</p> <ul style="list-style-type: none"><li>New BLY Parent admitted to the official list of ASX.</li><li>New BLY Parent CDIs begin trading on ASX on a deferred settlement basis.</li></ul>
Re-domiciliation Scheme Implementation Date	<p>On the Re-domiciliation Scheme Implementation Date (which is expected to be 5 October 2021):</p> <ul style="list-style-type: none"><li>BLY will transfer the Shares held by each Scheme Shareholder to New BLY Parent without the need for any further act by a Scheme Shareholder;</li></ul>

<sup>2</sup>

Assuming New BLY Parent is admitted to the official list of ASX.

Event	Detail
	<ul style="list-style-type: none"> <li>• New BLY Parent will issue to the Authorised Nominee one (1) New BLY Parent Share for each Share held by a Scheme Shareholder on the Re-domiciliation Scheme Record Date;</li> <li>• Each Scheme Shareholder (other than an Ineligible Foreign Shareholder) will receive one (1) New BLY Parent CDI for every Share held by the Scheme Shareholder on the Re-domiciliation Scheme Record Date;</li> <li>• In the case of Ineligible Foreign Shareholders, the New BLY Parent CDIs to which those shareholders would otherwise have been entitled will be issued to the Sale Agent, who will sell them on the Ineligible Foreign Shareholder's behalf, with the net sale proceeds being remitted to the Ineligible Foreign Shareholder; and</li> <li>• Allotment statements for New BLY Parent CDIs will be dispatched to Scheme Shareholders.</li> </ul>
Following the Re-domiciliation Scheme Implementation Date	<p>On the Business Day following the Re-domiciliation Scheme Implementation Date (expected to be 6 October 2021):</p> <ul style="list-style-type: none"> <li>• New BLY Parent CDIs will commence trading on ASX on a normal settlement basis; and</li> <li>• BLY will be delisted from ASX.</li> </ul>

### 3.14 **What will happen to BLY following implementation of the Re-domiciliation?**

If the Re-domiciliation is implemented, New BLY Parent will own all of the BLY Shares and will operate the business of the BLY Group (as then constituted, with New BLY Parent as the ultimate parent company) in a manner consistent with past practice and in accordance with the existing strategy of BLY.

Following implementation of the Re-domiciliation, BLY, which will be a subsidiary of New BLY Parent as a result of the Re-domiciliation, will pass a special resolution to convert from a public company to a proprietary company limited by shares and lodge all necessary documentation with ASIC to effect such conversion.

For information about the New BLY Parent Directors' intentions for the business, assets and employees of BLY following implementation of the Re-domiciliation Scheme, see Section 7.6.

### 3.15 **What are the tax implications of the Re-domiciliation?**

The Re-domiciliation Scheme may have taxation implications for Shareholders. Accordingly, Shareholders should refer to the summary of Australia and Canadian taxation implications for certain Shareholders in Section 9 and Section 10 of this Explanatory Memorandum.

### 3.16 **Are Shareholders required to make any cash payments to participate in the Re-domiciliation?**

No. Shareholders are not required to make any cash payments to BLY or New BLY Parent to participate in the Re-domiciliation.

### 3.17 Impact of the Re-domiciliation on securities other than Shares

In addition to Shares, BLY has the following securities on issue as at the date of this Explanatory Memorandum:

Security	Number	Current exercise price (Prior to adjustment for the Share Consolidation)	Expiry date
Quoted Ordinary Warrants <sup>3</sup>	2,012,403	AU\$6.30	13 September 2024
Class A 7% Warrants <sup>4</sup>	282,779	US\$1.80	1 September 2024
Class B 7% Warrants <sup>4</sup>	145,037	US\$3.00	1 September 2024
BLY Options <sup>5</sup>	43,158	US\$96.00 except for those options held by one former employee, which has a current exercise price of US\$57.60	Between 2024 and 2026

#### *Existing Warrants, New Warrants and BLY Options*

The Existing Warrants, the New Warrants and the BLY Options will continue in existence on implementation of the Re-domiciliation Scheme.

The terms of the Existing Warrants and the New Warrants (together, the **Warrants**) provide, amongst other things, that:

- Where there is a "Redomiciling Event" and the holder of a Share will be issued or receive Substitute Property, then prior to the consummation of that Redomiciling Event, BLY must make appropriate provision to ensure that each Warrant gives the holder of that warrant the right to acquire and receive the Substitute Property at the specified exercise price in effect immediately prior to such Redomiciling Event, in lieu of or in addition to (as the case may be) each Share that the warrant holder would have received if the Warrants had been exercised prior to the record date for that Redomiciling Event.
- For such Redomiciling Event, BLY must make appropriate provision to ensure that the terms of the Warrants shall thereafter be applicable to such Substitute Property.

The Re-domiciliation will be a Redomiciling Event for the purposes of the Warrants and the New BLY Parent CDIs will be "Substitute Property" for the purposes of the Warrants. BLY will procure that New BLY Parent enter into the Assumption Deed Poll pursuant to which

<sup>3</sup> The terms of the Ordinary Warrants are set out in the prospectus dated 24 August 2017 lodged by Boart Longyear with ASIC and available at [www.asx.com.au](http://www.asx.com.au).

<sup>4</sup> The terms of the Class A 7% Warrants and Class B 7% Warrants are set out in the Notice of Meeting and Explanatory Statement dated 12 May 2017 and available at [www.asx.com.au](http://www.asx.com.au).

<sup>5</sup> For further information please refer to the Appendix 3B lodged by Boart Longyear with ASX on 16 July 2018.

New BLY Parent will agree to assume the obligations of BLY under the Warrants from the Re-domiciliation Scheme Effective Date subject to the Re-domiciliation Scheme becoming Effective. This will mean that, if the holder of a Warrant exercises that Warrant after the Re-domiciliation Scheme Effective Date, the holder of the Warrant will be issued with a New BLY Parent CDI instead of a Share.

The terms of the BLY Options permit the BLY Board to make equitable substitutions or adjustments to the BLY Options, in the BLY Board's sole and absolute discretion, in the event of any recapitalisation, stock split or combination, stock dividend or other similar event or transaction affecting the Shares.

In accordance with the terms of the Warrants and the BLY Options, the BLY Board has determined that if the Re-domiciliation Scheme becomes Effective, the securities to be issued on exercise of the Warrants and BLY Options will be New BLY Parent CDIs in substitution for Shares.

BLY will procure that New BLY Parent will enter into the Assumption Deed Poll pursuant to which it will agree to assume the obligations of BLY under the BLY Options from the Re-domiciliation Scheme Effective Date subject to the Re-domiciliation Scheme becoming Effective. This will mean that if the holder of a BLY Option exercises the BLY Option after the Re-domiciliation Scheme Effective Date, the holder of the BLY Option will be issued with a New BLY Parent CDI instead of a Share.

#### *Long Term Incentive Plan*

Under the Long Term Incentive Plan, the remuneration, nominations and governance committee has authority to grant "Awards" to eligible BLY's employees. If the conditions of an Award are satisfied so that it vests BLY can elect to either issue Shares to the holder of the Award or make a cash payment to the holder of the Award in satisfaction of the Award.

BLY has issued letters to eligible employees under the Long Term Incentive Plan informing those eligible employees of their entitlement to Awards and the vesting conditions applicable to their Awards. No Awards have vested as at the date of this Explanatory Memorandum.

Under the terms of the Long Term Incentive Plan, in the event of a recapitalisation, reorganisation, merger, amalgamation, consolidation or other similar corporate transaction or event that affects the Shares, the BLY Board shall make any such adjustments in such manner as it may deem equitable, including, amongst other things, providing for a substitution or assumption of Awards, or awards of an acquiring company. The BLY Board has determined that if the Re-domiciliation Scheme becomes Effective, any securities that will be issued on vesting of the Awards will be New BLY Parent CDIs in substitution for Shares.

BLY will procure that New BLY Parent execute the Assumption Deed Poll pursuant to which New BLY Parent will assume the obligations of BLY under the Long Term Incentive Plan subject to the Re-domiciliation Scheme becoming Effective.

### **3.18 Who is entitled to participate in the Re-domiciliation?**

#### **(a) Re-domiciliation Scheme Record Date**

If the Re-domiciliation Scheme becomes Effective, those Shareholders registered as such on the BLY Share Register as at the Re-domiciliation Scheme Record Date will become entitled to one New BLY Parent CDI for each Shares they hold at that time (except for Ineligible Foreign Shareholders– see Section 3.18 (b)).

For the purposes of determining which Shareholders will be eligible to receive the New BLY Parent CDIs (or the net proceeds of sale under the Sale Facility in the case of Ineligible Foreign Shareholders) and participate in the Re-domiciliation Scheme, any dealing in Shares will only be recognised if:

- (i) in the case of dealings of the type to be effected by CHESS, the transferee is registered in the BLY Share Register as the holder of Shares as at the Re-domiciliation Scheme Record Date; and
- (ii) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before the Re-domiciliation Scheme Record Date at the Registry.

Subject to the Corporations Act, the ASX Listing Rules and the BLY Constitution, BLY must register the registrable transmission applications or transfers of the kind recognised above by no later than 7.00pm (Sydney time) on the Re-domiciliation Scheme Record Date.

BLY will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Shares received after 7.00pm (Sydney time) on the Re-domiciliation Scheme Record Date or received prior to that time but not in registrable form.

Because implementation of the Recapitalisation Transactions and the Selective Buy-Back (assuming all necessary approvals are obtained) will occur prior to the Re-domiciliation Scheme Record Date, the Shares subject to the Re-domiciliation Scheme will:

- (i) include any Shares issued under each of:
  - (A) the Secured Creditors' Scheme;
  - (B) the Unsecured Creditors' Scheme;
  - (C) the Creditor Share Purchase Option; and
  - (D) the Share Purchase Plan; and
- (ii) exclude any Shares purchased by BLY and cancelled under the Selective Buy-Back.

(b) Ineligible Foreign Shareholders

Restrictions in certain countries make it impractical or unlawful to offer or receive securities in those countries. For this reason, the Scheme Shareholders whose addresses are shown in the BLY Share Register on the Re-domiciliation Scheme Record Date as being in such jurisdictions will be regarded as Ineligible Foreign Shareholders for the purposes of the Re-domiciliation Scheme and the New BLY Parent CDIs to which the Ineligible Foreign Shareholders would otherwise have been entitled will be dealt with under the Re-domiciliation Scheme via the Sale Facility, as described below in Section 3.19.

Based on the information available to the New BLY Parent as at the date of this Explanatory Memorandum, Shareholders whose addresses are shown in the BLY Share Register on the Re-domiciliation Scheme Record Date as being in the following jurisdictions will be entitled to receive New BLY Parent CDIs pursuant to the Re-domiciliation Scheme: Australia, New Zealand, Switzerland, Hong Kong, Spain,



Luxembourg, the Netherlands, Ireland, Italy, Bermuda, the Cayman Islands, Canada or the United States of America.

The Re-domiciliation Scheme also allows New BLY Parent to not issue New BLY Parent CDIs to a Shareholder if BLY considers it would be unlawful for New BLY Parent to issue New BLY Parent CDIs in accordance with the laws of the jurisdiction in which the Shareholder is located.

If you are an Ineligible Foreign Shareholder, you will not be eligible to receive New BLY Parent CDIs under the Re-domiciliation Scheme. Instead, the New BLY Parent CDIs to which Ineligible Foreign Shareholders would otherwise be entitled will be issued to the Sale Agent and sold in accordance with clause 3.3 of the Re-domiciliation Scheme. For more information, see Section 3.19 and clause 3.3 of the Re-domiciliation Scheme.

### **3.19 Sale Facility and sale of New BLY Parent CDIs to which Ineligible Foreign Shareholders would otherwise be entitled**

As noted above, the New BLY Parent CDIs that would have otherwise been issued under the Re-domiciliation Scheme to Ineligible Foreign Shareholders (the **Sale Securities**) will be issued to the Sale Agent to deal with in accordance with the Sale Facility.

Under the Sale Facility:

- (a) the Sale Agent will be responsible for selling the Sale Securities; and
- (b) as soon as reasonably practicable, and in any event within one month after the Re-domiciliation Scheme Implementation Date, the Sale Agent must:
  - (i) sell the Sale Securities, in the manner and on the terms the Sale Agent thinks fit (and at the risk of the Ineligible Foreign Shareholder); and
  - (ii) remit the net proceeds of all such sales (after deduction of any applicable fees, brokerage, taxes and charges) to BLY.

As soon as reasonably practicable (but, in any case, within 10 Business Days) after receipt by BLY from the Sale Agent of the net proceeds of the sale of all Sale Securities referred to in paragraph (b) above, BLY will remit to each Ineligible Foreign Shareholder the same portion of the net proceeds of all such sales (after deduction of any applicable fees, brokerage, taxes and charges) as the Sale Securities issued to the Sale Agent in respect of the Ineligible Foreign Shareholder bears to the total Sale Securities issued to and sold by the Sale Agent.

The payment to each Ineligible Foreign Shareholder of their respective proportion of those net proceeds will be made by BLY (at its discretion):

- (a) making a deposit in Australian currency into an account with an Australian bank notified by the Ineligible Foreign Shareholder to BLY and recorded in or for the purpose of the BLY Share Register as at the Re-domiciliation Scheme Record Date; or
- (b) sending a cheque for the relevant share of the net proceeds of sale in Australian currency by prepaid post to the Ineligible Foreign Shareholder's address as recorded in the BLY Share Register at the Re-domiciliation Scheme Record Date;

The amount of money received by each Ineligible Foreign Shareholder:

- (a) will be calculated on an averaged basis so that all Ineligible Foreign Shareholders will receive the same amount for each Sale Security, subject to rounding to the nearest whole cent; and
- (b) in respect of a Sale Security, may be more or less than the actual price that is received by the Sale Agent for that particular Sale Security.

The payment of the net proceeds from the sale of Sale Securities will be in full satisfaction of the rights of Ineligible Foreign Shareholders under the Re-domiciliation Scheme. Under the Re-domiciliation Scheme, Scheme Shareholders who are Ineligible Foreign Shareholders appoint BLY as their agent to receive any financial services guide or other notice given by the Sale Agent under the Corporations Act.

### 3.20 **What happens if the Re-domiciliation does not proceed?**

The Re-domiciliation will not proceed if:

- (a) the Re-domiciliation Scheme Resolution is not approved by the Requisite Majorities at the Re-domiciliation Scheme Meeting;
- (b) the Court does not approve the Re-domiciliation Scheme;
- (c) the Creditors' Schemes do not become effective; or
- (d) any other Re-domiciliation Conditions Precedent are not satisfied or waived.

If the Re-domiciliation does not proceed:

- (e) Shareholders will not have the opportunity to exchange their Shares for New BLY Parent CDIs or, in the case of Ineligible Foreign Shareholders, they will not receive the net proceeds from the sale of New BLY Parent CDIs;
- (f) Shareholders will retain their current holding of Shares (unless they sell them);
- (g) the Selective Buy-Back will not proceed;
- (h) Shares will trade on the basis that the Re-domiciliation will not proceed; and
- (i) the advantages of the Re-domiciliation described in Section 5.2 will not be realised, and the disadvantages and potential risks described in Sections 5.3, 5.4 and 5.4(c) will not arise.

## **4. WHAT IS THE BLY BOARD'S RECOMMENDATION AND THE OPINION OF THE RE-DOMICILIATION INDEPENDENT EXPERT?**

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### **4.1 What is the BLY Board's recommendation in respect of the Re-domiciliation?**

Each of the Directors considers himself justified in making a recommendation in relation to the Re-domiciliation Scheme Resolution.

The Directors have unanimously concluded that the Re-domiciliation, which is to be implemented by way of the Re-domiciliation Scheme, is in the best interests of Shareholders and they unanimously recommend that you vote in favour of the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting.

In making this recommendation, the Directors have considered the following:

- the advantages and disadvantages of the Re-domiciliation, as described in Sections 5.2 and 5.3; and
- the potential, new and existing risks associated with the Re-domiciliation and an investment in New BLY Parent, as described in Section 5.4.

The Directors consider that the advantages of the Re-domiciliation significantly outweigh the disadvantages and potential risks.

Each Director intends to cause any Shares in which he or she has a Relevant Interest to be voted in favour of the Re-domiciliation Scheme Resolution.

### **4.2 What is the Re-domiciliation Independent Expert's Opinion?**

The Re-domiciliation Independent Expert has concluded that the Re-domiciliation Scheme is, on balance, in the best interests of Shareholders.

A copy of the Re-domiciliation Independent Expert's Report, which includes the reasons for the Re-domiciliation Independent Expert's conclusion, is contained in Appendix A. Shareholders are encouraged to read the Re-domiciliation Independent Expert's Report in full.

## 5. **ADVANTAGES, DISADVANTAGES AND RISKS ASSOCIATED WITH THE RE-DOMICILIATION**

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### 5.1 **Introduction**

Shareholders should carefully consider the following advantages and disadvantages of the Re-domiciliation, as well as the risks associated with the Re-domiciliation and an investment in New BLY Parent, in deciding whether or not to vote in favour of the Re-domiciliation Scheme Resolution.

As noted in Section 4, the BLY Board considered both the advantages and disadvantages (and potential risks) of the Re-domiciliation as part of the process undertaken prior to making their recommendation that Shareholders approve the Re-domiciliation.

### 5.2 **What are the advantages of the Re-domiciliation?**

The BLY Board believes that the implementation of the Re-domiciliation has the following advantages:

(a) **Potential for improved access to capital**

The future growth of BLY may require access to capital markets that are able to provide competitive funds in the form of equity and debt. A change in domicile to Canada potentially increases the attractiveness of BLY to a more diverse financial market with a strong interest in mining across the world. The Re-domiciliation also has the potential to make BLY more attractive to Canadian institutional investors and pooled funds who limit the proportion of foreign issuers in their "Canadian equity" portfolios in order to manage their international market risk. As a Canadian incorporated company, New BLY Parent should have broader access to the capital pools of Canadian and US investors who will be familiar with the Canadian legal framework. This greater access to capital and debt markets could also potentially allow New BLY Parent to limit some of its exposure to financial risk.

(b) **Greater organisational efficiency**

BLY is an ASX listed company with its headquarters based in Salt Lake City, Utah, USA where its key corporate functions and a majority of its senior management are situated. The majority of BLY's employees, as well as its institutional investors, are also located in North America. BLY operates a global diversified metals and mining business with operations in North America, Latin America, Europe, Middle East and Africa (**EMEA**) and the Asia Pacific. In 2020, operations in North America accounted for 46% of total global revenue. An additional 10% of total global revenue came from operations in Latin America which operates in a similar time zone to Salt Lake City. In contrast, operations in the Asia Pacific region accounted for approximately 25% of the BLY Group's total global revenue.

As a Canadian incorporated company, New BLY Parent will perform significant corporate functions from its US office. New BLY Parent will be in a better position to manage its operations in the USA, Canada, Latin America and EMEA given the favourable time zones and geographic proximity to these jurisdictions to the USA compared to Australia. A not insignificant advantage in this regard is that the re-domiciliation of BLY to Canada will mean that BLY's senior management team will have ready access to legal, accounting and other resources in time zones where they are located. BLY also anticipates that this alignment will, over time, result in net reductions in its overhead costs.

(c) Better alignment of capital structure with revenue sources

As noted in paragraph (b) above, BLY's operations are now heavily concentrated in North America. If the Recapitalisation is implemented, the only material financial indebtedness of the BLY Group will be the obligations of BLY US and certain BLY Group obligors under the Exit Financing Facility, being a New York law governed facility. The lenders under the Exit Financing Facility are all based in North America.

BLY's capital structure does not currently fully align its external debt to the jurisdictions where the majority of its revenue is earned, where its financial creditors are based or the governing law of its financial indebtedness. The business earns a significant proportion of its revenue in North America (U.S. and Canada), so it is preferable to, as much as possible, have the BLY Group's debt allocated to those jurisdictions, which have the greatest ability to repay it. The Directors believe that the Re-domiciliation will allow for the efficient reallocation of all its financial indebtedness to permit the BLY Group to service the debt in a more efficient manner.

(d) Aligning shareholder base and management with a familiar jurisdiction

A significant majority by value of BLY's shareholders are located in North America. That majority will increase after the Recapitalisation. The Re-domiciliation to Canada will provide additional benefits to those Shareholders located in North America in terms of familiarity with the legal jurisdiction.

The common law legal system in Canada, both federally and provincially, is considered to be a relatively predictable one and is comparable to Australia. It is, however, more familiar to the management team.

Accordingly, the BLY Board believes better aligning the shareholders and management with a more familiar jurisdiction will provide the most suitable framework for stabilising and rebuilding BLY (and shareholder value) over the medium to long term.

(e) Retention of ASX listing and familiarity with local exchange

New BLY Parent will apply for listing on the ASX. Therefore, subject to the ASX approving New BLY Parent's listing application, following implementation of the Re-domiciliation Scheme, Scheme Shareholders (other than Ineligible Foreign Shareholders) will continue to be able to hold and trade their interests on the exchange with which they are most familiar.

New BLY Parent will be required to comply with the ASX Listing Rules, including disclosure requirements under the continuous disclosure rules and lodgement of financial statements and quarterly reports.

Subject to the implementation of the Re-domiciliation, New BLY Parent also expects to pursue a dual listing on a North American stock exchange at a later date. New BLY Parent would retain the listing of the New BLY Parent CDIs on the ASX. The dual listing will provide greater access to liquidity for all Shareholders.

(f) Comparable shareholder protection

New BLY Parent is regulated by the OBCA and will continue to be subject to the rules and policies of ASX. The regulatory environment in Canada is comparable to that in Australia. Securityholders in New BLY Parent will have similar regulatory protection to that currently available under the Corporations Act to BLY. Section 8.4 of this Explanatory Memorandum sets out a comparative table of some of the key

differences between the rules governing companies under the Corporations Act and the OBCA.

(g) Reduced cost of insurance

The market for insurance in Australia has proven very expensive to BLY and the cost to maintain BLY's current levels of insurance is expected to increase in the coming years. The Re-domiciliation would allow BLY to take advantage of more competitive and cost effective insurance markets in North America.

### 5.3 **What are the disadvantages?**

(a) Additional cost and administrative burden to implement the Re-domiciliation Scheme

The Re-domiciliation, if approved, will result in additional up-front costs and administrative burdens to complete the transaction (including listing fees payable by New BLY Parent to ASX). As at the date of this Explanatory Memorandum, a significant proportion of these costs have already been incurred. Additional on-going costs may also be incurred as a result of the Re-domiciliation; for example, to comply with the regulatory regime in Canada. It is noted, however, that BLY has or will incur some of these additional costs regardless of whether the Re-domiciliation Scheme is approved.

(b) Change in jurisdiction

Upon completion of the Re-domiciliation, Scheme Shareholders (other than Ineligible Foreign Shareholders) will become securityholders in New BLY Parent (indirectly, through holding the New BLY Parent CDIs). Further, New BLY Parent, as a company incorporated in Canada, will not be subject to many of the provisions of the Corporations Act to which BLY is currently subject and to which some Shareholders are familiar.

Currently, Australian resident Shareholders wishing to take action to enforce the provisions of the Constitution or corporations or securities laws as they relate to BLY may take action in Australian courts, applying Australian law. After implementation of the Re-domiciliation, such actions in relation to New BLY Parent will be determined in accordance with Canadian law. An Australian securityholder will be entitled to seek enforcement of applicable laws in the same manner as a Canadian shareholder.

Although some of the material differences between Australian company law and Canadian corporate law as they relate to BLY and New BLY Parent, respectively, could be viewed as advantageous to current Shareholders, others could be viewed as disadvantageous.

Some Shareholders may not be familiar with the Canadian provisions to which New BLY Parent will be subject, and should refer to Section 8.4.

(c) Ineligible Foreign Shareholders will not be able to receive New BLY Parent CDIs

Restrictions in certain countries may make it impractical or unlawful for New BLY Parent to offer or issue New BLY Parent CDIs under the Re-domiciliation Scheme to Shareholders in those jurisdictions.

A Shareholder will be an Ineligible Foreign Shareholder

- (i) if their address as shown in the Register at the Re-domiciliation Scheme Record Date is a place outside of Australia, New Zealand, Switzerland, Hong

Kong, Spain, Luxembourg, the Netherlands, Ireland, Italy, Bermuda, the Cayman Islands, Canada or the United States of America; or

- (ii) is a Shareholder whom BLY considers it would be unlawful for New BLY Parent to issue New BLY Parent CDIs in accordance with the laws of the jurisdiction in which the Shareholder is located.

New BLY Parent is under no obligation to issue, and will not issue, New BLY Parent CDIs to Ineligible Foreign Shareholders. Instead, if the Re-domiciliation Scheme becomes Effective, the New BLY Parent CDIs to which an Ineligible Foreign Shareholder would have been entitled under the Re-domiciliation Scheme will be issued to the Sale Agent appointed by BLY, who will sell those New BLY Parent CDIs and the net proceeds of such sale (after deducting any applicable brokerage, stamp duty and other taxes and charges) will be distributed to Ineligible Foreign Shareholders.

Ineligible Foreign Shareholders should refer to Section 3.18(b) and 3.19 for more information as to how they will be treated under the Re-domiciliation Scheme.

(d) Taxation implications

The Re-domiciliation Scheme may have adverse taxation implications for individual Shareholders. Accordingly, Shareholders should refer to the summaries of Australia and Canadian taxation implications for certain Shareholders in Sections 9 and 10.

#### 5.4 **What are the risks in connection with the Re-domiciliation?**

BLY and Shareholders are already subject to a number of risks, including those described in Sections 5.4(a) and 5.4(b) below.

If the Re-domiciliation is implemented, New BLY Parent and holders of New BLY Parent CDIs will be subject to these existing risks. In addition to these existing risks, there are other risks associated with the Re-domiciliation as well as additional risks associated with an investment in New BLY Parent. Some of these additional risks are set out below in Section 5.4(c). These Sections do not provide an exhaustive list of these additional risks to which New BLY Parent could be exposed, nor all the risks of the Re-domiciliation, but only those risks which the Directors are aware of and consider material.

(a) Risks associated with the Re-domiciliation

- (i) Re-domiciliation may fail to realise anticipated advantages

The Re-domiciliation may fail to realise all of the anticipated advantages for New BLY Parent and the BLY Group, either in a timely manner or at all.

Some of the potential advantages of the Re-domiciliation may not be achieved as a result of circumstances outside the control of BLY or New BLY Parent.

- (ii) The exact value of New BLY Parent CDIs is not certain

Under the terms of the Re-domiciliation Scheme, Scheme Shareholders (other than Ineligible Foreign Shareholders) will receive one New BLY Parent CDI for each Share they hold at the Re-domiciliation Scheme Record Date. The exact value of the New BLY Parent CDIs that would be realised by individual New BLY Parent CDI holders will depend on the price at which New BLY Parent CDIs trade after the Re-domiciliation Scheme Implementation Date.

(b) Existing risks applying to BLY

BLY is currently exposed to certain risks in operating its business that will also be faced by New BLY Parent and the BLY Group following the Re-domiciliation. These risks include the following:

(i) Market risk

BLY's operating results, financial condition and ability to achieve shareholder returns are linked to underlying market demand for drilling services and drilling products. Demand for drilling services and products depends in significant part upon the level of mineral exploration, production and development activities conducted by mining companies, particularly with respect to gold, copper and other base metals. There have been significant declines in BLY's financial performance as a result of the global contraction in exploration and development spending in the commodities sector, and the subsequent impact on mining customers. Mineral exploration, production and development activities remain uncertain and could remain at depressed levels for an extended period of time or decline further, resulting in adverse effects on BLY's operating results, liquidity and financial condition.

(ii) Operational risk

The majority of BLY's drilling contracts are either short-term or may be cancelled upon short notice by BLY customers and portions of BLY's products backlog may be subject to cancellation.

(iii) Tax risk

BLY's unsettled assessments with the CRA will, if upheld, result in federal and provincial tax liabilities (including interest) of up to CAD\$35 million. The outcome and timing of any resolution of the Canadian reassessments are unknown. Interest will continue to accrue on all disputed and unpaid amounts until they are paid, or, alternatively, until the disputes are resolved in BLY's favour.

BLY has also recorded a tax provision related to the CRA's audits of the 2010 through 2017 tax years. The provision reflects the uncertainties regarding the outcome of those audits. While BLY believes it is appropriately reserved in respect of the CRA tax disputes, the resolution of those disputes on terms substantially as assessed by the CRA could be material to BLY financial position or results of operations.

BLY is also under audit by the ATO. The resolution of potential assessments by the ATO may adversely affect BLY's liquidity.

(iv) Government and regulatory risk

Changes in, or failure to comply with, the laws, regulations, policies or conditions of any jurisdiction in which BLY conducts business could have a material adverse effect on BLY's financial condition, liquidity, results of operations and cash flows. BLY's operations are subject to numerous laws, regulations and guidelines (including anti-bribery, tax, health and safety, and environmental regulations) that could result in material liabilities or increases in BLY's operating costs or lead to the decline in the demand for BLY's services or products.

(v) ASX spread requirements



The value and number of registered shareholdings in BLY will be affected by certain of the Recapitalisation Transactions including the Selective Buy-Back, if it proceeds. Some of those transactions may increase the value of a registered shareholding, such as participation in the Share Purchase Plan. Other transactions may reduce the value or the number of registered shareholdings, such as the issue of shares under the Creditors' Schemes or participation by a holder in the Selective Buy-Back.

If in the view of ASX, including as a consequence of those transactions, there is not an orderly and liquid market in Shares then ASX may require BLY to obtain sufficient 'spread' so that an orderly and liquid market does exist, or take other action such as to suspend the quotation on ASX of the Shares. To the extent BLY has a discretion, for example in the allocation of Shares under the Share Purchase Plan, BLY intends, to the extent necessary, to exercise that discretion so as to help achieve an orderly and liquid market in the Shares.

(c) Additional risks to New BLY Parent as a result of the Re-domiciliation

(i) Loss of demand and liquidity

As a result of the Re-domiciliation, BLY will re-domicile to Canada and will become a subsidiary of a new parent Canadian company. The re-domicile may lead to a potential loss of demand for New BLY Parent CDIs from Australian investors. There may be a potential reduction in liquidity of New BLY Parent Shares when traded on ASX in the form of CDIs.

(ii) Tax risks for BLY

This section provides a general summary of certain Australian tax implications for BLY as a result of the Re-domiciliation Scheme. The following comments are made on the basis that after the Re-domiciliation Scheme completes BLY remains an Australian tax resident company.

The main Australian tax implication of the Re-domiciliation Scheme on BLY relates to its ability to recoup prior year tax losses. BLY and its Australian subsidiaries have carried forward tax losses as at 31 December 2020. If available, these losses will continue to be used to offset against assessable income derived by BLY going forward.

In broad terms, carry forward tax losses must satisfy the continuity of ownership test (**COT**) or failing that, the similar business test (**SBT**) or the same business test (together known as the "continuity of business test" or **CBT**), depending on the year the losses were generated, prior to recoupment. Broadly, the COT requires BLY to have maintained more than 50% of the same ultimate beneficial owners from the start of each loss year and at each test time until the end of the income year in which the loss is sought to be recouped (certain concessions are available for listed companies that reduce the number of applicable testing points and limit the extent of tracing required through to ultimate beneficial owners). Failing the COT, BLY would be required to satisfy the CBT going forward which broadly would require it to carry on a similar or the same business during a recoupment year as it did immediately before the COT was failed.

The Re-domiciliation Scheme, or transfers of BLY shares following the implementation of the Re-domiciliation Scheme, may cause BLY to fail the COT such that BLY must satisfy the CBT going forward in order to recoup any of BLY's carried forward tax losses that are not otherwise limited. Although

BLY believes it will satisfy the SBT it can't be guaranteed with certainty. BLY will continue to monitor these tests going forward.

Further, while BLY has not identified any other specific tax risks associated with the Re-domiciliation, there may be unexpected tax risks associated with the change in jurisdiction from Australia to a North American jurisdiction.

## 6. OVERVIEW OF BLY

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### 6.1 Background and overview

BLY is an integrated provider of drilling services, drilling equipment and performance tooling for mining and mineral drilling companies globally.

BLY provides drilling services, drilling equipment and performance tooling to mining and drilling companies globally by offering an extensive portfolio of technologically advanced and innovative drilling services and products and operates in five geographic regions, which are defined as North America, Latin America, Europe, Asia Pacific, and Africa.

BLY is an Australian company which is listed on ASX.

### 6.2 Operations

BLY is a global mineral exploration company founded in 1890. It is headquartered in Salt Lake City, Utah, United States. Regional offices and operations are located in the Asia-Pacific region, North and South America, Europe, and Africa. BLY provides mineral exploration services and drilling products for the global mining industry and also has a presence in drilling water exploration, environmental sampling, energy, and oil sands exploration.

### 6.3 Board of Directors and management

#### (a) Board of Directors

As at the date of this Explanatory Memorandum, the BLY Board consists of the following persons:

- Mr Jeffrey Olsen
- Mr Kevin McArthur
- Mr Tye Burt
- Mr James Kern
- Mr Rubin McDougal
- Mr Jason Ireland
- Mr Robert Smith
- Mr Conor Tochilin

Further information about the Directors, their experience and qualifications can be obtained by visiting BLY's website (<https://www.boartlongyear.com/company>).

#### (b) Management

As at the date of this Explanatory Memorandum, the senior management team of BLY consists of the following persons:

- Mr Jeffrey Olsen – President and Chief Executive Officer
- Mr Denis Despres – Chief Operating Officer
- Mr Miguel Desdin – Chief Financial Officer

- Ms Nora Pincus - Chief Legal Officer, General Counsel and Corporate Secretary
- Kari Plaster – Vice President of Human Resources
- Pat Nill- Vice President of Global Products
- Michael Ravella- Vice President of Geological Data Services

#### 6.4 **Director nomination rights**

Under the terms of the Restructuring Support Agreement, BLY has agreed that the post-Recapitalisation composition of the BLY Board, and if the Re-domiciliation is implemented, the New BLY Parent Board, will consist of nine directors and include:

- (a) the Chief Executive Officer;
- (b) 5 directors nominated by CBP; and
- (c) 3 directors nominated by the Ad Hoc Group.

The above nomination rights contemplated by the Restructuring Support Agreement will be further documented through the entry into the BLY Director Nomination Agreements pursuant to which, whilst the BLY Board is comprised of nine directors, BLY will grant to CBP the right to nominate five persons for appointment to the BLY Board, and to Ad Hoc Group the right to nominate three persons for appointment to the BLY Board.

If the Re-domiciliation is approved and implemented, the director nomination rights contemplated by the Restructuring Support Agreement will be documented by New BLY Parent Director Nomination Agreements. The New BLY Parent Director Nomination Agreements will be governed by Canadian law

The BLY Director Nomination Agreements (and, if the Re-domiciliation is approved and implemented, the New BLY Parent Director Nomination Agreements) will replace existing director nomination rights granted to CBP, Ares and Ascribe under the current director nomination agreements between those parties and BLY.

A summary of CBP and the Ad Hoc Group's rights to nominate directors to the BLY Board under the BLY Director Nomination Agreements where the BLY Board comprises nine directors and, if the Re-domiciliation is approved and implemented, the New BLY Parent Director Nomination Agreements, is set out in the following table.

	CBP	Ad Hoc Group
Percentage shareholding in Retained Shares in BLY or New BLY Parent (as applicable)	Number of directors who can be nominated under CBP Director Nomination Agreement	Number of directors who can be nominated under the Ad Hoc Group Director Nomination Agreements
40% or more	5	3
35.00% or more but less than 40.00%	4	3
30% or more but less than 35.00%	3	3

	CBP	Ad Hoc Group
20% or more but less than 30.00%	2	2
10% or more but less than 20.00%	1	1
Less than 10%	0	0

In the event that the BLY Board increases in size from nine to ten directors at any time (excluding alternate directors) in accordance with its constitution, and provided that increase was not caused by an act of the Centerbridge Board Nominees, Centerbridge or an associate of Centerbridge, so long as Centerbridge holds, in aggregate, Retained Shares which represent 40% or more of the issued Shares in the Company, Centerbridge will have the right to nominate six directors for appointment to the BLY Board.

All existing Directors, other than Mr Olsen, the Chief Executive Officer, intend to resign from the BLY Board with effect from implementation of the Recapitalisation when the CBP Nominee Directors and the Ad Hoc Group Nominee Directors are appointed to the BLY Board in accordance with the BLY Director Nomination Agreements.

#### 6.5 Historical financial information

The historical financial information for BLY is contained in the audited consolidated financial statements for BLY and its controlled entities for the years ended 31 December 2020, 31 December 2019 and 31 December 2018. BLY will provide a copy of these statements free of charge to anyone who requests a copy.

Shareholders may also view complete copies of these statements on ASX's website at [www.asx.com.au](http://www.asx.com.au) or BLY's website at [www.boartlongyear.com](http://www.boartlongyear.com).

#### 6.6 Update on financial information since last annual report

Other than as disclosed in this Explanatory Memorandum and in announcements to ASX, within the knowledge of the BLY Board, the financial position of BLY has not changed materially since 31 December 2020, being the last date of the period to which the financial statements for the financial year ended 31 December 2020 relate.

#### 6.7 Capital structure

As at the date of this Explanatory Memorandum, the equity capital structure of BLY is as follows:

Securities	Number
Shares	88,511,800
Ordinary Warrants (quoted)	2,012,403
BLY Options	43,158

Securities	Number
Class A 7% Warrants and Class B 7% Warrants (both unquoted)	427,816

The number of Shares on issue will change if any of the Existing Warrants or BLY Options are exercised.

The following table summarises the voting power in BLY of the substantial shareholders in BLY as at the date of this Explanatory Memorandum (to one decimal place):

Party	Voting Power
CBP	53.3%
Ad Hoc Group	23.6%
Other shareholders	23.1%
TOTAL	100%

Note: the AHG Members consider that they may be deemed to be associates of each other in relation to BLY by virtue of section 12(2)(b) or 12(2)(c) of the Corporations Act on the basis that the Restructuring Support Agreement contemplates that they will have a collective right to nominate a specified number of individuals for appointment to the BLY Board from time to time on and from the Creditors' Schemes Implementation Date. That right will arise under the Ad Hoc Group Director Nomination Agreements. Consequently, each of the AHG Members has disclosed that it has voting power equal to the aggregate of the total number of votes attaching to voting shares in which any of the AHG Members hold a relevant interest

#### 6.8 **Intentions regarding the continuation of BLY's business**

The Corporations Regulations require a statement by the Directors of their intentions if the Re-domiciliation Scheme is implemented. Given the commonality of the Directors and the proposed New BLY Parent Directors, BLY refers to the New BLY Parent Directors' intention statements contained in Section 7.6.

## 7. OVERVIEW OF NEW BLY PARENT FOLLOWING IMPLEMENTATION OF THE RE-DOMICILIATION SCHEME

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### 7.1 Introduction

New BLY Parent was incorporated on 15 July 2021 in Ontario, Canada as a corporation under the OBCA.

New BLY Parent was incorporated for the sole purpose of the Re-domiciliation. As a result, prior to implementation of the Re-domiciliation, New BLY Parent has not conducted, and will not conduct, any business other than performing the acts that are detailed in this Explanatory Memorandum.

As at the date of this Explanatory Memorandum, New BLY Parent has one common share on issue, which is held by the Individual Shareholder (**Subscriber Share**). The Subscriber Share was issued upon the incorporation of New BLY Parent. New BLY Parent currently has no other securities outstanding. Following the Re-domiciliation, the Subscriber Share will be re-purchased by New BLY Parent. New BLY Parent is not currently a reporting issuer in Canada and no decision has been made as to timing or if New BLY Parent will become a reporting issuer in Canada.

New BLY Parent is not currently listed on any securities exchange, but will apply to be admitted to the official list of ASX within seven days after the day of this Explanatory Memorandum. New BLY Parent will also be registered in Australia as a foreign company under section 601CD of the Corporations Act. BLY has been appointed as the local agent in Australia for New BLY Parent.

New BLY Parent is authorised to issue an unlimited number of common shares.

If the Re-domiciliation Scheme is implemented, on the Re-domiciliation Scheme Implementation Date, all of the New BLY Parent CDIs will be owned by Scheme Shareholders (other than Ineligible Foreign Shareholders, whose New BLY Parent CDIs will be issued to the Sale Agent, subject to their sale in accordance with clause 3.3 of the Re-domiciliation Scheme) in the same percentages as their existing holdings in BLY. New BLY Parent will, in turn, become the holder of all of the Shares.

### 7.2 New BLY Parent Board

Under the terms of the Restructuring Support Agreement, BLY has agreed that the post-Recapitalisation composition of the BLY Board, and if the Re-domiciliation is implemented, the New BLY Parent Board, will consist of nine directors and include:

- (a) the Chief Executive Officer;
- (b) 5 directors nominated by CBP; and
- (c) 3 directors nominated by the Ad Hoc Group.

The above nomination rights contemplated by the Restructuring Support Agreement will be further documented through the entry into the BLY Director Nomination Agreements pursuant to which, whilst the BLY Board is comprised of nine directors, BLY will grant to CBP the right to nominate five persons for appointment to the BLY Board, and to Ad Hoc Group the right to nominate three persons for appointment to the BLY Board.

If the Re-domiciliation is approved and implemented, the director nomination rights contemplated by the Restructuring Support Agreement will be documented by the New BLY

Parent Director Nomination Agreements. The New BLY Parent Director Nomination Agreements will be governed by Canadian law.

The BLY Director Nomination Agreements (and, if the Re-domiciliation is approved and implemented, the New BLY Parent Director Nomination Agreements) will replace existing director nomination rights granted to CBP, Ares and Ascribe under the current director nomination agreements between those parties and BLY.

Each of the existing Directors will initially be appointed as a New BLY Parent Director on implementation of the Re-domiciliation, with the Nominee Directors to be subsequently appointed as New BLY Parent Directors after implementation of the Re-domiciliation.

The New BLY Parent Director Nomination Agreements will be substantially on the same terms as the BLY Director Nomination Agreements, subject to any limitation to CBP or the Ad Hoc Group's rights under the relevant agreement as required by local law or practice. The rights of CBP and the Ad Hoc Group to nominate directors to the New BLY Parent Board are summarised in the table in Section 6.4.

### **7.3 Management of New BLY Parent**

There are no proposed changes to BLY's senior management as a result of the Re-domiciliation.

### **7.4 Dividend policy**

BLY does not currently pay dividends.

The New BLY Parent Directors will review the amount of any future dividends to be paid having regard to the company's profits, its financial position and the board's assessment of the capital required to grow the business of New BLY Parent.

### **7.5 Principal activities of New BLY Parent following implementation of the Re-domiciliation**

The principal activities of New BLY Parent will be the same as the principal activities of BLY, as set out in Section 6.

### **7.6 New BLY Parent intentions for business, assets and employees of BLY following implementation**

#### **(a) Introduction**

The statements set out in this Section 7.6 are statements of current intention only, which may change as new information becomes available or as circumstances change, and the statements in this Section 7.6 should be read in this context.

#### **(b) BLY de-listed**

If the Re-domiciliation Scheme is implemented, BLY will request ASX to remove BLY from its official list.

#### **(c) BLY's business, assets and employees**

If the Re-domiciliation is implemented, New BLY Parent:

- does not intend to make any changes to BLY's operations;
- does not intend to change the structure of BLY's current company workforce;



- intends to continue the business of BLY;
- does not intend to make any major changes to the business of BLY or redeploy any of the fixed assets of BLY; and
- does not intend to make any changes to the corporate and head office functions of BLY.

#### 7.7 **Audit standards**

Following listing on ASX, New BLY Parent's auditor will apply the Australian Auditing Standards.

#### 7.8 **Capital structure immediately following the Re-domiciliation**

The capital structure of New BLY Parent immediately following the implementation of the Re-domiciliation Scheme and assuming that prior to the Re-domiciliation Scheme Record Date: (a) no Existing Warrants or New Warrants are converted into Shares; (b) no Shares are issued on the exercise of the BLY Options; (c) the maximum number of Shares are issued under the Share Purchase Plan and the Creditor Share Purchase Option prior to implementation of the Re-domiciliation and (d) no Shares are bought back under the Selective Buy-Back, will be as follows:

<b>Shares</b>	<b>Number</b>
New BLY Parent Shares	297,641,816
<b>Other securities</b>	<b>Number</b>
New Warrants	32,782,148
Ordinary Warrants	100,620
Class A 7% Warrants	14,139
Class B 7% Warrants	7,252
BLY Options	2,158

#### 7.9 **Risks involved in an investment in New BLY Parent**

As noted in Section 5.4(b), holders of securities in New BLY Parent will be subject to the existing risks of an investment in BLY. There are also additional or increased risks of an investment in New BLY Parent, which are set out in Section 5.4(c).

In addition, there may be additional risks associated with the change in jurisdiction from Australia to Canada. Shareholders should refer to Section 8.4 for more information about certain key differences between company rules under Australian and Canadian law.

#### 7.10 **Interests in BLY securities and voting power in BLY**

As at the date of this Explanatory Memorandum, New BLY Parent and its associates:

- (a) do not have a Relevant Interest in any Shares or other BLY securities; and
- (b) have a total aggregate voting power in BLY of 0.00%.

Other than the consideration to be provided under the Re-domiciliation Scheme, none of New BLY Parent or its associates have provided, or agreed to provide, consideration for any Shares during the four months before the date of this Explanatory Memorandum.

## **8. IMPLICATIONS OF NEW BLY PARENT BEING A CANADIAN COMPANY**

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### **8.1 Overview**

Following implementation of the Re-domiciliation, Scheme Shareholders (other than Ineligible Foreign Shareholders) will receive securities in New BLY Parent (being a beneficial interest in the New BLY Parent Shares held in the form of the New BLY Parent CDIs), which is a company incorporated in Ontario, Canada and which will be listed on ASX.

This Section includes a summary of the rights attaching to New BLY Parent Shares, including under the Articles and By-Laws. A copy of the Articles and By-Laws is available on BLY's website (<https://www.boartlongyear.com/>).

This Section also provides an overview of the consequences of New BLY Parent being a limited company incorporated in Ontario, Canada, including a summary of the applicable laws that will apply to New BLY Parent. Further information on the CDI arrangements applying to New BLY Parent CDIs is set out in Appendix E.

### **8.2 Listing of New BLY Parent on ASX**

New BLY Parent will apply to ASX for admission to the official list of ASX as a standard (full) ASX listing and for official quotation of New BLY Parent Shares (represented by New BLY Parent CDIs) and Ordinary Warrants on ASX within seven days after the date of this Explanatory Memorandum. It is expected that by 30 September 2021 New BLY Parent will be admitted to the official list of ASX and New BLY Parent CDIs will commence trading on ASX on a deferred settlement basis. Normal settlement trading of New BLY Parent CDIs is expected to commence on 6 October 2021.

It is the responsibility of each Scheme Shareholder (who is not an Ineligible Foreign Shareholder) to determine their entitlement to New BLY Parent CDIs before trading in those securities to avoid the risk of selling New BLY Parent CDIs they do not or will not own. If a Shareholder sells New BLY Parent CDIs without receiving confirmation of their own entitlement, they do so at their own risk.

### **8.3 Rights attaching to New BLY Parent Shares**

The following is a summary of the principal rights attaching to New BLY Parent Shares. This summary does not purport to be exhaustive or to constitute a definitive statement of the rights and liabilities of New BLY Parent Shareholders, which can involve complex questions of law arising from the interaction of the Articles and By-Laws and Canadian statutory and common law requirements.

The rights attaching to New BLY Parent Shares arise from a combination of the Articles and By-Laws, the OBCA and generally applicable Canadian law. This summary should be read in conjunction with the information set out in Appendix E.

#### **(a) General meetings**

New BLY Parent must hold an annual general meeting not more than 15 months after the last preceding annual meeting (or within 18 months of incorporation) at such time and place as may be determined by the New BLY Parent Directors. The New BLY Parent Directors may, at any time, call a meeting of New BLY Parent Shareholders to be held at such time and place as may be determined by the New BLY Parent Directors. As such, meetings of New BLY Parent Shareholders may be held outside Australia.

(b) Quorum

A quorum for a meeting of New BLY Parent Shareholders is the presence of shareholder(s) who, in aggregate, hold at least 25% of the voting rights attached to issued shares entitled to be voted at the meeting (in person or represented by proxy).

(c) Voting

Subject to any special rights or restrictions as to voting attached to any New BLY Parent Shares (represented by New BLY Parent CDIs):

- on a show of hands, every person present who is a New BLY Parent Shareholder or proxy holder and entitled to vote on the matter, has one vote; and
- on a poll, every New BLY Parent Shareholder entitled to vote on the matter has one vote in respect of each New BLY Parent Share entitled to be voted on that matter and held by that New BLY Parent Shareholder and may exercise that vote either in person or by proxy.

(d) Dividends

Subject to the rights, if any, of New BLY Parent Shareholders holding New BLY Parent Shares with special right as to dividends, the New BLY Parent Board may, subject to compliance with the relevant solvency tests under the OBCA, from time to time declare and authorise payment of such dividends, if any, as they may consider appropriate.

(e) Winding up

Each holder of New BLY Parent Shares is entitled to receive, subject to the rights, privileges, restrictions and conditions attaching to any other class of shares of New BLY Parent, the remaining property of New BLY Parent upon the liquidation, dissolution or winding-up of New BLY Parent, whether voluntary or involuntary. If New BLY Parent is wound up, the liquidator may, with the authority of a special resolution, after adequately providing for payment or discharge of its obligations, distribute its remaining property, either in money or in kind, among shareholders according to their respective rights. Upon application of an interested person, this may be conducted under the supervision of the courts.

(f) Transfer of shares

Generally and subject to compliance with applicable Canadian securities law exemptions, New BLY Parent Shares are freely transferrable, subject to formal requirements and to the registration of the transfer not resulting in a contravention of or failure to observe the provisions of applicable law. Applicable securities laws and rules of any stock exchange on which New BLY Parent Shares may be listed may also impose hold periods on such shares and certain shareholders.

(g) Future increases in capital

Subject to the OBCA and the rights of the holders of issued New BLY Parent Shares (or New BLY Parent CDIs), if any, New BLY Parent may at any time and from time to time issue such number of New BLY Parent Shares on the terms and conditions and for the issue prices that the New BLY Parent Directors may determine.

(h) Variation of rights attaching to shares

New BLY Parent may by special resolution (66 2/3 %) alter the Articles (unless in certain limited circumstances the OBCA or the Articles specify another type of resolution).

(i) Directors

The number of New BLY Parent Directors must be a minimum of one director (unless it is a public company, in which case it shall have a minimum of three directors) and a maximum of nine directors. New BLY Parent must also comply with the provisions of the New BLY Parent Director Nomination Agreements.

(j) Redemption or repurchase of New BLY Parent Shares

The Articles prevent New BLY Parent from redeeming or repurchasing BLY's Shares on a non-pro rata basis (other than in respect of the Subscriber Share which will be repurchased by New BLY Parent following the Re-domiciliation).

(k) Pro rata offer of preference shares

All holders of New BLY Parent Shares will be entitled under the Articles to participate on a pro rata basis in any offering of preference shares by New BLY Parent.

#### 8.4 **Comparison of Australian and Canadian company rules**

BLY is a public company registered in Victoria under the Corporations Act. The New BLY Parent is a company which is incorporated in Ontario, Canada and will be subject to a variety of laws and regulations, including the provisions of the OBCA.

Where the Re-domiciliation Scheme is approved and implemented, the rights and protections to members in relation to the New BLY Parent will differ to those under Australian law. As New BLY Parent will be incorporated in Ontario, Canada, New BLY Parent will not be subject to many of the provisions of the Corporations Act to which BLY is currently subject and to which Shareholders are familiar. However, the regulatory environment in Canada is comparable to that in Australia. Securityholders in New BLY Parent will have similar regulatory protection to that currently available under the Corporations Act to BLY. However, if the Re-domiciliation Scheme is not approved, the rights and protections to members in relation to the Shares will remain subject to Australian law.

A comparison of some of the material provisions governing BLY and New BLY Parent respectively is set out below. References to 'Australian law' where they appear in this Section are references to the Corporations Act, ASX Listing Rules, ASX Settlement Operating Rules and Australian common law, as applicable. References to 'Canadian law' are references to the OBCA, applicable Canadian securities law and Canadian common law, as applicable.

The comparison below is not an exhaustive statement of all relevant laws, rules and regulations and is intended as a general guide only. It should also be read in conjunction with the disclosures in Section 8.3 above. Shareholders should consult with their own legal advisers if they require further information.

Requirement	Australia	Canada
<b><i>Rights attaching to shares</i></b>		
<b>Purchase of own shares</b>	<p>Under the Corporations Act, a company may buy-back its shares under a specific buy-back scheme:</p> <ul style="list-style-type: none"> <li>• if the buy-back does not materially prejudice the company's ability to pay its creditors; and</li> <li>• the company follows the procedures set out in the Corporations Act.</li> </ul> <p>Other than for a minimum holding share buy-back, a share buy-back which would result in a company having bought back (in aggregate with any other buy-backs in the previous 12 months) more than 10% of the votes attaching to the smallest number of shares on issue in the previous 12 months will require shareholder approval.</p> <p>The form of shareholder approval (e.g. ordinary resolution or special/unanimous resolution), if required, and the notice period and disclosure requirements to be given to shareholders, will depend on the type of buy-back. Generally, buy-backs can be characterised as minimum holding, equal access, selective, on-market or relating to employee shares schemes.</p>	<p>Under the OBCA, a company may repurchase its shares, if it is so authorized by, and subject to any restrictions in, its articles and applicable securities laws, unless there are reasonable grounds for believing that the company is, or would after the repurchase be, unable to pay its debts as they become due in the ordinary course of its business.</p> <p>Under Canadian securities legislation, a repurchase of its shares by a company may constitute an "issuer bid" and could only be effected in accordance with the provisions of Canadian securities legislation (including any exemptions therefrom).</p>

<b>Requirement</b>	<b>Australia</b>	<b>Canada</b>
<b>Source and payment of dividends</b>	<p>A company must not pay a dividend unless:</p> <ul style="list-style-type: none"> <li>its assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the payment of the dividend;</li> <li>the dividend is be fair and reasonable to the company's shareholders as a whole; and</li> <li>the payment of the dividend does not materially prejudice the company's ability to pay its creditors.</li> </ul> <p>Additionally, where a distribution is paid out of capital, the provisions of the Corporations Act relating to reductions of capital must also be complied with.</p>	<p>Subject to its constating documents, under the OBCA, a company may declare and pay a dividend by issuing fully paid shares or options or rights to acquire fully paid shares. Directors of an OBCA company may also declare and pay a dividend in money or property unless there are reasonable grounds for believing that the company is, or would after the payment be, unable to pay its liabilities as they become due after the payment, or the realisable value of the company's assets would thereby be less than the aggregate of its liabilities and its stated capital of all classes.</p>
<b>Variation of class rights</b>	<p>Under the Corporations Act, rights attaching to a class of shares may only be varied or cancelled by:</p> <ul style="list-style-type: none"> <li>if the company's constitution sets out the required procedure, that procedure; and</li> <li>if the company's constitution does not set out the required procedure, a special resolution of the company's shareholders and (1) a special resolution of those members holding shares in that class or (2) written consent from the holders of 75% of the votes in that class.</li> </ul>	<p>The OBCA provides that the rights attached to issued shares may not be added to, removed or changed unless the shareholders holding that class of shares consent to vote separately as a class and approve the amendment by a special resolution (66 2/3%).</p>
<b>Capital raising</b>		
<b>Issue of new shares</b>	<p>The Corporations Act allows directors to issue shares without shareholder approval.</p> <p>Subject to specified exceptions (for pro rata issues etc), the ASX Listing Rules restrict a company admitted to the official list of ASX from issuing, or agreeing to issue, more than 15% of the total of the number of securities (calculated according to a prescribed equation) in any rolling 12 month period without shareholder approval.</p>	<p>As New BLY Parent intends to be listed on ASX, the ASX Listing Rules regarding restrictions on the issue of new securities will continue to apply to New BLY Parent.</p>
<b>Continuous disclosure</b>	<p>Under the ASX Listing Rules, a company admitted to the official list of ASX is required to disclose to ASX any information concerning the</p>	<p>As an ASX-listed company, New BLY Parent will need to comply with the continuous</p>

Requirement	Australia	Canada
	company that a reasonable person would expect to have a material effect on the price or the value of its securities.	disclosure regime under the ASX Listing Rules.
<b>Directors</b>		
<b>Fiduciary duties of directors and officers</b>	Under Australian law, the directors and officers of a company are subject to certain duties, including to act in good faith in the interests of the company, act for a proper purpose, not fetter their discretion (in the case of directors only), exercise care, skill and diligence, avoid conflicts of interest, not use their position to their advantage, and not misappropriate company property.	Under Canadian law, every director and officer of a company, in exercising their powers and performing their functions must act honestly and in good faith with a view to the best interests of the company, exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances.
<b>Remuneration of directors and officers</b>	<p>Under the ASX Listing Rules, for a company admitted to the official list of ASX, the maximum amount to be paid to a company's directors for their services as directors (other than the salary of an executive director) is not to exceed the amount approved by shareholders in general meeting.</p> <p>Australian law gives shareholders of listed companies the right to participate in a non-binding vote, to be held at the annual general meeting (<b>AGM</b>), on the adoption of the remuneration report of the company. The remuneration report is included in the directors' report and is required to contain a discussion of the board's policy in relation to remuneration of key management personnel of the company.</p>	The ASX Listing Rules concerning the maximum amount to be paid to a company's directors will continue to apply to New BLY Parent as an ASX-listed company.
<b>Retirement benefits</b>	<p>Under the Corporations Act, a company is allowed to pay benefits to directors and officers on their retirement or termination. Such benefits require shareholder approval in certain circumstances (including where the person holds managerial or executive office).</p> <p>Under the ASX Listing Rules, for a company admitted to the official list of ASX, termination benefits to directors (that are or may be payable to all officers in aggregate) must not exceed 5% of the equity interests of a company as set out in its latest financial statements given</p>	The restrictions on termination benefits payable to directors under the ASX Listing Rules will continue to apply to New BLY Parent.



Requirement	Australia	Canada
	to ASX without shareholder approval.	
<b>Insider trading</b>	Under the Corporations Act, any person who possesses price sensitive information relating to a company or its securities is prohibited (subject to limited exceptions) from acquiring, disposing of or applying for those securities or procuring others do so, and from communicating the information to third parties.	<p>Canadian securities laws prohibit trading with knowledge of a material fact or material change with respect to a reporting issuer that has not been generally disclosed. In addition, National Instrument 55-102 of the Canadian Securities Administrators System for <i>Electronic Disclosure Insiders (SEDI)</i> establishes a mandatory system of electronic reporting of trading activity by certain insiders of each reporting issuer.</p> <p>However, New BLY Parent is not currently a reporting issuer in Canada.</p>
<b>Director's declarations of interest</b>	The Corporations Act generally requires a company's director who has a material personal interest in a matter that relates to the affairs of the company to give the other directors notice of that interest. If the company is a public company, that director must not be present at a meeting where the matter is being considered or vote on the matter, unless the other directors or ASIC approve, or the matter is not one which requires disclosure under the Corporations Act. Under the Corporations Act, failure of a director to disclose a material personal interest, or voting despite a material personal interest, does not affect the validity of a contract in which the director has an interest. A company's directors, when entering into transactions with the company, are subject to the common law and statutory duties to avoid conflicts of interest.	<p>Under the OBCA, subject to certain exceptions, a director or officer will hold a disclosable interest in a contract or transaction that a company has entered into or proposes to enter into if that contract or transaction is material to the company, and the director or officer has or is a director or officer of or has a material interest in a person who has a material interest in the contract or transaction. Directors and officers must disclose in writing or by request to have it entered in the minutes of meetings of directors or meetings of committees of directors to the company the nature and extent of any disclosable interest that they may have.</p> <p>Subject to certain exemptions, no director having a disclosable interest may attend any part of a meeting of directors during which the contract or transaction is discussed and shall not vote on any resolution to approve the contract or transaction. However, if all of the directors have a disclosable interest in a contract or transaction, the contract or transaction may be approved only by the</p>

Requirement	Australia	Canada
		<p>shareholders. Under the OBCA, failure of a director to disclose a material personal interest, or voting despite a material personal interest, does not affect the validity of a contract in which the director has an interest.</p> <p>Please also see independent formal valuation, minority vote and disclosure requirements under MI 61-101 (as defined below) under "Related party transactions", which applies to reporting issuers.</p>
<b>Release from liability and indemnification of directors and officers</b>	<p>A company may not generally exempt an officer from liability to the company incurred as an officer of the company.</p> <p>In addition, a company or related body corporate must not indemnify (other than for legal costs, which are permitted in certain scenarios) a person against any of the following liabilities incurred as an officer of the company:</p> <ul style="list-style-type: none"> <li>• a liability to the company or related body corporate;</li> <li>• a liability for a pecuniary order or compensation order under the Corporations Act; or</li> <li>• a liability owed to anybody else that does not arise out of conduct in good faith.</li> </ul> <p>A company is generally permitted to purchase and maintain insurance for its directors (or directors of its associated companies).</p>	<p>A company must not indemnify a director or pay the expenses of a director:</p> <ul style="list-style-type: none"> <li>• if the director did not act honestly and in good faith with a view to the best interests of the company or the associated corporation; or</li> <li>• for a proceeding other than a civil proceeding, if the director did not have reasonable grounds for believing that the directors' conduct in respect of which the proceeding was brought was lawful.</li> </ul> <p>A company may purchase and maintain insurance for the benefit of directors or officers against any liability incurred by the individual:</p> <ul style="list-style-type: none"> <li>• in the individual's capacity as a director or officer of the corporation; or</li> <li>• in the individual's capacity as a director or officer, or a similar capacity, of another entity, if the individual acts or acted in that capacity at that corporation's request.</li> </ul>
<b>Member's meetings</b>		
<b>Meetings of shareholders</b>	A company's AGM must be held at least once in each calendar year and within five months after the end of its financial year. A general meeting	A company must hold an AGM not later than eighteen month after the corporation comes into existence and no later

Requirement	Australia	Canada
	<p>of a company's shareholders may be called from time to time by the company's board, the company's individual directors or by the company's shareholders with at least 5% of the votes that may be cast at a general meeting.</p>	<p>than fifteen months after the previous year's AGM. A company's board of directors may call a meeting of the shareholders of the company at any time. Holders at least 5% of the issued shares of the company that carry the right to vote at an AGM may requisition the directors of the company to call a meeting.</p>
<p><b>Notice of meetings</b></p>	<p>For a listed company, notice of a general meeting must be given at least 28 days before the date of the meeting. The notice must be given to each shareholder entitled to vote at the meeting as well as to the company's directors and auditors.</p>	<p>A company that is a reporting issuer must provide at least 21 (10 for non-reporting issuers) days' (and not more than fifty days in either case) notice of the date, time and location of all shareholder meetings to each shareholders entitled to vote at the meeting, to each company director, and to the auditor of the corporation.</p> <p>As a "reporting issuer" under Canadian securities law, a company must also give notice to certain beneficial shareholders. Management proxy circulars, in a required form must be provided in connection with any solicitation of proxies by management.</p> <p>The articles of an Ontario company typically provide that a notice of a meeting at which special business is to be transacted must state the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon, as well as the text of any special resolution to be submitted to the meeting. Any business, other than the election of directors, reappointment of the incumbent auditor and consideration of the financial statements and auditor's report, is deemed to be special business.</p> <p>National Instrument 54-101 of the Canadian Securities Administrators <i>Communications with Beneficial Owners of Securities</i> of a reporting issuer, requires</p>

Requirement	Australia	Canada
		<p>a reporting issuer that is required to give notice of a meeting to fix a date for the meeting and a record date for notice for the meeting which shall be no fewer than 30 and no more than 60 days before the meeting date and, if required or permitted by corporate law, fix a record date for voting at the meeting. The reporting issuer is required, subject to certain exemptions, to notify certain intermediaries at least 25 days prior to the record date.</p>
<p><b>Ordinary and special resolutions</b></p>	<p>Unless the Corporations Act or the constitution requires a special resolution, resolutions are passed by a simple majority of votes cast on the resolution by shareholders entitled to vote on the resolution.</p> <p>A special resolution may be passed if notice of a general meeting is given which specifies the intention to propose the special resolution and states the resolution to be proposed.</p> <p>A special resolution must be passed by at least 75% of the votes cast by shareholders entitled to vote. The Corporations Act requires certain matters to be resolved by a company by special resolution, including the change of name of the company, a selective reduction of capital or selective share buy-back, the conversion of the company from one type or form to another and a decision to wind up the company voluntarily.</p> <p>Under the Corporations Act, a special resolution is also required to modify or repeal a company's constitution.</p>	<p>Unless the OBCA or the company's articles require a special resolution, ordinary resolutions are required and are passed by a simple majority of votes cast on the resolution. A special resolution must be passed by a majority of not less than two-thirds of the votes cast by shareholders entitled to vote after proper notice is given. Under the OBCA, certain matters must be approved by special resolution. Some of these matters include: reducing stated capital, certain amalgamations, arrangements, continuance into another jurisdiction, a sale, lease or disposition of all or substantially all of a company's undertaking and voluntary liquidation.</p> <p>If a special resolution is to be considered at a meeting of a company's securityholders, the notice must specify the intention to propose a special resolution. The articles of most Ontario companies require that the notice state the general nature of any special business to be considered and include a copy of any document to be considered or a statement regarding where and when a copy is available for inspection.</p>
<p><b>Shareholder proposed resolutions</b></p>	<p>Under the Corporations Act, shareholders holding at least 5% of the votes that may be cast at a</p>	<p>Under the OBCA,</p>

	<p>general meeting, or at least 100 shareholders who are entitled to vote at the meeting may, by written notice to the company, propose a resolution for consideration at the next general meeting occurring more than two months' after the date of that notice.</p>	<p>(a) a registered holder of shares entitled to vote; or</p> <p>(b) a beneficial owner of shares that are entitled to be voted at a meeting of shareholders,</p> <p>may submit to the company notice of a proposal and discuss at the meeting any matter in respect of which the registered holder or beneficial owner would have been entitled to submit a proposal . A proposal may include nominations for the election of directors if it is signed by one or more holders of shares representing in aggregate at least 5% of total shares or 5% of a class or series of shares entitled to vote at the meeting to which the proposal is to be presented.</p> <p>A company that receives a notice of a proposal must set out the proposal in the management information circular or attach the proposal to that circular. If the corporation does not provide a management information circular, it shall set out the proposal in the notice of the meeting for the shareholder's meeting at which the matter is proposed to be raised or shall attach the proposal to such notice of meeting.</p> <p>The OBCA provides exemptions from the requirements to include a proposal in a company's management information circular in circumstances including where:</p> <ul style="list-style-type: none"> <li>• the notice of the proposal is submitted less than 60 days before the anniversary date of the last annual meeting;</li> <li>• it clearly appears that the primary purpose of the proposal is to enforce a personal claim or redress a personal grievance against the company or its directors, officers or security holders;</li> </ul>
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Requirement	Australia	Canada
		<ul style="list-style-type: none"> <li>substantially the same proposal was submitted to shareholders in a notice of meeting, or an information circular or equivalent, relating to a general meeting that was held not more than 5 years before the receipt of the proposal, and did not receive the prescribed amount of support at the meeting;</li> <li>it clearly appears that the proposal does not relate in a significant way to the business or affairs of the company;</li> <li>within two years before the receipt by the company of a person's notice of proposal, the person failed to present, in person or by proxy, at a meeting of the company's shareholders, a proposal which had been submitted by the person and had been included in a management information circular or a notice of meeting relating to that shareholders' meeting.</li> </ul>
<b>Voting</b>	<p>Each fully paid ordinary share of a company confers a right to vote at all general meetings. On a show of hands, each company shareholder present in person, or by proxy, attorney or body corporate representative, has one vote. If a poll is held, the company's shareholders present in person or by their proxy, attorney or body corporate representative will have one vote for every fully paid ordinary share held. A signed proxy form must be received at least 48 hours (or such lesser time prescribed by the company's constitution) before a meeting.</p> <p>A poll may be demanded by:</p> <ul style="list-style-type: none"> <li>the chairman of the general meeting;</li> <li>at least five shareholders entitled to vote on the resolution; or</li> </ul>	<p>Subject to other sections of the OBCA and unless the articles provide otherwise, each share of a corporation entitles the holder thereof to one vote at a meeting of shareholders. Unless the articles provide otherwise, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting.</p> <p>A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands.</p>

Requirement	Australia	Canada
	shareholders present at the meeting holding at least 5% of the votes that may be cast on the resolution(calculated as at the midnight before the poll is demanded).	
<b>Relationship between the company and its members</b>		
<b>Related party transactions</b>	<p>The Corporations Act prohibits a public company from giving a related party a financial benefit unless it obtains the prior approval of shareholders and gives the benefit within 15 months after approval or the financial benefit is exempt. A related party is defined to include any entity which controls the public company, directors of the public company, directors of any entity that controls the public company and, in each case, spouses and certain relatives of such persons. Exempt financial benefits include indemnities, insurance premiums and payments for legal costs which are reasonable in the circumstances.</p> <p>The ASX Listing Rules prohibit a company admitted to the official list of ASX (and its child entities) from acquiring or agreeing to acquire a substantial asset (asset the value or consideration for which is 5% or more of the entity's equity interests) from, or disposing of or agreeing to dispose of a substantial asset to, certain parties included related parties without shareholder approval.</p> <p>The related parties include (but are not limited to) directors of the entity and an entity that controls the entity; a subsidiary of the entity; a person who has or has had in the prior six month period a Relevant Interest in 10% or more of the shares in the entity and, in each case, any of their associates. The provisions apply even where the transaction may be on arm's-length terms.</p> <p>The ASX Listing Rules also prohibit a company admitted to the official list of ASX from issuing or agreeing to issue shares to related parties unless it obtains the approval of shareholders or the share issue is exempt. Exempt share issues</p>	<p>A company may be subject to Multilateral Instrument 61-101 – <i>Protection of Minority Security Holders in Special Transactions</i>, which imposes independent formal valuation, minority approval and disclosure requirements on entities involved in certain related party transactions. A related party transaction includes transactions between an issuer and a person that is a related party to the issuer at the time of the relevant agreement, whether or not there are also other parties to the transaction, as a consequence of which, either in a single transaction or multiple transactions, the issuer directly or indirectly, among other things, purchases or acquires an asset from or sells or transfers an asset to a related party for valuable consideration; leases property to or from a related party; acquires or combines with a related party through an arrangement or otherwise; issues a security to or subscribes for a security of a related party; becomes subject to a liability of a related party or provides or materially amends the terms of a guarantee or collateral security for a debt or liability of a related party; or borrows money from, lends money to, releases, cancels, forgives or materially amends the terms of an outstanding debt or liability owed by a related party.</p> <p>In addition, the OBCA requires directors and officers to disclose to the company the nature and extent of any interest that they may have in</p>

Requirement	Australia	Canada
	include issues made pro rata to all shareholders, under an underwriting agreement, under a dividend or distribution plan or under an approved employee incentive plan.	<p>a material contract or transaction, whether made or proposed, with the company, if they:</p> <ul style="list-style-type: none"> <li>• are a party to the material contract or transaction or proposed material contract or transaction with the company;</li> <li>• are a director or an officer, or an individual acting in a similar capacity, of a party to the contract or transaction; or</li> <li>• have a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the company.</li> </ul> <p>Except as provided in the OBCA, no director having such an interest may vote on any resolution to approve such contract or transaction unless the contract or transaction:</p> <ul style="list-style-type: none"> <li>• relates primarily to his or her remuneration as a director, officer, employee or agent of the company or an affiliate;</li> <li>• is for indemnity or insurance; or</li> <li>• is with or for the benefit of an affiliate of the company.</li> </ul> <p>A contract or transaction with a company is not invalid merely because:</p> <ul style="list-style-type: none"> <li>• a director or officer of the company has a material interest, direct or indirect, in the contract or transaction, or</li> <li>• the director or officer is present at or is counted to determine the presence of a quorum at the meeting of directors that authorized the contract or transaction,</li> </ul> <p>if the director or officer disclosed his or her interest in accordance with the OBCA and</p>



Requirement	Australia	Canada
		<p>the contract or transaction was reasonable and fair to the corporation at the time it was approved.</p> <p>New BLY Parent will need to ensure compliance with the ASX Listing Rules in relation to related party transactions.</p>
<p><b>Protection of minority shareholders / oppression remedy</b></p>	<p>Under the Corporations Act, any shareholder of a company can apply to the Court seeking various orders where the conduct of the company is contrary to the interests of shareholders as a whole, or is oppressive to, unfairly prejudicial to, or unfairly discriminatory against, any company shareholder(s) (whether in their capacity as a shareholder or in any other capacity). Former shareholders can also apply for such orders if it relates to the circumstances in which they ceased to be a shareholder.</p> <p>A statutory derivative action (broadly, to bring proceedings on behalf of a company or to intervene in any proceedings to which company is a party) may also be instituted by:</p> <ul style="list-style-type: none"> <li>• a shareholder, former shareholder or person entitled to be registered as a shareholder of the company or a related body corporate; or</li> <li>• an officer or former officer of the company.</li> </ul> <p>In all cases, leave of the court is required. Such leave will be granted if the court is satisfied that:</p> <ul style="list-style-type: none"> <li>• it is probable that the company will not itself bring the proceedings or properly take responsibility for them or for the steps in them;</li> <li>• the applicant is acting in good faith;</li> <li>• it is in the best interests of the company that the applicant be granted leave;</li> <li>• if the applicant is applying for leave to bring proceedings, there is a serious question to be tried; and</li> </ul>	<p>Under the OBCA, a "complainant" (defined under the OBCA to include shareholders, directors and any other persons whom the court considers to be appropriate persons to make an application) may apply to the court for leave to bring an action in the name and on behalf of a company or any of its subsidiaries, or intervene in an action to which any such body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the body corporate. In certain circumstances, the OBCA allows for a registered holder or a beneficial owner of a security to apply to court to have an investigator appointed to investigate the company's affairs.</p> <p>The OBCA, to a large extent, has supplemented the Canadian common law and equity rules on the availability of actions. In addition to allowing complainants to bring actions in the name and on behalf of a company or any of its subsidiaries, the statutory provisions of the OBCA also allow complainants to intervene in existing proceedings, either for prosecuting or defending it, or to bring about its discontinuation on behalf of the company. In order for the Court to grant leave to a complainant, certain substantive and procedural requirements must be met, including the court being satisfied that (1) the directors of the corporation or its subsidiary will not bring, diligently prosecute or defend</p>

Requirement	Australia	Canada
	<ul style="list-style-type: none"> <li>the applicant gives proper written notice to the company specifying its intention to and reasons for applying or it is otherwise appropriate to give leave.</li> </ul>	<p>or discontinue the action; (2) notice of the application for leave has been given to the company and to any other person the court may order; (3) the complainant is acting in good faith; and (4) the derivative action appears to be in the interests of the company or its subsidiary.</p> <p>In addition, a shareholder or other person whom the court considers appropriate may apply to the court for an order on the grounds that the affairs of the company are being or have been conducted or the powers of the directors are being or have been exercised in a manner that is oppressive to one or more shareholders or that some act or proposed act of the company or resolution of the shareholders is unfairly prejudicial to one or more shareholders. The court has the power to make any order it thinks fit to remedy the oppressive behaviour, including prohibiting or directing any act, appointing or removing directors or directing that the company be wound up.</p> <p>The OBCA provides shareholders with dissent rights in connection with certain corporate matters, generally including amalgamations, arrangements, the sale, lease or disposition of all or substantially all of the company's undertaking and the continuance into another jurisdiction, which dissent rights entitle dissenting shareholders to receive payment of fair value for their shares from the company, provided they comply with the strict requirements set out under the OBCA.</p> <p>The court has broad powers to direct the conduct of any such legal proceeding.</p>

Requirement	Australia	Canada
<b>Amendments to constituent documents</b>	Any amendment to a company's constitution must be approved by special resolution.	Unless otherwise specified in the OBCA or the articles, amendments to a company's articles must be approved by a special resolution.
<b>Takeovers</b>		
<b>Takeover bids</b>	<p>The Corporations Act places restrictions on a person acquiring interests in the voting shares of a company where, as a result of the acquisition, that person's or someone else's voting power in the company increases from 20% or below to more than 20%, or from a starting point that is above 20% and below 90%. This prohibition is subject to a number of exceptions including the acquisition of not more than 3% of the voting shares in the company in the six month period before the acquisition, the acquisition is made with shareholder approval or the acquisition is made under a takeover bid made in accordance with Australian law. Various restrictions about conditional offers exist and there are also substantial restrictions concerning the withdrawal and suspension of offers.</p> <p>Takeover bids must treat all securityholders alike, must not involve any collateral benefits and must remain open for a prescribed period, after which time all securities deposited under the offer may be taken up. The takeover bid rules contain various additional requirements, such as restrictions on conditional offers and withdrawal, amendment or suspension of offers.</p>	<p>In Canada, takeover bids are regulated primarily by securities legislation. An offer to acquire outstanding voting or equity securities of a class made to one or more persons, any of whom is in a Canadian jurisdiction or whose last address is shown on the books of the company is in Canada where the securities subject to the bid, together with the offeror's securities (and those held by joint actors), constitute in aggregate 20% or more of the outstanding securities of the company at the time of the offer are required to extend the offer to all securityholders who are in Canada. The takeover bid rules require, among other things, the mailing of a takeover bid circular to shareholders of the target company and extensive disclosure requirements, beginning with 'early warning' disclosure required when an acquirer crosses a 10% ownership threshold with further disclosure required for additional purchases of 2% or more (applicable to ownership of shares of a reporting issuer).</p> <p>Takeover bids must treat all shareholders alike and must not involve any collateral agreements, with certain exceptions for employment compensation arrangements. Takeover bids must remain open for a minimum of 105 days from the date of the mailing of the takeover bid circular, after which time if at least 50% of the outstanding securities that are subject to the bid have been deposited and not withdrawn, then the all securities deposited under</p>

		<p>the offer may be taken up and the offer must be extended for a further 10 days.</p> <p>For the protection of target shareholders, the takeover bid rules contain various additional requirements, such as restrictions applicable to conditional offers, and the withdrawal, amendment or suspension of offers. Securities regulators also retain a general 'public interest jurisdiction' to regulate takeovers and may intervene to halt or prevent activity that is abusive. Issuer bids are regulated similarly to takeover bids (however, issuer bids must remain open for a minimum of 35 days).</p> <p>There are extensive disclosure requirements associated with takeover bids, beginning with 'early warning' disclosure required when an acquirer crosses the 10% ownership threshold. Generally, further disclosure is required for additional purchases of 2% or more of the outstanding security for which such early warning disclosure is required. Purchases outside the bid before, during and after the bid are also restricted.</p> <p>The OBCA contains compulsory acquisition provisions, which allow a person who acquired at least 90% of a company's shares to acquire the remaining shares, within 120 days after the date of a takeover bid, if the bid was accepted by holders of not less than 90% of the company's shares.</p> <p>Aside from the compulsory acquisition provisions of the OBCA, second step transactions following a bid, which allow the acquirer to bring its percentage ownership to 100%, are governed by Multilateral Instrument 61-101 of the Canadian Securities Regulators. No shareholder approval for a second step transaction of the acquisition would be required if the acquirer obtained 90% of the</p>
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Requirement	Australia	Canada
		<p>outstanding securities owned by minority shareholders during the bid. Otherwise, a meeting must be called and associated regulations complied with for an acquisition, including obtaining a two-thirds majority approval. The acquirer is generally permitted to vote the shares acquired pursuant to the bid at such meeting. Appraisal (or dissent) rights are available for objecting shareholders who fulfil certain procedural requirements.</p> <p>Under Canadian securities laws certain exemptions to the formal bid requirements, on specified conditions, are allowed. For example, private agreements to purchase securities from up to five persons are permitted if the purchase price does not exceed 115% of the market price. Under the normal course purchase exception, the offeror (together with any joint offerors) may acquire up to 5% of a class of securities within a 12-month period of there is a published market for the relevant class and the consideration paid does not exceed the market price at the date of acquisition. A take-over bid is also exempt from Canadian securities laws if, among other things, less than 10% of the issued shares are held by shareholders in Canada and the principal trading market for the shares is outside of Canada.</p>
<b>Takeover bid defences</b>	<p>Under Australian takeovers legislation and policy, boards of target companies are limited in the defensive mechanisms that they can put in place to discourage or defeat a takeover bid. For example, it is likely that the adoption of a shareholders' rights plan (or so-called 'poison pill') would give rise to a declaration of unacceptable circumstances by the Australian Takeovers Panel if it had that effect.</p>	<p>In Canada, defensive tactics may be taken by a board of directors in a genuine attempt to obtain a better bid. However, the Canadian securities regulatory authorities have recognised the possibility that the interests of management of the target company will differ from those of its shareholders. The securities regulators may take action in certain cases where target company</p>

Requirement	Australia	Canada
		<p>defensive tactics may be abusive of shareholder rights, deny shareholders the ability to make a fully formed decision or frustrate an open takeover bid process.</p> <p>Defensive tactics that may come under scrutiny during or immediately before a bid (if there is reason to believe that a bid might be imminent) include granting an option on securities representing a significant percentage of the target company's outstanding securities, including introduction of a shareholders' rights plan, a sale, acquisition, optioning, or agreement to sell or acquire material assets or other corporate action other than in the normal course of business. Shareholder approval of defensive tactics may be a factor in the regulatory authorities' decision as to whether the tactics are appropriate.</p>
<b>Other</b>		
<b>Disclosure of substantial holdings</b>	<p>Under the Corporations Act, a shareholder who begins or ceases to have a substantial holding in a listed company, or who has a substantial holding in a listed company and there is a movement by at least 1% in their holding, must give a notice to the company and ASX.</p> <p>A person has a substantial holding if that person and that person's associates have a Relevant Interest in 5% or more of the voting shares in the company.</p>	See discussion of "early warning rules" above.
<b>Winding up</b>	<p>A company can be wound up voluntarily by the shareholders. The directors must give a statutory declaration of solvency for such winding up. This procedure is therefore instigated by a solvent company. A shareholders' voluntary winding up is started by the shareholders passing a special resolution.</p> <p>If the directors do not give a statutory declaration of solvency, a creditors' voluntary winding up can commence by the shareholders</p>	Under the OBCA, the shareholders of a company may, by special resolution, require the corporation to be wound up voluntarily. On application by the company, a shareholder, director or any other person whom the court considers to be appropriate, including a creditor of a company, the court may order that the company be liquidated and dissolved if the

Requirement	Australia	Canada
	<p>passing a special resolution. This procedure is therefore instigated by an insolvent company.</p> <p>Any surplus after payment of debts and interest will go to the shareholders according to the rights attached to their shares. As with unsecured creditors, they would be paid out of free assets or any funds available from charged assets following payment of all prior claims (i.e. fixed charge holders, preferential creditors and holders of circulating security interests).</p>	<p>court considers it just and equitable.</p> <p>Liquidation of the company may also take place completely outside the framework of the OBCA, such as under the <i>Bankruptcy and Insolvency Act</i> (Canada) or the <i>Companies' Creditors Arrangement Act</i> (Canada). Finally, a company may be liquidated informally under contractual arrangement, usually by way of the private appointment of a receiver and manager.</p>

#### 8.5 **Consequences of being a foreign registered company**

As noted above, the New BLY Parent will be registered as a foreign company in Australia pursuant to Part 5B.2 of the Corporations Act. Accordingly, in addition to the laws and regulations set out elsewhere in this Section, New BLY Parent will also be subject to the provisions of Part 5B.2 of the Corporations Act.

## 9. AUSTRALIAN TAXATION IMPLICATIONS FOR SHAREHOLDERS

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### 9.1 Australian Taxation Implications

This section provides a summary of the material Australian income tax implications for certain eligible Shareholders who dispose of their Shares and acquire New BLY Parent CDIs under the Re-domiciliation Scheme. This information only relates to Shareholders who hold their Shares and New BLY Parent CDIs on capital account for Australian income tax purposes. This summary does not consider the income tax implications of the Re-Domiciliation Scheme under any non-Australian tax laws.

This general summary does not apply to Shareholders who:

- hold their Shares or New BLY Parent CDIs as revenue assets or trading stock, such as banks, insurance companies and taxpayers carrying on a business of share trading;
- have acquired their Shares or New BLY Parent CDIs for the purposes of resale at a profit;
- are subject to the Taxation of Financial Arrangements rules in Division 230 of the *Income Tax Assessment Act 1997* (Cth) in respect of their Shares or New BLY Parent CDIs;
- are subject to special tax rules, such as entities that are exempt from Australian income tax, partnerships, insurance companies or trusts that are subject to special taxation regimes (such as "attribution managed investment trusts" and trusts that are taxed as companies); or
- acquired their Shares under an arrangement that constitutes an 'employee share scheme' for Australian income tax purposes.

Shareholders in any of the aforementioned categories should consult their professional advisors on the tax implications of the Re-domiciliation Scheme.

BLY is not seeking a class ruling from the ATO on behalf of Shareholders in relation to the Re-domiciliation Scheme and it is therefore possible that the ATO will disagree with the summary set out below.

The information in this section is general in nature and does not take into account the individual circumstances of all Shareholders; it is not intended to be, nor should it be, construed as legal or tax advice to any particular Shareholder. Shareholders should consult their professional advisors on the tax implications of the Scheme for their individual circumstances. Neither BLY, nor any of its officers, nor its taxation adviser, nor any other adviser to BLY, accepts any liability or responsibility in respect of any statement concerning the taxation consequences of Re-domiciliation Scheme.

### 9.2 Disposal Of Shares for CDIs In New BLY Parent

The Australian income tax implications of the Re-domiciliation Scheme will differ between Shareholders who are and are not a resident of Australia for tax purposes.



### 9.3 Resident Shareholders

#### (a) CGT Event

The disposal of Shares by a resident Shareholder will give rise to a CGT event. This CGT event will occur at the time that the shares are disposed of for CGT purposes, which should be the Re-domiciliation Scheme Implementation Date.

Subject to the comments below concerning CGT rollover relief, a resident Shareholder will realise either a capital gain or a capital loss from the disposal of their Shares. A capital gain will arise where the capital proceeds exceed the cost base of the Shares, and a capital loss will arise where the capital proceeds are less than the reduced cost base for the Shares.

Each Share constitutes a separate asset for CGT purposes. Resident Shareholders will need to separately consider the consequences of the disposal of their Shares which were acquired in different parcels at different times.

The capital proceeds received by the resident Shareholder will generally be equal to the market value (as at the Re-domiciliation Scheme Implementation Date) of the New BLY Parent CDIs received by the resident Shareholder in respect of the disposal of their Shares.

The cost base (or reduced cost base) of the Shares should generally include the amount paid by the resident Shareholder to acquire the Shares, as well as certain non-deductible incidental costs of acquisition and disposal.

Where your Shares were subject to the Share Consolidation, each element of the cost base and reduced cost base of the consolidated Shares, at the time of the Share Consolidation, should be the sum of the corresponding elements of the cost base and reduced cost base of each original Share you held.

If a resident Shareholder is not a company and acquired (for CGT purposes) its Shares at or before 11:45am (ACT time) on 21 September 1999, it may choose whether to index the cost base to 30 September 1999 or to apply the CGT discount. A company is permitted to index the cost base of Shares acquired before 11:45 am (ACT time) on 21 September 1999, but is not permitted to apply the CGT discount.

If a resident Shareholder acquired its Shares after 11:45 am (ACT time) on 21 September 1999, it cannot index its cost base. However, it may apply the CGT discount (unless it is a company) in calculating any capital gain on disposal.

Indexation does not apply to the calculation of a capital loss.

The choice to apply indexation rather than the discount capital gain provisions must be made by the resident Shareholder on or before the day it lodges its income tax return for the income year in which the disposal occurs. The manner in which it completes its income tax return is generally sufficient evidence of the making of a choice.

The application of the CGT discount is discussed below.

#### (b) CGT rollover relief

A resident Shareholder may be able to choose CGT rollover relief on the disposal of their Shares under the Re-domiciliation Scheme.

If a CGT rollover applies, and is chosen by a resident Shareholder, the CGT consequences of the disposal of their Shares will differ significantly from the summary set out in this Section 9. For example, and depending on which particular CGT rollover (if any) is available, a resident Shareholder may be able to choose to disregard the capital gain or the capital

loss from the disposal of the Shares. In addition, if a CGT rollover applies, it will affect the CGT cost base and reduced cost base, and the CGT acquisition date, of the New BLY Parent CDIs.

As mentioned above, BLY is not seeking a class ruling from the ATO in relation to, amongst other things, the availability of CGT rollover relief in connection with the Re-domiciliation Scheme. In addition, BLY has made no determination that CGT rollover relief is or is not potentially available to Shareholders. In order for CGT rollover relief to apply, a number of conditions must be satisfied, and it may be necessary (depending on the rollover, if any, and the circumstances) for BLY to make certain elections or choices, and for electing Shareholders to provide certain information to BLY.

In general, CGT rollover relief should be of significance for Shareholders that would otherwise make a capital gain on the disposal of their Shares. Shareholders that make a capital loss would not generally be expected to choose to obtain rollover relief, even if they are eligible to do so.

Shareholders who would like to claim CGT rollover relief should consult with their own professional adviser as to whether CGT rollover is available, or potentially available, to the Re-domiciliation Scheme. If a Shareholder considers that CGT rollover relief is potentially applicable, they should contact BLY.

The remainder of this summary assumes that CGT rollover relief is not available to a resident Shareholder on the disposal of their Shares under the Re-domiciliation Scheme.

### **(c) Where a Capital Gain or Loss is Realised**

#### ***Pre-CGT Shares***

If your Shares were acquired, or are taken to have been acquired, before 20 September 1985 for CGT purposes and are not taken to have been acquired on or after that date for CGT purposes, there should be no CGT implications arising on disposal of your Shares.

#### ***Capital gain***

A resident Shareholder is generally required to include their net capital gain for an income year in their assessable income for the relevant year of income.

Broadly, the net capital gain for an income year is the total of all of the capital gains made during the income year less capital losses made in the income year and available net capital losses made in previous income years. As discussed further below, discount CGT treatment may be available to further reduce the amount included in assessable income.

#### ***Capital loss***

Where a resident Shareholder realises a capital loss from the disposal of their Shares, they may use this to offset any taxable capital gains from the same or subsequent income years (subject to any applicable loss utilisation rules). This could include offsetting the capital loss against taxable capital gains that they realise from a subsequent disposal of their New BLY Parent CDIs. Capital losses cannot be carried back to offset capital gains arising in earlier income years.

#### ***Discount CGT Treatment***

If the resident Shareholder realises a capital gain from the disposal of their Shares, and held them for at least 12 months at the time of disposal (or is taken to have

held them for at least 12 months for CGT discount purposes), discount CGT treatment may apply, as follows:

- if the resident Shareholder is an individual, one half of the capital gain (without any allowance for indexation in the cost base of the shares), after offsetting any applicable capital losses, will be included in assessable income;
- if the resident Shareholder is acting as a trustee of a trust (but not a complying superannuation fund), one half of the capital gain (without any allowance for indexation in the cost base of the shares), after offsetting any applicable capital losses, will be included in the "net income" of the trust. The discount capital gains provisions may also apply to capital gains to which beneficiaries in the trust (other than beneficiaries that are companies) are entitled. The CGT provisions applying to trustees and beneficiaries of trusts are complex and trustee Shareholders and beneficiaries should seek advice from a professional tax adviser in this regard;
- if the resident Shareholder is a complying superannuation fund, two-thirds of the capital gain (without any allowance for indexation in the cost base of the shares) after offsetting applicable capital losses will be included in the fund's assessable income; and
- if the resident Shareholder is a company, no discount will apply, resulting in all of the capital gain after offsetting applicable capital losses being included in the company's assessable income.

As noted above, where the resident Shareholder is entitled to discount CGT treatment, any capital losses will be applied to reduce the capital gain before determining the discount.

For the purposes of determining the CGT acquisition date of Shares that were subject to the Share Consolidation for CGT discount purposes, the consolidated Shares should have the same CGT date of acquisition as the original Shares to which they relate.

**(d) New BLY Parent CDIs**

***Cost base and acquisition date of New BLY Parent CDIs***

The first element of the cost base (or reduced cost base) of the New BLY Parent CDIs should equal the market value of the Shares that were disposed of to acquire them, as at the Re-domiciliation Scheme Implementation Date.

The acquisition date of the New BLY Parent CDIs for CGT discount purposes should be the Re-domiciliation Scheme Implementation Date.

***Subsequent Disposals of the BLY CDIs***

Where a resident Shareholder subsequently disposes of their New BLY Parent CDIs, this may give rise to a capital gain or loss.

Provided the resident Shareholder holds the New BLY Parent CDIs for 12 months from the acquisition date of the New BLY Parent CDIs (and subject to certain specific integrity rules applying to the 12 month period), discount CGT treatment may be available for any capital gain made (please see above for an outline of the discounts that may be available).

### ***Taxation of dividends received on the New BLY Parent CDIs***

Where a resident Shareholder receives a dividend on the New BLY Parent CDIs, they will generally have to include the gross amount received in their assessable income for the relevant year. Franking credits will not be available in respect of these dividends.

Where foreign withholding tax is paid on dividends included in a Shareholder's assessable income, the resident Shareholder may be able to obtain a non-refundable tax offset and use it to reduce their tax liabilities in the relevant year (subject to certain conditions and limitations).

Dividends received by certain companies that hold a "participation interest" of 10% or more in New BLY Parent may be non-assessable non-exempt income for the recipient. Companies in this situation should consult their own professional adviser on the Australian tax treatment of dividends received from New BLY Parent.

## **9.4 Non-Resident Shareholders**

### **(a) CGT Event**

Non-resident Shareholders may be able to disregard any capital gain or loss arising from the disposal of the Shares.

Non-residents will only make a capital gain or loss on the disposal of "taxable Australian property". Shares in an Australian company that are disposed of by a non-resident will only be "taxable Australian property" where they are (x) held at any time in connection with the conduct of a business through a permanent establishment in Australia, (y) are held by a non-resident Shareholder than elected to treat the Shares as taxable Australian property when they ceased to be an Australian resident or (z) an "indirect Australian real property interest".

A non-resident Shareholder will hold an "indirect Australian real property interest" if they, together with their associates, own at least 10% of the shares in BLY (either at the time of transfer, or for a 12 month period within the last 24 months), and the market value of BLY's Australian real property assets (e.g. land) exceeds the market value of its non-real property assets.

BLY considers that the market value of BLY's Australian real property assets does not exceed the market value of its non-real property assets.

### **(b) Holding and disposing of New BLY Parent CDIs**

Where a non-resident Shareholder receives a dividend from New BLY Parent in respect of the CDIs, they generally will not have to include the gross amount received within their Australian assessable income for the relevant year nor should such dividends be subject to Australian dividend withholding tax.

Additionally, where a non-resident Shareholder elects to dispose of the New BLY Parent CDIs, this will generally not give rise to a taxable CGT event provided that the New BLY Parent CDIs are not "taxable Australian property", as described above.

## 10. CANADIAN TAXATION IMPLICATIONS FOR SHAREHOLDERS

### 10.1 Income tax implications

The following summary describes the principal Canadian federal income tax considerations in respect of the exchange of BLY Shares and the acquisition and holding of New BLY Parent Shares received pursuant to the Re-domiciliation Scheme. For greater certainty, any reference to BLY Shares or New BLY Parent Shares in this summary includes any such shares represented by CDIs.

This summary only applies to a beneficial owner of BLY Shares who, at all relevant times, for purposes of the *Income Tax Act* (Canada) (the **ITA**): (a) deals at arm's length with BLY and New BLY Parent; (b) is not affiliated with BLY or New BLY Parent; and (c) holds the BLY Shares, and will hold any New BLY Parent Shares received under the Re-domiciliation Scheme, as capital property (a **Holder**).

Generally, the BLY Shares and New BLY Parent Shares will be capital property to a Holder provided the Holder does not hold such shares in the course of carrying on a business or as part of an adventure or concern in the nature of trade.

This summary is based on the current provisions of the ITA, and BLY's understanding of the current administrative policies and assessing practices of the Canada Revenue Agency (**CRA**) published in writing prior to the date hereof. This summary takes into account all specific proposals to amend the ITA publicly announced by or on behalf of the Minister of Finance (Canada) prior to the date hereof (**Proposed Amendments**) and assumes that all Proposed Amendments will be enacted in the form proposed. However, no assurances can be given by BLY that the Proposed Amendments will be enacted as proposed, or at all. This summary does not otherwise take into account or anticipate any changes in law or administrative policy or assessing practice whether by legislative, regulation, administrative or judicial action nor does it take into account tax legislation or considerations of any province, territory or foreign jurisdiction, which may differ from those discussed herein.

This summary does not apply to a shareholder who:

- (b) is a "specified financial institution",
- (c) an interest in which is a "tax shelter investment",
- (d) is, for purposes of certain rules (referred to as the mark-to-market rules) applicable to securities held by financial institutions, a "financial institution",
- (e) reports its "Canadian tax results" in a currency other than Canadian currency,
- (f) has entered or enters into, with respect to any of the shares discussed herein, a "derivative forward agreement" or "synthetic disposition arrangement" (as defined in the ITA),
- (g) is or was an employee of BLY or New BLY Parent and who acquired BLY Shares or New BLY Parent Shares in respect of, in the course of, or by virtue of, their employment, including pursuant to an employee stock option,
- (h) that is an Ineligible Foreign Shareholder, or
- (i) is a "foreign affiliate" of a taxpayer resident in Canada.

Furthermore, this summary does not apply to holders of warrants issued by BLY or New BLY Parent. Any such holders or Shareholders should consult its own tax advisor with respect to the Re-domiciliation Scheme.

This summary is of a general nature only and is not, and is not intended to be, legal or tax advice to any particular shareholder. This summary is not exhaustive of all Canadian federal income tax considerations. Accordingly, Shareholders should consult their own tax advisors having regard to their own particular circumstances.

## 10.2 **Holders resident in Canada**

This portion of the summary only applies to a Shareholder who, at all relevant times, for purposes of the ITA and any applicable income tax convention, is, or is deemed to be, resident in Canada (a **Resident Holder**). Certain Resident Holders may be entitled to make or may have already made the irrevocable election permitted by subsection 39(4) of the ITA, the effect of which is to deem any New BLY Parent Shares (and any other "Canadian security", as defined in the ITA) owned by such Resident Holder in the taxation year in which the election is made and in all subsequent taxation years to be capital property. Resident Holders whose shares might not otherwise be considered to be capital property should consult their own tax advisors concerning this election.

### (a) Participation in the Re-domiciliation Scheme

On the exchange of BLY Shares for New BLY Parent Shares under the Re-domiciliation Scheme, the Resident Holder will realise a capital gain (or capital loss) to the extent that the fair market value of the New BLY Parent Shares at the time of the exchange, net of any reasonable costs of disposition, exceeds (or is less than) the adjusted cost base of the BLY Shares to the Resident Holder. See "Taxation of Capital Gains and Capital Losses" below for a general discussion of the treatment of capital gains and capital losses under the ITA.

New BLY Parent does not intend to offer Resident Holders the opportunity to file a joint tax election with New BLY Parent to defer realising a capital gain (if any) for the purposes of the ITA as a result of the Re-domiciliation Scheme.

### (b) Taxation of Capital Gains and Capital Losses

Generally, one-half of any capital gain (a "taxable capital gain") realised by a Resident Holder in a taxation year must be included in the Resident Holder's income for the year, and one-half of any capital loss (an "allowable capital loss") realised by a Resident Holder in a taxation year must be deducted from taxable capital gains realised by the Resident Holder in that year. Allowable capital losses for a taxation year in excess of taxable capital gains for that year may, generally, be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year against net taxable capital gains realised in such years, to the extent and under the circumstances described in the ITA.

A Resident Holder that, throughout the relevant taxation year, is a "Canadian-controlled private corporation" (as defined in the ITA) may be liable to pay a refundable tax on its "aggregate investment income" (as defined in the ITA), including taxable capital gains.

Capital gains realised by a Resident Holder who is an individual (and certain types of trusts) may result in such Resident Holder being liable for alternative minimum tax under the ITA. Resident Holders who are individuals should consult their own tax advisors in this regard.

### (c) Consequences of Resident Holders owning New BLY Parent Shares

Dividends received or deemed to be received on New BLY Parent Shares held by a Resident Holder will be included in the Resident Holder's income for the purposes of the ITA.

Such dividends received by a Resident Holder that is an individual (other than certain trusts) will be subject to the gross-up and dividend tax credit rules in the ITA that apply to taxable dividends received from taxable Canadian corporations, including the enhanced gross-up and dividend tax credit in respect of dividends designated by New BLY Parent as "eligible dividends". There may be limitations on New BLY Parent's ability to designate dividends as "eligible dividends".

Taxable dividends received by a Resident Holder who is an individual (other than certain trusts) may result in such Resident Holder being liable for alternative minimum tax under the ITA. Resident Holders who are individuals should consult their own tax advisors in this regard.

In the case of a Resident Holder that is a corporation, the amount of any taxable dividend will be included in computing its income and generally will be deductible in computing the Resident Holder's taxable income. A Resident Holder that is a "private corporation" or "subject corporation" (as such terms are defined in the ITA) or any other corporation resident in Canada controlled, whether because of a beneficial interest in one or more trusts or otherwise, by or for the benefit of an individual (other than a trust) or a related group of individuals (other than trusts), may be liable under Part IV of the ITA to pay a refundable tax on dividends received or deemed to be received on the New BLY Parent Shares to the extent such dividends are deductible in computing the Resident Holder's taxable income. In certain circumstances, subsection 55(2) of the ITA will treat a taxable dividend received or deemed to be received by a Resident Holder that is a corporation as proceeds of disposition or a capital gain. Resident Holders that are corporations should consult their own tax advisors having regard to their own circumstances.

(d) Consequences of Resident Holders disposing of New BLY Parent Shares

A disposition or a deemed disposition of a New BLY Parent Share by a Resident Holder will generally result in the Resident Holder realising a capital gain (or capital loss) in the year of the disposition equal to the amount by which the proceeds of disposition of the New BLY Parent Share exceed (or is less) than the aggregate of the Resident Holder's adjusted cost base thereof and any reasonable costs of disposition. The adjusted cost base of a New BLY Parent Share to a Resident Holder generally will be the average of the cost of all New BLY Parent Shares held at the particular time by such Resident Holder as capital property. Such capital gain (or capital loss) will be subject to the tax treatment described above under "Taxation of Capital Gains and Capital Losses".

The amount of any capital loss realised by a Resident Holder that is a corporation on the disposition of New BLY Parent Shares may be reduced by the amount of dividends received or deemed to be received by the Resident Holder on such shares (or on shares for which the shares have been substituted) to the extent and under the circumstances described by the ITA. Similar rules may apply where a corporation is a member of a partnership or a beneficiary of a trust that owns New BLY Parent Shares, directly or indirectly, through a partnership or a trust.

### 10.3 Holders not resident in Canada

This portion of the summary only applies to a BLY Shareholder who, at all relevant times, is not, or is deemed not to be, resident in Canada for purposes of the ITA (including a partnership that is not a "Canadian partnership" for purposes of the ITA) and any applicable income tax treaty or convention to which Canada is a party and who does not use or hold,

and is not deemed to use or hold, BLY Shares in connection with carrying on a business in Canada (a **Non-Resident Holder**).

Special rules, which are not discussed in this summary, may apply to a Non-Resident Holder that is an insurer that carries on an insurance business in Canada and elsewhere. Such Non-Resident Holders are advised to obtain their own tax advice.

(a) Consequences of Participation in the Re-domiciliation Scheme

A Non-Resident Holder will not be subject to tax under the ITA in respect of any capital gain realised on the exchange of BLY Shares for New BLY Parent Shares under the Re-domiciliation Scheme, nor will capital losses arising therefrom be reported under the ITA, unless the BLY Shares are, or are deemed to be, "taxable Canadian property" of the Non-Resident Holder for the purposes of the ITA and the Non-Resident Holder is not entitled to an exemption under an applicable income tax convention between Canada and the country in which the Non-Resident Holder is resident.

BLY Shares will not constitute "taxable Canadian property" to a Non-Resident Holder at the time of the disposition thereof under the Re-domiciliation Scheme unless at any particular time during the 60 month period immediately preceding the disposition:

- (i) more than 50% of the fair market value of the BLY Shares was derived directly or indirectly from one or any combination of:
  - (A) real or immovable property situated in Canada;
  - (B) "Canadian resource properties" (as defined in the ITA);
  - (C) "timber resource properties" (as defined in the ITA); or
  - (D) an option, an interest or right in such property, whether or not such property exists; and
- (ii) if the BLY Shares are then listed on a designated stock exchange (which currently includes the ASX), the Non-Resident Holder, persons with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA), partnerships in which the Non-Resident Holder or a person with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA) holds a membership interest directly or indirectly through one or more partnerships, or any combination thereof, concurrently at the time condition (a) is met, owned 25% or more of the issued BLY Shares

Notwithstanding the foregoing, the BLY Shares could be deemed to be "taxable Canadian property" to a Non-Resident Holder, for example, if a Non-Resident Holder acquired the BLY Shares in exchange for "taxable Canadian property" in certain circumstances set out in the ITA.

If the BLY Shares constitute "taxable Canadian property" to a Non-Resident Holder, the tax consequences of a disposition thereof will generally be as described above under the heading "Holders Resident in Canada – Taxation of Capital Gains and Capital Losses". Furthermore, such Non-Resident Holder may be required to give notice of the disposition to the CRA and apply for a clearance certificate pursuant to Section 116 of the ITA.

A Non-Resident Holder that holds BLY Shares that may constitute taxable Canadian property should consult its own tax advisor prior to the Re-domiciliation.



(b) Consequences of Non-Resident Holders Owning New BLY Parent Shares

Any dividends paid or credited, or deemed to be paid or credited, on New BLY Parent Shares to a Non-Resident Holder will be subject to Canadian withholding tax at the rate of 25% of the gross amount of the dividend unless the rate is reduced under the provisions of an applicable income tax convention between Canada and the Non-Resident Holder's country of residence. For instance, where the Non-Resident Holder is a resident of the United States that is entitled to full benefits under the Canada United States Income Tax Convention (1980) as amended and is the beneficial owner of the dividends, the rate of Canadian withholding tax applicable to dividends is generally reduced to 15%.

(c) Consequences of Non-Resident Holders disposing of New BLY Parent Shares

For a Non-Resident Holder to be subject to tax under the ITA on any capital gain realised on the disposition or deemed disposition of New BLY Parent Shares, such New BLY Parent Shares must be or be deemed to be "taxable Canadian property", as defined in the ITA, to the Non-Resident Holder at the time of disposition or deemed disposition and not constitute "treaty-protected property", as defined in the ITA.

New BLY Parent Shares will not constitute "taxable Canadian property" to a Non-Resident Holder at the time of the disposition or deemed disposition thereof unless at any particular time during the 60 month period immediately preceding the disposition:

- (i) more than 50% of the fair market value of the New BLY Parent Shares was derived directly or indirectly from one or any combination of:
  - (A) real or immovable property situated in Canada;
  - (B) "Canadian resource properties" (as defined in the ITA);
  - (C) "timber resource properties" (as defined in the ITA); or
  - (D) an option, an interest or right in such property, whether or not such property exists; and
- (ii) if the New BLY Parent Shares are then listed on a designated stock exchange (which currently includes the ASX), the Non-Resident Holder, persons with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA), partnerships in which the Non-Resident Holder or a person with whom the Non-Resident Holder does not deal at arm's length (within the meaning of the ITA) holds a membership interest directly or indirectly through one or more partnerships, or any combination thereof, concurrently at the time condition (a) is met, owned 25% or more of the issued New BLY Parent Shares

Notwithstanding the foregoing, the New BLY Parent Shares could be deemed to be "taxable Canadian property" to a Non-Resident Holder, for example, if a Non-Resident Holder acquired the New BLY Parent Shares in exchange for "taxable Canadian property" in certain circumstances set out in the ITA.

If the New BLY Parent Shares constitute "taxable Canadian property" to a Non-Resident Holder, the tax consequences of a disposition thereof will generally be as described above under the heading "Holders Resident in Canada – Taxation of Capital Gains and Capital Losses". Furthermore, such Non-Resident Holder may be required

to give notice of the disposition to the CRA and apply for a clearance certificate pursuant to Section 116 of the ITA.

A Non-Resident Holder contemplating a disposition of New BLY Parent Shares that may constitute taxable Canadian property should consult its own tax advisor prior to such disposition.

## 11. ADDITIONAL INFORMATION

### 11.1 Directors' interests in BLY securities

The number, description and amount of BLY marketable securities controlled or held by, or on behalf of, each of the Directors as at the date of this Explanatory Memorandum are:

DIRECTOR	NUMBER OF SHARES	NUMBER OF RIGHTS AND OPTIONS
<b>Mr Jeffrey Olsen</b> President and Chief Executive Officer	271,872	1,081 BLY Options
<b>Mr Kevin McArthur</b> Non-Executive Chairman	428,796	None
<b>Mr Tye Burt</b> Non-Executive Director	260,851	None
<b>Mr James Kern</b> Non-Executive Director	202,602	None
<b>Mr Rubin McDougal</b> Non-Executive Director	165,835	None
<b>Mr Jason Ireland</b> Non-Executive Director	23,731	None
<b>Mr Robert Smith</b> Non-Executive Director	23,731	None
<b>Mr Conor Tochilin</b> Non-Executive Director	None	None

Each Director intends to vote any Shares held or controlled by him or her in favour of the Re-domiciliation Scheme Resolution.

No Director has acquired or disposed of a Relevant Interest in any Shares or other BLY securities in the four month period ending on the date of this Explanatory Memorandum.

### 11.2 Payments and other benefits

#### (a) Appointment of directors to the New BLY Parent Board

Each of the existing Directors will initially be appointed as a New BLY Parent Director on implementation of the Re-domiciliation and the Nominee Directors will

subsequently be appointed as New BLY Parent Directors. Each New BLY Parent Director will be entitled to receive remuneration for their services and will be entitled to enter into an Indemnification Agreement as described in Section 11.4(e).

- (b) Agreements with current Directors and Nominee Directors conditional on, or connected to, the Re-domiciliation Scheme

Other than as set out below or elsewhere in this Explanatory Memorandum, there are no agreements or arrangements made between any existing Directors or Nominee Directors and any other person in connection, or conditional upon, the outcome of the Re-domiciliation Scheme (other than in their capacity as a Shareholder).

- (c) Payments or other benefits to Directors, secretaries and executive officers

Other than as set out below or elsewhere in this Explanatory Memorandum, no payment or other benefit is proposed to be made or given to any Director, secretary or executive officer of BLY, or any related body corporate of BLY as compensation for the loss of, or as consideration for or in connection with his or her retirement from office as a Director, secretary or executive officer of BLY or a related body corporate of BLY as a result of the Re-domiciliation Scheme.

Other than as set out above or elsewhere in this Explanatory Memorandum, neither the Re-domiciliation Independent Expert, nor any director or proposed director of New BLY Parent, and no entity in which a director or proposed director of New BLY Parent is or was a member or partner in the last two years, holds, or held at any time during the last two years before the date of lodgement of this Explanatory Memorandum for registration by ASIC, any interest in:

- the formation or promotion of New BLY Parent;
- any property acquired or proposed to be acquired by New BLY Parent in connection with its formation or promotion or the Re-domiciliation,

and no amounts (whether in cash or securities or otherwise) have been paid or agreed to be paid, and no one has given or agreed to give a benefit, to any director or proposed director of New BLY Parent either to induce them to become, or to qualify them as, a director of New BLY Parent, or otherwise for services rendered by them in connection with the formation or promotion of New BLY Parent or the Re-domiciliation.

### 11.3 **Transactions in relation to New BLY Parent securities**

No securities of New BLY Parent (including New BLY Parent Shares) have been sold in the three months immediately before the date of this Explanatory Memorandum.

### 11.4 **Transaction documents**

- (a) Restructuring Implementation Deed

The Restructuring Implementation Deed contemplates that BLY and New BLY Parent, among others, will be executing the Restructuring Implementation Deed. The purpose of the Restructuring Implementation Deed is to give effect to the RSA Transactions.

(b) Re-domiciliation Scheme

A summary of the Re-domiciliation Scheme is set out in section 3 of this Explanatory Memorandum. A copy of the Re-domiciliation Scheme is included in Appendix B to this Explanatory Memorandum.

(c) Re-domiciliation Scheme Deed Poll

BLY will procure that New BLY Parent will execute the Re-domiciliation Scheme Deed Poll in favour of Scheme Shareholders under which it will agree, subject to the Re-domiciliation Scheme becoming Effective, to acquire the Shares held by Scheme Shareholders and perform all obligations attributable to it under the Re-domiciliation Scheme.

A copy of the Re-domiciliation Scheme Deed Poll is included at Appendix C to this Explanatory Memorandum.

(d) Assumption Deed Poll

BLY will procure that New BLY Parent executes the Assumption Deed Poll in favour of the holders of the New Warrants, Class A 7% Warrant Holders, Class B 7% Warrant Holders, Ordinary Warrant Holders, each Option Holder and the Participants pursuant to which it will assume the obligations of BLY under the New Warrants, the Existing Warrants, the BLY Options and the Long Term Incentive Plan, subject to the Re-domiciliation Scheme becoming Effective.

A copy of the Assumption Deed Poll is included at Appendix D to this Explanatory Memorandum.

(e) Indemnification Agreements

New BLY Parent intends to indemnify each existing Director appointed to the New BLY Parent Board as well as the New BLY Parent Director against liabilities incurred by such director in carrying out their duties as a director pursuant to Indemnification Agreements. Each of the Indemnification Agreements are expected to include an obligation of New BLY Parent to, amongst other things, indemnify each director of New BLY Parent from and against all costs, charges and expenses reasonably incurred by the director in respect of civil, criminal, administrative, investigative or other proceeding in which the director is or may be involved by reason of being or having been a director of, or holding or having held a position equivalent to that of a director of New BLY Parent, provided that:

- (i) the director acted honestly and in good faith with a view to the best interests of New BLY Parent; and
- (ii) in the case of a proceeding that is criminal or administrative action or proceeding that is enforced by a monetary policy, the director had reasonable grounds for believing his or her conduct was lawful.

## 11.5 Effect of Scheme on creditors

New BLY Parent intends for its business to consist entirely of the business of BLY, as detailed in Section 7.6(c). Therefore, the Re-domiciliation will not have an adverse impact on the interests of BLY's creditors, and no material liability will be incurred by BLY under or by reason of the Re-domiciliation, other than the costs of implementing the Re-domiciliation Scheme. BLY has paid and is paying all of its trade creditors within normal terms of trade.

## 11.6 Consents and disclaimers

### (a) Consents to be named

The following persons have given, and have not, before the date of this Explanatory Memorandum, withdrawn, their written consent to:

- be named in this Explanatory Memorandum in the form and context which they are named;
- the inclusion of their respective reports or statements noted next to their names and the references to those reports or statements in the form and context in which they are included in this Explanatory Memorandum; and
- the inclusion of other statements in this Explanatory Memorandum which are based on, or referable to, statements made in those reports or statements, or which are based on or referable to other statements made by those persons in the form and context in which they are included.

Name of person	Named as	Reports/statements
Ashurst Australia	Australian legal advisers to BLY	N/A
Fasken	Canadian legal advisers to BLY	N/A
KPMG	Re-domiciliation Independent Expert	Re-domiciliation Independent Expert's Report; Covering page; Chairman's letter' Section 2.4; Section 3.9; Section 4.2; and Section 11.2(c)
FTI Consulting	Independent Expert in respect of the Creditors' Schemes and Scheme Administrators	N/A
Link Market Services Limited	Registry	N/A

Each of the above persons:

- has not authorised or caused the issue of this Explanatory Memorandum;
- does not make, or purport to make, any statement in this Explanatory Memorandum or any statement on which a statement in this Explanatory Memorandum is based, other than those statements referred to above and as consented to by that person; and
- to the maximum extent permitted by law, expressly disclaims all liability in respect of, makes no representation regarding, and takes no responsibility for, any part of this Explanatory Memorandum other than a reference to its

name and the statement or report (if any) that has been included in this Explanatory Memorandum with the consent of that person as set out above.

#### 11.7 ASIC and ASX waivers, confirmations and approvals

(a) ASIC relief

In accordance with ASIC Corporations (Sale Offers That Do Not Need Disclosure) Instrument 2016/80, the New BLY Parent CDIs issued pursuant to the Re-domiciliation Scheme will be freely tradeable.

BLY has also applied to ASIC for a declaration under subsection 741(1)(b) of the Corporations Act modifying sections 708A(12A) and 708A(5) of the Corporations Act such that, in the 12 months following the Re-domiciliation Scheme Implementation Date, the continuous quotation of Shares may be included in the calculation of the 3 month period for the purposes of sections 708A(12A) and 708A(5) of the Corporations Act.

BLY has also applied to ASIC for a declaration under subsection 741(1)(b) modifying the definition of "continuously quoted securities" for the purposes of Chapter 6D of the Corporations Act such that, in the 12 months following the Re-domiciliation Scheme Implementation Date, the continuous quotation of Shares may be included in the calculation of the 3 month period for the purposes of section 713(1) of the Corporations Act.

(b) ASX waivers and confirmations

ASX has also indicated that it will grant BLY and New BLY Parent the following confirmations and waivers:

- (i) **(information memorandum)** a confirmation that New BLY Parent may use as an information memorandum (such as this Explanatory Memorandum) that complies with the requirements of ASX Listing Rule 1.4 (except as waived) for the purposes of its application to list on ASX and ASX will not require New BLY Parent to lodge a prospectus or PDS with ASX under Listing Rule 1.1 condition 3, on condition that the information memorandum incorporates the explanatory statement for the Re-domiciliation Scheme;
- (ii) **(Appendix 1A Information Form and Checklist)** a confirmation that New BLY Parent will not be required to comply with the following paragraphs of the Appendix 1A Information Form and Checklist (**Listing Checklist**):
  - (A) paragraphs 22 and 23 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include:
    - (aa) a diagram identifying each material child entity and the nature and location of the business activities it undertakes; or
    - (bb) a list of all material child entities identifying each such entity's name, its place of incorporation or registration, the nature of its business and BLY's percentage holding in it;
  - (B) paragraph 28 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include details of the material terms of any securities other than Shares on issue, proposed to be issued before New BLY's Parent's admission to the official list of ASX or proposed to be issued following New BLY Parent's admission to the official list of ASX in accordance with material contracts;

- (C) paragraph 29 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include a statement that New BLY Parent's free float at the time of admission to the official list of ASX will be not less than 20%, subject to ASX granting a waiver from Listing Rule 1.1 condition 8;
- (D) paragraph 34 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include a description of the history of New BLY Parent (provided ASX is satisfied that BLY is in compliance with Listing Rule 3.1 at the time New BLY Parent applies for admission to the official list of ASX);
- (E) paragraph 35 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include a description of New BLY Parent's existing and proposed activities and level of operations (provided ASX is satisfied that BLY is in compliance with Listing Rule 3.1 at the time New BLY Parent applies for admission to the official list of ASX);
- (F) paragraph 36 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include a description of the material business risks faced by New BLY Parent (provided ASX is satisfied that BLY is in compliance with Listing Rule 3.1 at the time New BLY Parent applies for admission to the official list of ASX);
- (G) paragraph 42 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include:
  - (aa) the material terms of employee incentive schemes; or
  - (bb) a statement as to whether directors are entitled to participate in the employee incentive scheme and, if they are, the extent to which they currently participate or are proposed to participate;
- (H) paragraph 43 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include details of the existence and main terms of any material contracts, and the provision to ASX of copies of any material contracts (provided ASX is satisfied that BLY is in compliance with Listing Rule 3.1 at the time New BLY Parent applies for admission to the official list of ASX);
- (I) paragraphs 44 and 45 of the Listing Checklist, to the extent necessary to permit the Explanatory Memorandum not to include a summary of the material terms of, or a copy of, any employment, service or consultancy agreement, and a summary of any other material contract, which New BLY Parent or any of its child entities has entered into with:
  - (aa) its Chief Executive Officer or proposed Chief Executive Officer;
  - (bb) any of its directors or proposed directors; or
  - (cc) any other person or entity who is a related party of the persons referred to in (aa) or (bb) above,

provided that ASX is satisfied that such information has been released by BLY under Listing Rule 3.1;



- (J) paragraph 46 of the Listing Checklist, to the extent necessary to permit New BLY Parent not to provide a confirmation that all information that a reasonable person would expect to have a material effect on the price or value of the securities to be quoted is included in or provided with the Listing Checklist, on condition that BLY complies with Listing Rule 3.1 up until it is removed from the official list of ASX (provided ASX is satisfied that BLY is in compliance with Listing Rule 3.1 at the time New BLY Parent applies for admission to the official list of ASX);
  - (K) paragraph 47 of the Listing Checklist, to the extent necessary to permit New BLY Parent not to provide a copy of New BLY Parent's most recent annual report; and
  - (L) paragraphs 51 to 68 (inclusive) of the Listing Checklist, to the extent necessary to permit New BLY Parent not to provide the information in connection with Listing Rules 1.2 and 1.3, provided ASX grants a waiver from Listing Rule 1.1 condition 9;
- (iii) **(minimum spread test)** a waiver from Listing Rule 1.1 condition 8 to the extent necessary to permit New BLY Parent not to comply with that Listing Rule on the condition that BLY satisfies Listing Rule 12.4 at the time New BLY Parent is admitted to the official list of ASX;
  - (iv) **(asset or profit test)** a waiver from Listing Rule 1.1 condition 9 to the extent necessary to permit New BLY Parent not to comply with Listing Rules 1.2 and 1.3 on the condition that BLY satisfies Listing Rules 12.1 and 12.2 at the time New BLY Parent is admitted to the official list of ASX;
  - (v) **(prospectus information)** a waiver from Listing Rule 1.4.1 to the extent necessary to permit the Explanatory Memorandum not to include a statement that it contains all information that would otherwise be required under section 710 of the Corporations Act, on condition that:
    - (A) this Explanatory Memorandum incorporates the explanatory statement for the Re-domiciliation Scheme;
    - (B) New BLY Parent releases to the market as pre-quotation disclosure all of the documents incorporated by reference into the Explanatory Memorandum; and
    - (C) BLY provides a statement to the market that it is in compliance with Listing Rule 3.1 at the time New BLY Parent is admitted to the official list of ASX;
  - (vi) **(date)** a waiver from Listing Rule 1.4.4 to the extent necessary to permit the Explanatory Memorandum to be dated at the date at which the Court convenes the Re-domiciliation Scheme Meeting;
  - (vii) **(capital raising)** a waiver from Listing Rule 1.4.7 to the extent necessary to permit the Explanatory Memorandum not to include a statement that New BLY Parent has not raised any capital for the 3 months prior to the date of issue of this Explanatory Memorandum, and will not need to raise any capital in the 3 months after that date;
  - (viii) **(supplementary information)** a waiver from Listing Rule 1.4.8 to the extent necessary to permit the Explanatory Memorandum not to include a statement that a supplementary information memorandum will be issued if, between the date of issue of this Explanatory Memorandum and the date on which New

BLY Parent Shares (represented by New BLY Parent CDIs) and Ordinary Warrants are quoted, New BLY Parent becomes aware of the matters referred to Listing Rule 1.4.8, on condition that BLY undertakes to ASX to release any such information to the ASX Announcements Platform (which undertaking is to take the form of a deed no later than the date of this Explanatory Memorandum being released);

- (ix) **(voting)** a waiver from Listing Rule 6.10.3 to the extent necessary to permit New BLY Parent to provide the method for determining whether a shareholder is entitled to vote at a shareholders meeting in accordance with the laws of Ontario;
- (x) **(proxies)** a waiver from Listing Rule 14.2.1 to the extent necessary to permit New BLY Parent not to provide the option in its proxy form for holders of New BLY Parent CDIs to vote against a resolution to elect a director or to appoint an auditor, on condition that:
  - (A) New BLY Parent complies with the laws of Ontario as to the content of the proxy forms applicable to resolutions for the election or re-election of directors and the appointment of auditors;
  - (B) the notice given by the Company to holders of New BLY Parent CDIs under ASX Settlement Operating Rule 13.8.9 makes it clear that the holders are only able to vote for the resolutions or abstain from voting, and the reasons why that is the case;
  - (C) the Company releases details of the waiver to the market as part of its pre-quotation disclosure, and the terms of the waiver are set out in the management proxy circular provided to all holders of CDIs; and
  - (D) the waiver only applies for so long as the relevant laws of Ontario prevent New BLY Parent from permitting securityholders to vote against a resolution to elect a director and vote against a resolution to appoint an auditor;
- (xi) **(director nomination)** a confirmation for the purposes of Listing Rule 14.3 that New BLY Parent may accept nominations for the election of directors in accordance with the shareholder proposal provisions of section 99 of the *Business Corporations Act* (Ontario), on condition that:
  - (A) New BLY Parent releases the terms of the waiver to the market as pre-quotation disclosure; and
  - (B) the terms of the waiver are set out in the management proxy circular provided to all holders of New BLY Parent CDIs; and
- (xii) **(financial accounts)** a confirmation for the purposes of Listing Rule 19.11A that New BLY Parent may continue to prepare its accounts in USD in accordance with IFRS and New BLY Parent will not be required to provide a statement reconciling its accounts to Australian accounting standards or other international accounting standards or reconciling its audit standard to Australian or other international audit standards.

## 11.8 Privacy and personal information

BLY, New BLY Parent and their share registries may collect personal information, including from each other, in the process of implementing the Re-domiciliation Scheme and the Re-domiciliation and administering the holdings or securities arising from the Re-domiciliation.

The personal information may include the names, addresses, other contact details and details of the shareholdings of Shareholders, as well as the names of individuals appointed by Shareholders as proxies, corporate representatives or attorneys at the meetings.

Shareholders who are individuals and the other individuals in respect of whom personal information is collected as outlined above have certain rights to access the personal information collected in relation to them. Such individuals should contact Link Market Services Limited on 1800 781 633 (within Australia) or +61 1800 781 633 (outside Australia) on Business Days between 8.00am and 8.00pm (Sydney time) Monday to Friday in the first instance, if they wish to request access to that personal information.

The personal information is collected for the primary purpose of implementing the Re-domiciliation and administering the holding of securities arising from the Re-domiciliation. The personal information may be disclosed to Link Market Services Limited to the Authorised Nominee, to securities brokers, to print and mail service providers and to any other service providers and advisers engaged by BLY or their share registries for this purpose. The personal information of Ineligible Foreign Shareholders may also be disclosed to the Sale Agent for the purposes of operating the Sale Facility.

The main consequence of not collecting the personal information outlined above would be that BLY may be hindered in, or prevented from, conducting the Re-domiciliation Scheme Meeting and implementing the Re-domiciliation.

Shareholders who appoint an individual as their proxy, corporate representative or attorney to vote at the Re-domiciliation Scheme Meeting should inform such individual of the matters outlined above.

#### 11.9 **Disclosure of interests**

Except as disclosed elsewhere in this Explanatory Memorandum, no:

- (a) New BLY Parent Director or proposed New BLY Parent Director;
- (b) person named in this Explanatory Memorandum as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Explanatory Memorandum; or
- (c) promoter of New BLY Parent,

(together **Interested Persons**) holds, or held at any time during the 2 years before the date of this Explanatory Memorandum, any interests in:

- (d) the formation or promotion of New BLY Parent; or
- (e) property acquired or proposed to be acquired by New BLY Parent in connection with:
  - (i) its formation or promotion; or
  - (ii) the offer of New BLY Parent Shares under the Re-domiciliation Scheme; or
- (f) the offer of New BLY Parent Shares under the Re-domiciliation Scheme.

#### 11.10 **Disclosure of fees and other benefits**

Except as disclosed in this Explanatory Memorandum, no one has paid or agreed to pay any fees, or provided or agreed to provide any benefit:

- (a) to a New BLY Parent Director or a proposed director of New BLY Parent to induce them to become or qualify as a director of New BLY Parent; or

- (b) to any Interested Person for services provided by that person in connection with:
- (i) the formation or promotion of New BLY Parent; or
  - (ii) the offer of New BLY Parent Shares under the Scheme.

All of the persons named in this Explanatory Memorandum as performing a function in a professional, advisory or other capacity in connection with the Re-domiciliation Scheme and the preparation or distribution of this Explanatory Memorandum will be entitled to receive professional fees charged in accordance with their normal basis of charging.

The fees paid to the persons named in this Explanatory Memorandum as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Explanatory Memorandum up to the date of this Explanatory Memorandum are:

- Ashurst Australia, approximately USD\$1,250,000 (excluding GST and disbursements);
- Fasken, approximately USD\$205,000 (excluding GST and disbursements);
- Re-domiciliation Scheme Independent Expert, approximately USD\$60,000 (excluding GST and disbursements);
- Tax adviser to BLY, approximately USD\$500,000 (excluding GST and disbursements); and
- Link Market Services, approximately USD\$100,000 (excluding GST and disbursements).

Each of them will be entitled to receive professional fees charged as agreed and in accordance with their normal basis of charging up until implementation of the Re-domiciliation.

#### 11.11 **Collateral benefits**

Except as otherwise disclosed in this Explanatory Memorandum, in the four months before the date of this Explanatory Memorandum, neither New BLY Parent nor any of its associates has given or offered to give or agreed to give a benefit to another person where the benefit was likely to induce the other person, or an associate, to vote in favour of the Re-domiciliation Scheme or dispose of Shares which benefit is not offered to all Shareholders under the Re-domiciliation Scheme.

#### 11.12 **Foreign selling restrictions**

The release, publication or distribution of this Explanatory Memorandum (electronically or otherwise) outside of Australia may be restricted by law or regulation in such other jurisdictions and persons outside Australia who come into possession of it should observe these restrictions. Any failure to comply with these restrictions may contravene applicable laws or regulations. BLY disclaims all liabilities to such persons.

This Explanatory Memorandum has been prepared in accordance with the laws and regulations of Australia and the information contained in this Explanatory Memorandum may not be the same as that which would have been disclosed if this Explanatory Memorandum had been prepared in accordance with the laws and regulations of any other country.

If you are a Shareholder who is a nominee, trustee or custodian, you are advised to seek independent advice as to how you should proceed.

This Explanatory Memorandum and the Re-domiciliation do not in any way constitute an offer of securities in any place in which, or to any person to whom, it would be unlawful to make such an offer. No action has been taken to register or qualify this Explanatory Memorandum, the Re-domiciliation, the New BLY Parent Shares or the New BLY Parent CDIs, or otherwise permit a public offering of New BLY Parent CDIs, in any jurisdiction outside of Australia.

Ineligible Foreign Shareholders will not receive New BLY Parent CDIs under the Re-domiciliation and will instead receive net proceeds of the sale of the New BLY Parent CDIs they would otherwise have been entitled to pursuant to the Sale Facility. For details regarding Ineligible Foreign Shareholders refer to Sections 3.18(b) and 3.19 of this Explanatory Memorandum.

The New BLY Parent CDIs proposed to be issued pursuant to the Re-domiciliation Scheme will not be registered with the U.S. Securities and Exchange Commission (SEC) under the U.S. Securities Act of 1933, as amended (the U.S. Securities Act) or the securities law of any state or other jurisdiction unless expressly specified herein, and are being offered and sold in reliance on certain exemptions from registration under the U.S. Securities Act. Consequently, neither these securities nor any interest or participation therein may be offered, sold assigned, transferred, pledged, encumbered or otherwise disposed of in the U.S. or to U.S. persons (as defined in the U.S. Securities Act) unless an exemption from the registration requirement of the U.S. Securities Act is available. The New BLY Parent CDIs will be issued in reliance upon the exemption from registration provided by Section 3(a)(10) of the U.S. Securities Act. The approval of the Court or such other court of competent jurisdiction provides the basis for the New BLY Parent CDIs to be issued without registration under the U.S. Securities Act, in reliance on the exemption from the registration requirements of the U.S. Securities Act provided by Section 3(a)(10) of the U.S. Securities Act.

No action has been taken to register or qualify the New BLY Parent CDIs or otherwise permit a public offer of such securities in any jurisdiction outside Australia.

Based on the information available to BLY, Shareholders whose addresses are shown in the BLY Share Register as at the date of this Explanatory Memorandum as being in the following jurisdictions will be entitled to receive the Explanatory Memorandum and have New BLY Parent CDIs issued subject to, and in accordance with the Re-domiciliation Scheme (subject to any qualifications set out below in respect of that jurisdiction):

- (a) Australia;
- (b) Bermuda;
- (c) Cayman Islands;
- (d) Hong Kong;
- (e) Ireland, where (i) Shareholders are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation) or (ii) the number of other Shareholders is less than 150;
- (f) Italy, where (i) Shareholders are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation) or (ii) the number of other Shareholders is less than 150;
- (g) Luxembourg, where (i) Shareholders are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation) or (ii) the number of other Shareholders is less than 150;

- (h) Netherlands, where (i) Shareholders are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation) or (ii) the number of other Shareholders is less than 150;
- (i) New Zealand;
- (j) Spain, where (i) Shareholders are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation) or (ii) the number of other Shareholders is less than 150;
- (k) Switzerland;
- (l) United States of America;
- (m) Canada; and
- (n) any other person or jurisdiction in respect of which BLY reasonably believes that it is not prohibited and not unduly onerous or impractical to issue New BLY Parent CDIs to a BLY shareholder with a registered address in such jurisdiction.

Nominees, custodians and other Shareholders who hold Shares on behalf of a beneficial owner resident outside Australia, Bermuda, Cayman Islands, Hong Kong, New Zealand and Switzerland may not forward this Explanatory Memorandum (or any accompanying document) to anyone outside these countries without the consent of BLY, except nominees and custodians may forward the Explanatory Memorandum to any beneficial shareholder in the European Union who is a "qualified investor" (as defined in Article 2(e) of the Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union).

#### **Notice to BLY Shareholders in Bermuda**

No offer or invitation to subscribe for New BLY Parent CDIs may be made to the public in Bermuda. No invitation is being made to persons resident in Bermuda for exchange control purposes to subscribe for New BLY Parent CDIs.

#### **Notice to BLY Shareholders in Cayman Islands**

No offer or invitation to subscribe for New BLY Parent CDIs may be made to the public in the Cayman Islands or from within the Cayman Islands.

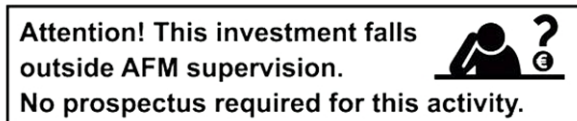
#### **Notice to BLY Shareholders in the European Union**

This Explanatory Memorandum is not a prospectus under Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union (the "Prospectus Regulation"). Therefore, the Explanatory Memorandum has not been, and will not be, registered with or approved by any securities regulator or supervisory authority in the European Union. Accordingly, this Explanatory Memorandum may not be made available, nor may the New BLY Parent CDIs be offered for sale or exchange, in the European Union except in circumstances that do not require the obligation to publish a prospectus under the Prospectus Regulation.

In accordance with Article 1(4) of the Prospectus Regulation, an offer of New BLY Parent CDIs in each member state of the European Union is limited:

- to persons who are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation);
- to fewer than 150 other natural or legal persons; or
- in any other circumstance falling within Article 1(4) of the Prospectus Regulation.

Investors in the Netherlands should note:



### **Notice to BLY Shareholders in Hong Kong**

**WARNING:** The contents of this Explanatory Memorandum have not been reviewed or approved by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the Scheme. If you are in any doubt about any of the contents of this Explanatory Memorandum, you should obtain independent professional advice.

This Explanatory Memorandum does not constitute an offer or invitation to the public in Hong Kong to acquire or subscribe for or dispose of any securities. This Explanatory Memorandum also does not constitute a prospectus (as defined in section 2(1) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32 of the Laws of Hong Kong)) or notice, circular, brochure or advertisement offering any securities to the public for subscription or purchase or calculated to invite such offers by the public to subscribe for or purchase any securities, nor is it an advertisement, invitation or document containing an advertisement or invitation falling within the meaning of section 103 of the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong).

Accordingly, unless permitted by the securities laws of Hong Kong, no person may issue or cause to be issued this Explanatory Memorandum in Hong Kong, other than to persons who are "professional investors" as defined in the Securities and Futures Ordinance and any rules made thereunder or in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance or which do not constitute an offer to the public within the meaning of the Companies (Winding Up and Miscellaneous Provisions) Ordinance.

No person may issue or have in its possession for the purposes of issue, this Explanatory Memorandum or any advertisement, invitation or document relating to the New BLY Parent CDIs, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than any such advertisement, invitation or document relating to securities that are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the Securities and Futures Ordinance and any rules made thereunder.

Copies of this Explanatory Memorandum may be issued to a limited number of persons in Hong Kong in a manner which does not constitute any issue, circulation or distribution of this Explanatory Memorandum, or any offer or an invitation in respect of the New BLY Parent CDIs, to the public in Hong Kong. The document is for the exclusive use of BLY shareholders in connection with the Scheme, and no steps have been taken to register or seek authorisation for the issue of this Explanatory Memorandum in Hong Kong.

This Explanatory Memorandum is confidential to the person to whom it is addressed and no person to whom a copy of this Explanatory Memorandum is issued may issue, circulate, distribute, publish, reproduce or disclose (in whole or in part) this Explanatory Memorandum to any other person in Hong Kong or use for any purpose in Hong Kong other than in connection with consideration of the Scheme by the person to whom this Explanatory Memorandum is addressed.

### **Notice to BLY Shareholders in New Zealand**

This Explanatory Memorandum is not a New Zealand disclosure document and has not been registered, filed with or approved by any New Zealand regulatory authority under or in accordance with the Financial Markets Conduct Act 2013 (or any other relevant New Zealand law). The offer of New BLY Parent CDIs under the Scheme is being made to existing shareholders of BLY in reliance upon the Financial Markets Conduct (Incidental Offers) Exemption Notice 2016 and, accordingly, this Explanatory Memorandum may not contain all the information that a disclosure document is required to contain under New Zealand law.

### **Notice to BLY Shareholders in Switzerland**

The New BLY Parent CDIs may not be publicly offered in Switzerland and will not be listed on the SIX Swiss Exchange or on any other stock exchange or regulated trading facility in Switzerland. Neither this Explanatory Memorandum nor any other offering material relating to the New BLY Parent CDIs constitutes a prospectus or a similar notice as such terms are understood pursuant to art. 35 of the Swiss Financial Services Act (FinSA) or the listing rules of any stock exchange or regulated trading facility in Switzerland. Neither this Explanatory Memorandum nor any other offering material relating to the New BLY Parent CDIs may be publicly distributed or otherwise made publicly available in Switzerland.

Neither this Explanatory Memorandum nor any other offering material relating to the New BLY Parent CDIs have been, or will be, filed with or approved by any Swiss regulatory authority or authorized review body. In particular, this Explanatory Memorandum will not be filed with, and the offer of New BLY Parent CDIs will not be supervised by, the Swiss Financial Market Supervisory Authority (FINMA).

This Explanatory Memorandum may be distributed in Switzerland only to existing shareholders of BLY and is not for general circulation in Switzerland.

### **US Notice**

The New BLY Parent CDIs proposed to be issued pursuant to the Re-domiciliation Scheme will not be registered with the U.S. Securities and Exchange Commission (the SEC) under the U.S. Securities Act of 1933, as amended (the U.S. Securities Act) or the securities laws of any state or other jurisdiction in the United States unless expressly specified herein, and are being issued in reliance on certain exemptions from registration under the U.S. Securities Act. Consequently, neither these securities nor any interest or participation therein may be offered, sold, assigned, transferred, pledged, encumbered or otherwise disposed of in the U.S. or to U.S. persons (as defined in the U.S. Securities Act) unless an exemption from the registration requirement of the U.S. Securities Act is available.

The New BLY Parent CDIs will be issued and delivered in reliance upon exemptions from the registration requirements of the U.S. Securities Act, including that provided by section 3(a)(10) of the U.S. Securities Act (Section 3(a)(10)). In order to qualify for the exemption from the registration requirements of the U.S. Securities Act provided by Section 3(a)(10), there must be a hearing on the fairness of the Re-domiciliation Scheme's terms and conditions to the Shareholders, which all of the Shareholders are entitled to attend in person or through representatives to oppose the sanctioning of the Re-domiciliation Scheme by the Court, and with respect to which notification will be given to all of the Shareholders. For the purpose of qualifying for the exemption from the registration requirements of the U.S. Securities Act provided by Section 3(a)(10), New BLY Parent intends to rely on the Court's hearing to sanction the Re-domiciliation Scheme.

Following consummation of the Re-domiciliation, any person who is an Affiliate of New BLY Parent at the time of or within 90 days prior to any resale of the New BLY Parent CDIs will be subject to certain U.S. transfer restrictions relating to such securities. Such New BLY Parent CDIs may not be sold without registration under the U.S. Securities Act, except pursuant to any available exemptions from the registration requirements of the U.S.



Securities Act or in a transaction not subject to such requirements (including a transaction that satisfies the applicable requirements for resale outside of the United States pursuant to Regulation S under the U.S. Securities Act). Persons who may be deemed to be Affiliates of New BLY Parent include individuals who, or entities that, control directly or indirectly, or are controlled by or are under common control with New BLY Parent and may include certain officers and directors of New BLY Parent and the principal shareholders of New BLY Parent. Ordinary shareholders who own less than 10% will likely not be determined to be Affiliates. Shareholders will be required to make their own determination of their Affiliate status and should consult their own legal advisers prior to any sale of New BLY Parent CDIs following consummation of the Re-domiciliation.

#### **Notice to BLY Shareholders in Canada**

New BLY Parent is not currently a reporting issuer in Canada and there is no assurance that it will ever become a reporting issuer. No prospectus has been filed in a jurisdiction in Canada. No Canadian securities regulatory authority has approved or reviewed this Explanatory Memorandum, the issuance of the New BLY Parent Shares of New BLY Parent CDIs or any of the transactions described in this Explanatory Memorandum. Securities of New BLY Parent will not be listed on any Canadian stock exchange. Securities of New BLY Parent may be subject to restrictions on transfer or hold periods in Canada.

#### **11.13 Financial information**

The financial information contained in this Explanatory Memorandum has been prepared in accordance with the recognition and measurement principles of the Australian Accounting Standards as issued by the Australian Accounting Standards Board and International Financial Reporting Standards (**IFRS**) as issued by the International Accounting Standards Board, except where otherwise stated.

BLY uses certain performance measures that are not statutory financial measures such as EBIT and EBITDA as it better reflects what BLY considers to be the underlying performance of BLY. These measures are collectively referred to as "non-IFRS financial information" under ASIC Regulatory Guide 230 'Disclosing non-IFRS financial information', published by ASIC. Such measures do not have standardised meanings prescribed by Australian Accounting Standards and, therefore, may not be comparable to similarly titled measures presented by other entities, nor should they be construed as an alternative to other financial measures determined in accordance with Australian Accounting Standards. Readers are cautioned, therefore, not to place undue reliance on any non-IFRS financial information or ratio included in this Explanatory Memorandum.

New BLY Parent intends to continue to apply these financial measures after the Re-domiciliation.

The financial information contained in this Explanatory Memorandum is historical only. Shareholders should note that past financial performance is not necessarily a guide to future financial performance.

All references to years are references to BLY 's financial years ended 31 December, unless otherwise indicated.

#### **11.14 Certain ongoing litigation**

Certain of BLY's subsidiaries are defendants to ongoing litigation in Australia in connection with alleged patent infringement. The BLY Group is actively defending this litigation and denies the allegations made by the various plaintiffs. In the event that the BLY Group is unsuccessful in defending the litigation, the BLY Group does not expect that outcome will have any material impact to its financial position and has made appropriate provisions.

#### 11.15 **Other material information**

Except as set out in this Explanatory Memorandum, there is no other information material to the making of a decision in relation to the Re-domiciliation, being information that is within the knowledge of any Director, which has not been previously disclosed to Shareholders.

#### 11.16 **Supplementary disclosure**

BLY will issue a supplementary document to this Explanatory Memorandum if it becomes aware of any of the following between the date of lodgement of this Explanatory Memorandum for registration by ASIC and the Re-domiciliation Scheme Meeting:

- a material statement in this Explanatory Memorandum being misleading or deceptive;
- a material omission from this Explanatory Memorandum;
- a significant change affecting a matter included in this Explanatory Memorandum; or
- a significant new circumstance arising which would have been required to be included in this Explanatory Memorandum if it had arisen before the date of lodgement of this Explanatory Memorandum for registration by ASIC.

The form which the supplementary document may take, and whether a copy will be sent to each shareholder, will depend on the nature and timing of the new or changed circumstances. Any such supplementary document will be made available on BLY's website (<https://www.boartlongyear.com/>) and released to ASX (and, accordingly, available from ASX's website ([www.asx.com.au](http://www.asx.com.au))).

#### 11.17 **Further information**

If you have any questions about the Explanatory Memorandum or the Re-domiciliation, please call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) on Business Days from 9.00am to 5.00pm (Sydney time) Monday to Friday (excluding public holidays).

Please note that the Shareholder Information Line cannot, and will not, provide advice on the merits of the Re-domiciliation or the merits of the New BLY Parent CDIs or give any financial, legal or taxation advice. If you are in doubt as to what you should do, you should consult your financial, legal, taxation or other independent and appropriately licensed and authorised professional adviser without delay.

Any information provided through the Shareholder Information Line will not override the contents of this Explanatory Memorandum.

#### 11.18 **Deemed warranty**

Under the Re-domiciliation Scheme, each Shareholder is deemed to have warranted to New BLY Parent and BLY on the Re-domiciliation Scheme Implementation Date that:

- (a) all of their Shares (including any rights and entitlements attaching to those Shares) will, as at the time of the transfer of them to New BLY Parent, be fully paid and (subject to BLY's constitution) free from all:
  - (i) security interests (including mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise); and

- (ii) restrictions on transfer of any kind; and
- (b) they have full power and capacity to sell and to transfer their Shares (including any rights and entitlements attaching to those Shares) to New BLY Parent under this Re-domiciliation Scheme.

#### 11.19 **Consent to lodgement**

(a) Directors

Each Director has given, and not withdrawn, his or her consent to the lodgement of this Explanatory Memorandum as an information memorandum for listing with ASX and an explanatory memorandum in relation to the Re-domiciliation Scheme with ASIC.

By order of the BLY Board



Kevin McArthur  
Chairman

(b) New BLY Parent Directors

Each New BLY Parent Director has given, and not withdrawn, their consent to the lodgement of this Explanatory Memorandum as an information memorandum for listing with ASX and an explanatory memorandum in relation to the Re-domiciliation Scheme with ASIC.

By order of the New BLY Parent Board



Gordon Ross Amos  
Sole Director

## 12. GLOSSARY

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Capitalised terms and certain abbreviations used in this Explanatory Memorandum have the defined meanings set out in the Glossary contained in this Section 12.

**2014 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2014 Option Plan.

**2014 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2014 Options.

**2015 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2015 Option Plan.

**2015 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2015 Options.

**2016 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2016 Option Plan.

**2016 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2016 Options.

**\$, A\$ or AUD** means Australian dollars.

**ABN** means Australian Business Number.

**Account Holder** means a person recorded directly in the records of Cede & Co. and DTC as holding an interest in the SSN Indenture or SUN Indenture (as applicable) in an account held with DTC.

**Administrative Agent** means:

- (a) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan A;
- (b) Wilmington Trust, National Association in its capacity as administrative agent under the Term Loan B; and
- (c) any successor administrative agent under the Term Loan A or Term Loan B.

**Ad Hoc Group** or **AHG** means Ascribe, Ares, Corre, FPA, and Nut Tree.

**Ad Hoc Group Director Nomination Agreements** means each agreement between one or more AHG Members and BLY in relation to the nomination of no more than three directors as directors of BLY.

**Ad Hoc Group Nominee Directors** means those persons (not exceeding three) nominated by the Ad Hoc Group to be appointed as a director of BLY pursuant to the Ad Hoc Group Nomination Agreements, or to be appointed as a director of New BLY Parent pursuant to the relevant New BLY Parent Director Nomination Agreements, as applicable.

**Affiliate** has the meaning given to "affiliate" within the meaning of Rule 405 of the U.S. Securities Act.

**Agents** means the Administrative Agent or the Collateral Agent or both of them, as the context requires.

**AHG Member** means any one of Ascribe, Ares, Corre, FPA, or Nut Tree and **AHG Members** means any two or more of them.

**AHG Permitted Assignee** means:

- (a) in respect of the Corre Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Corre Partners Management, LLC or any affiliate of it;
- (b) in respect of the Ares Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Ares Management LLC or any affiliate of it;
- (c) in respect of Ascribe, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Ascribe Management, LLC or any affiliate of it;
- (d) in respect of the FPA Shareholders, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by First Pacific Advisors, LP or any affiliate of it; and
- (e) in respect of Nut Tree Master Fund, LP, any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by Nut Tree Capital Management or any affiliate of it.

**Ares** means Ares Management LLC, on behalf of its affiliated funds and accounts being ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company - U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.

**Ares Shareholders** means ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company - U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.

**Articles** means the articles of the New BLY Parent.

**Ascribe** means Ascribe II Investments LLC.

**ASIC** means the Australian Securities and Investments Commission.

**Assumption Deed Poll** means the deed poll of that name to be entered into by New BLY Parent in connection with the Re-domiciliation Scheme in favour of the New Warrant Holders, the Class A 7% Warrant Holders, the Class B 7% Warrant Holders, Ordinary Warrant Holders, the Option Holders and the Participants, as set out in Appendix D.

**ASX** means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691) or the financial market conducted by it, as the context requires.

**ASX Listing Rules** or **Listing Rules** means the listing rules of ASX, as waived or modified by ASX in respect of BLY, the Creditor Schemes or otherwise.

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

**ASX Settlement Operating Rules** means the settlement operating rules of ASX Settlement.

**ATO** means Australian Taxation Office.

**Authorised Nominee** means CHESS Depository Nominees Pty Limited ACN 071 346 503, Australian Financial Licence number 254514, an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.

**BCM** means BL Capital Management LLC ARBN 649 445 321, a limited liability company formed under the laws of Delaware.

**BLA** means Boart Longyear Australia Pty Ltd ACN 000 401 025.

**BLI** means Boart Longyear Investments Pty Limited ACN 124 070 373.

**BLY** or **the Company** means Boart Longyear Limited ACN 123 052 728.

**BLY Board** means the board of directors of BLY from time to time.

**BLY Director Nomination Agreements** means:

- (a) the CBP Director Nomination Agreement; and
- (b) the Ad Hoc Group Director Nomination Agreements.

**BLY Group** means BLY and each of its subsidiaries.

**BLY Information** means the information in this Explanatory Memorandum other than the Re-domiciliation Independent Expert's Report.

**BLY Issuer** means Boart Longyear Management Pty Limited ACN 123 283 545.

**BLY Option** means each of the 2014 Options, 2015 Options and the 2016 Options.

**BLY Share Register** means the register of members of BLY maintained by or on behalf of BLY in accordance with section 168(1) of the Corporations Act.

**BLY US** means BLY US Holdings Inc. ARBN 649 445 394, a corporation formed under the laws of the State of Utah.

**Book Entry Interest** means a beneficial interest in the SSN Indenture or SUN Indenture, as the context requires, held by or through an Account Holder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales and Adelaide, South Australia.

**By-Laws** means the by-laws of New BLY Parent.

**CAD** means Canadian dollars.

**CBP** means CCP II Acquisition Holdings, LLC., Centerbridge Credit Partners Master AIV III, L.P., Centerbridge Credit Partners Master, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. and Centerbridge Special Credit Partners II, L.P.

**CBP Creditors** means Centerbridge Special Credit Partners II L.P, Centerbridge Credit Partners Master AIV III, L.P, CCP II Acquisition Holdings, LLC, Centerbridge Credit Partners Master, L.P. and Centerbridge Special Credit Partners Master II AIV III, L.P.

**CBP Director Nomination Agreement** means the agreement between BLY and affiliates of Centerbridge in relation to the nomination of the CBP Nominee Directors as directors of BLY.

**CBP Nominee Directors** means those persons nominated by Centerbridge Partners, L.P. on behalf of CBP, and its and their affiliates and managed funds to be appointed as a director of BLY pursuant to the CBP Director Nomination Agreement or to be appointed as a director of New BLY Parent pursuant to the relevant New BLY Parent Director Nomination Agreement, as applicable.

**CDI** means a CHESD Depository Interest, being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.

**CDI Voting Instruction Receipt Time** has the meaning given to it in Section 4(g) of Appendix E.

**Centerbridge** means Centerbridge Partners, L.P. and its affiliates or managed funds (as applicable).

**Centerbridge Board Nominee** means a person nominated by Centerbridge for appointment to the BLY Board in accordance with the CBP Director Nomination Agreement.

**Centerbridge Permitted Assignee** means any fund, limited partnership or other collective investment vehicle or other person which is directly or indirectly managed and/or advised by any affiliates of Centerbridge.

**CGT** means Australian capital gains tax.

**CHESD** means the clearing house electronic sub-register system of share transfers operated by ASX Settlement, which provides for the electronic transfer, settlement and registration of securities.

**Class A 7% Warrant** means the unquoted Class A 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class A 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Class B 7% Warrant** means the unquoted Class B 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class B 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Constitution** means the constitution of BLY, as amended from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Corporations Regulations** means *Corporations Regulations 2001* (Cth).

**Corre** means Corre Partners Management, LLC and those entities affiliated with it including Corre Opportunities Qualified Master Fund, LP, Corre Horizon Fund, LP and Corre Horizon II Fund, LP.

**Corre Shareholders** means Corre Opportunities Qualified Master Fund, LP and Corre Horizon Fund, LP.

**Court** means the Supreme Court of New South Wales.

**CRA** the Canada Revenue Agency.

**Creditor Share Purchase Option** means the option for each SUN Noteholder, TLA Purchaser, TLB Purchaser or SSN Noteholder which is a Secured Scheme Creditor or Unsecured Scheme Creditor to subscribe for Shares at the CSPO Issue Price with the Shares to be allocated by BLY in accordance with the CSPO Allocation Principles and issued in accordance with the Secured Creditors Scheme and Unsecured Creditors Scheme, subject to a maximum cap on the amount to be raised by BLY from the issue of the Shares equal to the CSPO Cap Amount, as described in Section 3.5(c).

**Creditors' Schemes** means both of the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditors' Schemes Effective Date** means the date upon which each of the conditions precedent in the Creditors' Schemes have been satisfied.

**Creditors' Schemes Voting Entitlement Record Date** means the date upon which a creditors' entitlement to vote at the Creditors' Scheme Meetings is determined, being 3.00pm (Sydney time), 2 August 2021.

**Creditor Scheme Companies** means BLY, BLY Issuer, BLA, BLI, Votaint, BCM and BLY US.

**Creditors' Scheme Implementation Date** has the meaning given to that term in the Restructuring Implementation Deed.

**Creditors' Scheme Meetings** means the meeting of BLY's:

- (a) Secured Scheme Creditors; and
- (b) Unsecured Scheme Creditors,

for the purposes of considering the Creditors' Schemes.

**Creditors' Scheme Second Court Date** means the hearing of the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Creditors' Scheme.

**CSPO Allocation Principles** has the meaning given to that term in Section 3.5(c).

**CSPO Cap Amount** has the meaning given to that term in Section 3.5(c).

**CSPO Issue Price** has the meaning given to that term in Section 3.5(c).

**Directors** means the directors appointed to BLY as at the date of this Explanatory Memorandum .

**DTC** means The Depository Trust Company, a central securities depository registered as a clearing agency with the Securities Exchange Commission.



**EBIT** means earnings before interest and taxation.

**EBITDA** means earnings before interest, taxation, depreciation and amortisation.

**Effective** when used in relation to the Creditors' Scheme and the Re-domiciliation Scheme (as the case may be), means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the applicable scheme.

**Eligible SBB Shareholder** means a person who:

- (a) is the registered holder of Shares as at the SBB Record Date which have an aggregate value equal to less than A\$3,000 (calculated by reference to the closing price of Shares on the ASX on the SBB Record Date);
- (b) is a Non-Associated Shareholder; and
- (c) is not an Excluded Foreign Person.

**Eligible SPP Shareholders** means a person who:

- (a) is registered as a Shareholder on the BLY Share Register as at the SPP Record Date with a registered address in Australia or New Zealand;
- (b) is not in the United States and not acting for the account or benefit of a person in the United States; and
- (c) is eligible under all applicable securities laws to receive an offer under the Share Purchase Plan.

**Excluded Foreign Person** means anyone who falls within any of the following exclusions:

- (a) persons who are (or who are acting on behalf of or for the account of a person who is) located in the United States, a US Person, or a resident of Canada;
- (b) any other Shareholders to whom BLY would be prohibited, pursuant to any act, rule or regulation in any jurisdiction, from making payments;
- (c) persons who reside, or who are acting on behalf or for the account of a person who resides, in a jurisdiction other than Australia or New Zealand, unless BLY determines that:
  - (i) it would not be illegal for BLY to make an invitation to that person, or for that person to participate in the Selective Buy-Back under the laws of that jurisdiction; and
  - (ii) it would not be impractical for BLY to permit the person to participate in the Selective Buy-Back, having regard to the number of Shareholders in the relevant jurisdiction and the requirements of the laws of that jurisdiction.

**Existing Backstop ABL** means the Term Loan Securities Agreement dated as of July 23, 2017 (as amended by the First Amendment to Term Loan Securities Agreement dated as of 5 August 2017, the Second Amendment to Term Loan Securities Agreement dated as of 31 August 2017, the Third Amendment to Term Loan Securities Agreement dated as of 24 July 2019, the Fourth Amendment to Term Loan Securities Agreement dated as of 19 March 2020, the Fifth Amendment to Term Loan Securities Agreement dated as of 1 June 2021 and as further amended, varied or amended and restated from time to time), between, among others, BLY Issuer, the other guarantors party thereto, and Wilmington Trust,

National Association, as administrative agent, providing for the issuance of term loan securities due 2022.

**Existing PNC ABL** means the Amended and Restated Revolving Credit and Security Agreement, originally dated as of July 23, 2017, among PNC Bank National Association as lender and as agent, BLY Issuer as a borrower and the guarantors party thereto as amended by the document titled "Seventh Amendment to Amended and Restated Revolving Credit and Security Agreement" among PNC Bank National Association as lender and as agent and BLY Issuer as borrower.

**Existing Warrants** means each of the following instruments:

- (a) the Ordinary Warrants;
- (b) the Class A 7% Warrants; and
- (c) the Class B 7% Warrants.

**Exit Financier** has the meaning given to that term in the Restructuring Implementation Deed.

**Exit Financing Facility** means financing made available under a new money facility agreement, which shall:

- (a) be available for drawing by BLY US or another other member of the BLY Group;
- (b) be a five year term loan facility with a total aggregate commitment of US\$115,000,000 available for the purposes, amongst others, of fully refinancing outstanding amounts (including, but not limited to, principal, interest and fees) under each of the Incremental Finance Facility and the Existing Backstop ABL; and
- (c) subject to certain conditions precedent, be available for drawing following completion of Step 1 and Step 2 (as set out in clause 8(a) and clause 8(b) (respectively) of the Restructuring Implementation Deed) in accordance with the Restructuring Implementation Deed.

**Explanatory Memorandum** means this document, which includes the Re-domiciliation Scheme, the explanatory statement for the Re-domiciliation Scheme and the Notice of Re-domiciliation Scheme Meeting.

**Extraordinary General Meeting** or **EGM** means the extraordinary general meeting of Shareholders convened by the Notice of Meeting to consider, amongst other things, the Recapitalisation Resolutions.

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

**Finance Document** means:

- (a) each of the documents listed in Schedule 1 of the Secured Creditors' Scheme other than an Incremental Finance Document;
- (b) each of the documents listed in Schedule 1 of the Unsecured Creditors' Scheme other than an Incremental Finance Document;
- (c) any document entered into by a Creditor Scheme Company under which it has granted a security interest over its property to secure the Secured Money; and
- (d) any other document designated as:

- (i) a "Loan Document" under the Term Loan A and Term Loan B; or
- (ii) a "Notes Document" under the SSN Indenture.

**FPA** means First Pacific Advisors, LP and those entities affiliated with it including FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**FPA Shareholders** being FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**HIN** means Holder Identified Number.

**Implementation Steps** has the meaning given to that term in the Restructuring Implementation Deed.

**Incremental Finance Documents** means together:

- (a) the Incremental Finance Facility; and
- (b) any Loan Document (as that term is defined in the Incremental Finance Facility).

**Incremental Finance Facility** means the Term Loan Securities Agreement dated as of 1 June 2021 between, amongst others, BLY Issuer, the guarantors party thereto, the purchasers party thereto, Wilmington Trust, National Association, as agent and U.S. Bank National Association, as collateral agent, and providing for the issuance of term loan securities with a final repayment date of 31 December 2021.

**Indemnification Agreements** means the indemnification agreement to be entered into by New BLY Parent with each of the New BLY Parent Director.

**Individual Shareholder** means Gordon Ross Amos.

**Ineligible Foreign Shareholder** means:

- (a) a Shareholder whose address as shown in the BLY Share Register (as at the Record Date) is in any jurisdiction other than Australia, New Zealand, Switzerland, Hong Kong, Spain, Luxembourg, the Netherlands, Ireland, Italy, Bermuda, the Cayman Islands, Canada or the United States of America; or
- (b) a Shareholder to whom BLY considers it would be unlawful for New BLY Parent to issue New BLY Parent CDIs in accordance with the laws of the jurisdiction in which the Shareholder is located.

**Ineligible Person** has the meaning given to that term in the Creditors' Schemes.

**Information Agent** means Prime Clerk LLC.

**Interested Person** has the meaning given to that term in Section 11.9.

**Listing Checklist** means Appendix 1A Information Form and Checklist to the ASX Listing Rules.

**Long Term Incentive Plan** means Boart Longyear's 2020 Long Term Incentive Plan approved at BLY's Annual General Meeting on 31 July 2020.

**Maximum Committed Securities** means the maximum number of Shares the relevant Participating SUN Noteholder or Other CSPO Participant (or their Permitted CSPO Nominee) is willing to subscribe for under the Creditor Share Purchase Option, as listed in its duly executed and delivered TLA Proof of Debt Form, TLB Proof of Debt Form, SSN Account Holder Letter or SUN Account Holder Letter (as applicable).

**New BLY Parent** means Boart Longyear Ltd, a limited company incorporated in Ontario, Canada (Number: 2854330), a newly incorporated company established for the purpose of the Re-domiciliation Scheme.

**New BLY Parent Board** means the board of directors of New BLY Parent from time to time.

**New BLY Parent CDI** means a CDI representing one (1) New BLY Parent Share.

**New BLY Parent CDI Holder** means the registered holder of a New BLY Parent CDI.

**New BLY Parent Director Nomination Agreements** means:

- (a) the Canadian law governed deed between CBP and New BLY Parent in relation to the nomination by CBP of the CBP Nominee Directors to be appointed to the board of New BLY Parent; or
- (b) the Canadian law governed deeds between the Ad Hoc Group and New BLY Parent in relation to the nomination by the Ad Hoc Group of the Ad Hoc Group Nominee Directors to be appointed to the board of New BLY Parent.

**New BLY Parent Director** means a director of New BLY Parent.

**New BLY Parent Share** means a fully paid common share in the capital of New BLY Parent.

**New BLY Parent Shareholder** means a registered holder of a New BLY Parent Share following implementation of the Re-domiciliation Scheme.

**New BLY Parent Share Register** means the register of members of New BLY Parent.

**New Common Equity** has the meaning given to that term in the Chairman's Letter.

**New Warrants** means the warrants issued by BLY on the terms set out in Schedule 11 to the Unsecured Creditors' Scheme with a strike price of A\$2.79.

**New Warrant Holder** means the holder of the New Warrants.

**Nominee Directors** means the CBP Nominee Directors and the Ad Hoc Group Nominee Directors.

**Non-Associated Shareholder** means a Shareholder who is not any of the following:

- (a) a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder; or
- (b) an associate of any of the persons referred to in paragraph (a).

**Notice of Re-domiciliation Scheme Meeting** means the notice of Re-domiciliation Scheme Meeting to be issued to Shareholders as set out in Appendix F.

**Notice of Meeting** means the Notice of Extraordinary General Meeting and Explanatory Statement dated 29 July 2021.

**Nut Tree** means Nut Tree Capital Management and Nut Tree Master Fund, LP.

**OBCA** means the *Ontario Business Corporations Act*.

**Obligors Deed Poll** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Option Holder** means each holder of a BLY Option.

**Ordinary Warrant Deed Poll** means the ordinary warrant deed poll dated 31 August 2017 executed by BLY.

**Ordinary Warrants** means quoted ordinary warrants trading on ASX initially issued in September 2017 to all eligible Shareholders, which are subject to an Ordinary Warrant Deed Poll.

**Ordinary Warrant Holders** means the holders of the Ordinary Warrants.

**Other CSPO Participants** means TLA Purchasers, TLB Purchasers and SSN Noteholders who are either a Secured Scheme Creditor or an Unsecured Scheme Creditor who complete and return to the Information Agent a TLA Proof of Debt Form, TLB Proof of Debt Form or an SSN Account Holder Letter (as applicable) with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Participant** means each eligible participant to the Long Term Incentive Plan.

**Participating SUN Noteholder** means SUN Noteholders who are Unsecured Scheme Creditors and who complete and return to the Information Agent the SUN Account Holder Letter with the relevant section titled 'Creditor Share Purchase Option' completed, provided also that in each case they are not an Ineligible Person or, if they are an Ineligible Person, they nominate a Permitted CSPO Nominee.

**Permitted CSPO Nominee** means a person (who is not an Ineligible Person) nominated by a Participating SUN Noteholder or Other CSPO Participant to take up their allocation of Shares under the Creditor Share Purchase Option provided that:

- (a) the nominee is a party to the RSA or accedes to the RSA; and
- (b) the Participating SUN Noteholder or Other CSPO Participant specifies the nominee's name and details in the relevant section titled 'Creditor Share Purchase Option' of their SUN Account Holder Letter, SSN Account Holder Letter, TLA Proof of Debt Form or TLB Proof of Debt Form (as applicable).

**Proxy Cut-Off Time** means 10:30am (Sydney time), 6 September 2021, being the deadline for receipt by the Registry of Proxy Forms to be lodged by Shareholders.

**Recapitalisation** means the proposed recapitalisation of the Company to be implemented through the Recapitalisation Transactions.

**Recapitalisation Documents** means the transaction documents giving effect to the Recapitalisation Transactions including the Restructuring Support Agreement, the Secured Creditor Scheme, the Unsecured Creditor Scheme, the Creditors' Share Purchase Option, the Restructuring Implementation Deed, the Share Purchase Plan and the Exit Financing Facility.

**Recapitalisation Resolutions** has the meaning given to that term in the Notice of Meeting.

**Recapitalisation Transactions** means the transactions as contemplated by the Restructuring Support Agreement including the Secured Creditors' Scheme, the Unsecured

Creditors' Scheme, the Exit Financing Facility, the Share Consolidation, the Share Purchase Plan and the Creditors Share Purchase Option.

**Re-domiciliation** means the proposed re-domicile of BLY from Australia to Canada, to be implemented pursuant to Re-domiciliation Scheme as described in this Explanatory Memorandum.

**Re-domiciliation Conditions Precedent** means the conditions precedent to the Re-domiciliation Scheme.

**Re-domiciliation Independent Expert** means KPMG Corporate Finance, a division of KPMG Financial Advisory Services (Australia) Pty Ltd.

**Re-domiciliation Independent Expert's Report** means the report of the Re-domiciliation Independent Expert as set out in Section 4.2 and any update to such report that the Re-domiciliation Independent Expert issues.

**Re-domiciliation Scheme** means a members' scheme of arrangement in accordance with Part 5.1 of the Corporations Act between BLY and Shareholders pursuant to which BLY will become a wholly owned subsidiary of the New BLY Parent by the transfer of all Shares to the New BLY Parent in exchange for the issue of New BLY Parent CDIs.

**Re-domiciliation Scheme Deed Poll** means the deed poll of that name to be entered into by New BLY Parent, as set out in Appendix C.

**Re-domiciliation Scheme Effective Date** means the date on which each of the Re-domiciliation Conditions Precedent have been satisfied or waived in accordance with the Re-domiciliation Scheme.

**Re-domiciliation Scheme Implementation Date** means the implementation date for the Re-domiciliation Scheme, which will be the Business Day which is 2 Business Days after the Re-domiciliation Scheme Record Date for the Re-domiciliation Scheme, or such other date as BLY and New BLY Parent may agree in writing, may be ordered by the Court or may be required by ASX.

**Re-domiciliation Scheme Meeting** means the meeting of Shareholders ordered by the Court to be convened under 411(1) of the Corporations Act in relation to the Re-domiciliation Scheme.

**Re-domiciliation Scheme Record Date** means 7:00pm (Sydney time) on the day which is two business days after the date on which the Re-domiciliation Scheme becomes Effective or any other date (after the Re-domiciliation Scheme becomes Effective) agreed by BLY and New BLY Parent to be the record date to determine entitlements to receive Re-domiciliation Scheme Consideration under the Re-domiciliation Scheme.

**Re-domiciliation Scheme Resolution** means the resolution to be put to Shareholders at the Re-domiciliation Scheme Meeting to approve the Re-domiciliation Scheme.

**Re-domiciling Event** means the completion of the implementation of the redomiciling of the place of incorporation or organisation of BLY to a jurisdiction outside of Australia.

**Registry** means Link Market Services Limited or (as applicable) any other registry that BLY appoints to maintain the BLY Share Register or that New BLY Parent appoints to maintain the register of New BLY Parent Shares.

**Relevant Interest** has the meaning given to that term in the Corporations Act.

**Relevant AHG Shareholders** at a time means:

- (c) the Ares Shareholders;
- (d) Ascribe;
- (e) the Corre Shareholders;
- (f) the FPA Shareholders;
- (g) Nut Tree Master Fund, LP; and
- (h) any AHG Permitted Assignee,

that are the registered holders of Retained Shares at that time.

**Relevant CBP Shareholders** at a time means:

- (i) the affiliates of Centerbridge who are party to the CBP Director Nomination Agreement; and
- (j) Centerbridge Permitted Assignee,

that are the registered holders of Retained Shares at that time.

**Requisite Majorities** means approval of the Re-domiciliation Scheme by:

- (a) greater than 50% in number of Shareholders present and voting at the Re-domiciliation Scheme Meeting (in person, by proxy, by attorney or by a corporate representative); and
- (b) at least 75% of the total number of votes cast on the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting.

**Restructuring Implementation Deed** means the Restructuring Implementation Deed substantially in the form set out in Schedule 2 of the Secured Creditors' Scheme and Schedule 2 of the Unsecured Creditors' Scheme to be executed by a Secured Scheme Administrator on behalf of the Secured Scheme Creditors and an Unsecured Scheme Administrator on behalf of the Unsecured Scheme Creditors

**Restructuring Support Agreement** means the Restructuring Support Agreement entered into between, among others, BLY and BLY Issuer, dated 12 May 2021, as may be amended, modified or supplemented from time to time.

**Retained Shares** means:

- (a) immediately following completion of Step 8 (*Confirmation of Scheme Restructuring Effective Time*) of the Implementation Steps as set out in clause 8 (*Implementation Steps*) of the Restructuring Implementation Deed, those Shares in which any one or more of the Relevant AHG Shareholders or the Relevant CBP Shareholders (as applicable) have a relevant interest at that time; or
- (b) if the Re-domiciliation Scheme is implemented, those Shares in which any one or more of the Relevant AHG Shareholders or the Relevant CBP Shareholders (as applicable) has a relevant interest as at immediately following the implementation of the Re-domiciliation Scheme,

and in which, at any relevant time, any one or more of the Relevant AHG Shareholders or Relevant CBP Shareholders (as applicable) holds a relevant interest.

**RSA Transactions** means the restructuring of BLY and certain of its subsidiaries as summarised in the Restructuring Term Sheet located at Schedule 2 of the Restructuring Support Agreement.

**Sale Agent** means the person nominated by BLY to sell or facilitate the sale of New BLY Parent Shares or New BLY Parent CDIs under the Sale Facility as described in Section 3.19.

**Sale Facility** means the facility to be established by BLY and managed by the Sale Agent under which Ineligible Foreign Shareholders' New BLY Parent CDIs may be sold in accordance with the terms of the Scheme, as described in Section 3.19.

**Sale Securities** means the New BLY Parent CDIs to be issued to the Sale Agent under the Sale Facility as described in Section 3.19.

**SBB Record Date** means 7:00 pm (Sydney time) on 28 July 2021, being the trading day prior to announcement of the Selective Buy-Back.

**Share Consolidation** has the meaning given to that term in Section 3.5(e).

**SPP Issue Price** means A\$2.48 .

**SPP Record Date** means 7:00 pm (Sydney time) on 28 July 2021, being the record date for the Share Purchase Plan.

**Scheme Administrators** means the Secured Scheme Administrators and the Unsecured Scheme Administrators.

**Scheme Administrators Deed Poll** means the Secured Scheme Administrators Deed Poll and the Unsecured Scheme Administrators Deed Poll.

**Scheme Creditors** means Secured Scheme Creditors and Unsecured Scheme Creditors.

**Scheme Shareholders** means each person who is a Shareholder as at the Re-domiciliation Scheme Record Date.

**Second Court Date** means the date of the Second Court Hearing expected to be 28 September 2021.

**Second Court Hearing** means the hearing of the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Re-domiciliation Scheme.

**Section** is a reference to a section in this Explanatory Memorandum.

**Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Creditor Scheme Companies and the Secured Scheme Creditors.

**Secured Money** has the meaning given to that term in the Secured Creditors' Schemes.

**Secured Scheme Administrators** means FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Secured Creditors' Scheme.

**Secured Scheme Administrators Deed Poll** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Secured Scheme Creditors** means, as at the Creditors' Schemes Effective Date, in respect of:



- (a) the Term Loan A, each TLA Purchaser with TLA Secured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Secured Debt; and
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Secured Debt; and
  - (ii) the SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co.

**Selective Buy-Back** means the purchase of Shares by the Company from Eligible SBB Shareholders, the details of which are set out in Section 3.3.

**Share Purchase Plan** means the share purchase plan offered to Eligible SPP Shareholders prior to the Creditors' Scheme Implementation Date, the details on which are set out in Section 3.5(b) .

**Shareholder** means each person who is registered in the BLY Share Register as a holder of Shares.

**Shareholder Information Line** means the information line set up for the purpose of answering enquiries from Shareholders in relation to the Re-domiciliation, the details of which are set out in Section 2.5.

**Shares** means fully paid ordinary shares in the capital of BLY.

**SRN** means Securityholder Reference Number.

**SSN Account Holder Letter** means an account holder letter to be completed and lodged by SSN Noteholders in accordance with the instructions set out in the explanatory statement in connection with the Creditors' Scheme.

**SSN Indenture** means the indenture dated 27 September 2013, between, amongst others, the BLY Issuer, as issuer, BLY, as parent, BLA, BLI, Votaint, BCM and BLY US, as guarantors, amongst others, and U.S. Bank National Association, as trustee and collateral agent, in respect of the 12.0% / 10.0% secured notes, as amended by the first supplemental indenture dated 31 August 2017, the second supplemental indenture dated 18 September 2017, the third supplemental indenture dated 31 December 2018, the fourth supplemental indenture dated 17 July 2019, the fifth supplemental indenture dated 24 June 2020 and the sixth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SSN Indenture Notes** means the 12.0% / 10.0% secured notes issued under the SSN Indenture.

**SSN Noteholders** means each person with a Book Entry Interest in the SSN Indenture.

**SSN Notes Registered Holder** means the "Holder" or "Securityholder" as those terms are defined in the SSN Indenture, being DTC.

**SSN Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is secured pursuant to the terms of the applicable Finance Documents.

**SSN Trustee** means U.S. Bank National Association in its capacity as trustee and collateral agent under the SSN Indenture and any successor trustee or collateral agent under that document.

**SSN Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is unsecured pursuant to the terms of the applicable Finance Documents.

**Subordinate Claim** means a "subordinate claim" within the meaning of subsection 563A(2) of the Corporations Act against BLY in respect of any fact, matter, circumstance or event which has arisen or occurred at any time prior to the commencement of Implementation Step 7 (*Subordinate Claim Releases*) in clause 8 (*Implementation Steps*) of the Restructuring Implementation Deed.

**Subscriber Share** has the meaning given to that term in Section 7.1.

**Substitute Property** means shares, stock, securities, other equity interests or assets received in respect of a Share in substitution for that Share.

**SUN Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SUN Noteholders under the applicable Finance Documents.

**SUN Account Holder Letter** means an account holder letter to be completed and lodged by SUN Noteholders in accordance with the instructions set out in the explanatory statement in connection with the Unsecured Creditors' Scheme.

**SUN Indenture** means the indenture dated 28 March 2011 between the BLY Issuer, as issuer, BLY, as guarantor, and Delaware Trust Company, as trustee, amongst others, as amended by the first supplemental indenture dated 14 June 2013, the second supplemental indenture dated 27 September 2013, the third supplemental indenture dated 2 April 2017, the fourth supplemental indenture dated 31 August 2017, the fifth supplemental indenture dated 18 September 2017, the sixth supplemental indenture dated 31 December 2018, the seventh supplemental indenture dated 17 July 2019, the eighth supplemental indenture dated 15 June 2020 and the ninth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SUN Indenture Notes** means the 1.5% pay in kind unsecured notes issued under the SUN Indenture.

**SUN Noteholders** means each person with a Book Entry Interest in the SUN Indenture.

**SUN Notes Registered Holder** means the "Holder" or "Securityholder" as that term is defined in the SUN Indenture, being DTC.

**SUN Trustee** means Delaware Trust Company, in its capacity as trustee under the SUN Indenture and any successor trustee under that document.

**Supporting Creditors** means those creditors of BLY who are party to the RSA.

**Term Loan A** means the Term Loan A Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votraint and BLY US, as guarantors, the TLA Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan A Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan A Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan A Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**Term Loan B** means the Term Loan B Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votraint and BLY US, as guarantors, the TLB Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were

issued, as amended by the First Amendment to Term Loan B Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**TLA Proof of Debt Form** means a proof of debt form to be lodged by TLA Purchasers with the Information Agent in accordance with the instructions set out in the explanatory statement in connection with the Creditors' Schemes.

**TLA Purchasers** means the "Purchasers" as that term is defined in the Term Loan A.

**TLA Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is secured pursuant to the terms of the applicable Finance Documents.

**TLA Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is unsecured pursuant to the terms of the applicable Finance Documents.

**TLB Collateral Agent** means U.S. Bank National Association in its capacity as collateral agent for the TLB Purchasers and any successor trustee or collateral agent.

**TLB Proof of Debt Form** means a proof of debt form to be lodged by TLB Purchasers with the Information Agent in accordance with the instructions set out in the explanatory statement in connection with the Creditors' Schemes.

**TLB Purchasers** means the "Purchasers" as that term is defined in the Term Loan B.

**TLB Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is secured pursuant to the terms of the applicable Finance Documents.

**TLB Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is unsecured pursuant to the terms of the applicable Finance Documents.

**Treasurer** has the same meaning as it has for the purposes of the FATA.

**Undertaking** has the meaning given to that term in the Creditors' Schemes.

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Scheme Companies, the Unsecured Scheme Creditors and the Subordinate Claim Holders (as defined therein), being the compromise or arrangement proposed by the Scheme Companies and approved by the Court in 2021.

**Unsecured Creditors' Scheme Meeting** means the meeting of Unsecured Scheme Creditors ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to the Unsecured Creditors' Scheme, and includes any adjournment of that meeting.

**Unsecured Debt** means:

- (a) the TLA Unsecured Debt;
- (b) the TLB Unsecured Debt;
- (c) the SSN Unsecured Debt; and
- (d) the SUN Debt.

**Unsecured Scheme Administrator** means FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Unsecured Creditors' Scheme.

**Unsecured Scheme Administrators Deed Poll** has the meaning given to that term in the Unsecured Creditors' Scheme.

**Unsecured Scheme Creditors** means as at the Creditors' Schemes Effective Date, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Unsecured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Unsecured Debt;
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Unsecured Debt; and
  - (ii) the SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co;
- (d) the SUN Indenture:
  - (i) each SUN Noteholder with SUN Debt; and
  - (ii) SUN Notes Registered Holder, and the SUN Notes Registered Holder's nominee, Cede & Co.

**Votrant** means Votrانت No. 1609 Pty Limited ACN 119 244 272.

**Voting Entitlement Record Date** means 7pm, 6 September 2021, being the date and time which determines the entitlement of Shareholders to vote at the Re-domiciliation Scheme Meeting.

## **APPENDIX A: RE-DOMICILIATION INDEPENDENT EXPERT'S REPORT**

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The Directors  
Boart Longyear Limited  
26 Butler Boulevard  
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Adelaide Airport SA 5950

24 July 2021

Dear Directors

## **PART ONE – RE-DOMICILE INDEPENDENT EXPERT REPORT**

### **1 Introduction**

On 13 May 2021 (Announcement Date) Boart Longyear Limited (BLY or the Company) announced that an overwhelming majority of its lenders (the Supporting Creditors)<sup>1</sup> had entered into a Restructuring Support Agreement (RSA) that would convert approximately US\$795 million of BLY's debt and accrued interest cost into 98.5% of the post-recapitalisation ordinary shares of BLY (the Recapitalisation). The Recapitalisation is intended to provide a more sustainable capital structure for BLY through substantially reducing debt and interest costs, strengthening the balance sheet as well as enhancing liquidity to support operations and future growth.

Under the RSA, the Company has also agreed to pursue a re-domiciliation scheme of arrangement (Re-domiciliation) to change the Company's corporate domicile to Ontario, Canada. The majority of the Company's management and employees are located in the United States of America. At completion of the transaction, BLY will maintain a listing of CHESS Depositary interests (CDIs) on the Australian Stock Exchange (ASX)(subject to ASX approval) and does not expect a re-domiciliation to result in material changes to the Company, its strategy, or its businesses.

BLY is a leading global provider of drilling services and manufacturer of drilling equipment and performance tooling for mining and drilling companies. At 12 May 2021, the Company had a market capitalisation of US\$36.3 million<sup>2</sup>.

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<sup>1</sup> The Supporting Creditors comprise Ares Management LLC (Ares), Ascribe II Investments LLC (Ascribe), Centerbridge Partners, L.P. (Centerbridge), Corre Partners Management LLC (Corre), First Pacific Advisers LP (FPA) and Nut Tree Capital Management (Nut Tree).

<sup>2</sup> Based on an exchange rate of 0.7741 US\$/AU\$ and market capitalisation the day prior to Announcement Date

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The re-domiciliation will involve eligible BLY Shareholders acquiring the same proportionate interests they presently hold in BLY in a new holding company incorporated in Ontario, Canada, called Boart Longyear Ltd (New BLY Parent) (the Re-domicile Transaction).

The Re-domicile Transaction will be implemented via a court approved scheme of arrangement under Part 5.1 of the Corporations Act, (the Scheme). Whilst the Recapitalisation is not dependent on the Re-domiciliation proceeding, a condition precedent of the Re-domiciliation Scheme is the Creditor Schemes' becoming effective.

The Directors have requested KPMG Financial Advisory Services (Australia) Pty Ltd (of which KPMG Corporate Finance is a division) (KPMG Corporate Finance) to prepare an Independent Expert Report (IER) for the benefit of the Shareholders setting out whether, in our opinion, the Re-domicile Transaction is in the best interests of Shareholders.

This report sets out KPMG Corporate Finance's opinion on the Re-domicile Transaction and will be included in the Scheme Documents to be sent to Shareholders prior to the Scheme Meeting. This report should be considered in conjunction with, and not independently of, the information set out in the Explanatory Memorandum provided to Shareholders in relation to the Re-domicile Transaction. It should also be read in conjunction with KPMG Corporate Finance's Recapitalisation independent expert report as set out in the Notice of Meeting with respect to the Recapitalisation.

Further information regarding KPMG Corporate Finance as it pertains to preparation of this report is set out in Appendix 1.

KPMG Corporate Finance's Financial Services Guide is contained in Part Two of this report.

## **2 Summary of the Re-domicile Transaction**

The Re-domicile Transaction will be implemented via the Scheme. If the Scheme is approved, the Redomicile Transaction will result in:

- All of the BLY shares will be transferred to, a new holding company incorporated in Ontario, Canada, (New BLY Parent) and BLY will become a wholly owned subsidiary of New BLY Parent
- Shareholders (other than Ineligible Foreign Shareholders<sup>3</sup>) will receive in exchange for each BLY Share held by them on the Re-domiciliation Scheme Record Date a CHESS Depository Interest (CDI) representing a beneficial interest in a New BLY Parent share (New BLY Parent CDI) which, will be able to be traded on the ASX, and
- Ineligible Foreign Shareholders will not be eligible to receive New BLY Parent CDIs under the Scheme. Instead, the New BLY Parent CDIs to which Ineligible Foreign Shareholders would otherwise be entitled will be transferred to a nominee appointed by BLY who will sell those New BLY Parent CDIs and Ineligible Foreign Shareholders will receive the net proceeds of the sale of those New BLY Parent CDIs.

Subject to the implementation of the Re-domiciliation, New BLY Parent currently intends to apply for listing of New BLY's Parent's shares on a North American stock exchange following the Re-domiciliation

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<sup>3</sup> Ineligible Foreign Shareholders being Shareholders whose address is outside stated jurisdictions as set out in Section 3.18 of the Explanatory Memorandum.



Implementation Date. New BLY Parent also intends to retain the listing of the BLY Parent CDIs on the ASX (subject to ASX approval).

Whilst not part of the Re-domiciliation members scheme of arrangement, subject to the Redomicile Transaction being approved by Shareholders, BLY will allow Shareholders who hold parcels of shares valued at less than AU\$3,000 the opportunity, under certain conditions, to offer to sell their BLY shares to BLY under a selective buy-back (Selective Buy-Back). BLY may in its absolute discretion determine whether to accept (in whole or in part) or reject an offer from BLY shareholders to sell shares under the Selective Buy-Back and the maximum amount that BLY will spend to buy back shares under the Selective Buy-Back will be US\$500,000.

### **3 Requirement for our Report**

Section 412(1) of the Corporations Act requires that an explanatory statement issued in relation to a proposed scheme of arrangement under Section 411 of the Corporations Act, includes information that is material to the making of a decision by a member as to whether or not to agree with the scheme. In this regard, the Directors of BLY have requested KPMG Corporate Finance to prepare an IER that complies with Section 411.

In undertaking our work we have had regard to the guidance provided by the Australian Securities & Investments Commission (ASIC) in its Regulatory Guides and in particular Regulatory Guide 111 'Content of expert reports' (RG 111), which outlines the principles and matters which it expects a person preparing an IER to consider when providing an opinion.

Further details of the relevant technical requirements and the basis of assessment in forming our opinion are set out in Sections 6.4 and 6.5 respectively, of this report.

### **4 Summary of opinion**

In our opinion, the Scheme is, on balance, **in the best interests of Shareholders**.

The primary advantage for the Re-domicile Transaction is for BLY to better align its legal structure with the geography of its shareholder base and to improve access to capital. As such whilst Shareholders will receive in exchange for each BLY Share held by them a CDI representing a beneficial interest in a New BLY Parent Shares, post the Re-domicile Transaction Shareholders will still hold the same proportional economic interest in the assets of the BLY Group that they will hold post the Recapitalisation and the New BLY Parent CDIs will continue to trade on the ASX (subject to ASX approval). There will also be no change to the business plan or the financial and operating strategies of the BLY Group.

In forming our opinion, we considered both the advantages, disadvantages and other matters associated with the Re-domicile Transaction and the wider Restructuring Transaction (where relevant) in order to assess whether Shareholders will be better off, or at least no worse off, if the Re-domicile Transaction is implemented as contemplated. The principal matters considered by us to be material to any decision by Shareholders as to whether to support the Scheme and hence the Re-domicile Transaction, are summarised below.

Further discussion in relation to changes to shareholder rights and taxation implications of the Re-domicile Transaction are set out in Sections 8, 9 and 10 of the Explanatory Memorandum, respectively. Shareholders are strongly encouraged to read the Explanatory Memorandum in its entirety and, if uncertain as to any aspect, seek specialist advice prior to reaching any decision as to whether or not to vote in favour of the Scheme.



## **4.1 Advantages of the Re-domicile Transaction**

Based on our analysis, if approved, the Re-domicile Transaction is expected to result in the following advantages.

### **Greater access to capital from North American institutional investors**

As at 31 March 2021, BLY had approximately US\$869.0 million of net debt and had made a statutory net loss after tax of US\$10.0 million for the quarter. Accordingly, the Company is considered to be in a situation of financial distress. Following the Recapitalisation (whereby outstanding debt of BLY will be reduced by US\$793.8 million) and the Re-domicile Transaction, BLY is likely to be more attractive to institutional investors and pooled funds which are subject to specific international market risk requirements, therefore potentially increasing the Company's access to capital from North American institutional investors.

### **More familiar legal framework attractive to US investors**

BLY is an Australian domiciled company that is listed on the ASX and predominately has United States (US) based shareholders. Besides BHP Group, most of the top diversified metals and mining companies are incorporated in North America and the UK because of their greater size and associated access to capital. This suggests that investors are likely to be familiar with corporate and governance laws of Canada. Following the Re-domicile Transaction, as a Canadian domiciled company, New BLY Parent will operate in a legal framework more in line with competitors and therefore will potentially be more attractive to investors who are likely to be familiar with Canadian law.

The Re-domicile Transaction may better align BLY's corporate structure with its peers, along with simpler tax and corporate structure considerations for potential merger, sale or acquisition transactions in the future, lowering transaction costs and expediting transaction completion.

### **Management efficiencies**

BLY is an ASX listed company that operates a global diversified metals and mining company with a presence across North America, Latin America, Europe, Middle East and Africa (EMEA), and Asia Pacific. At present, BLY's key corporate functions are situated in the US. Under its current organisational structure, BLY manages its global operations from its US headquarters with the majority of the Company's management and employees already located in North America. Further, over 60% of the Company's revenue is generated from US and Canada.

As a Canadian domiciled company, New BLY Parent will, over time, have significant corporate functions based out of its US office. As such, New BLY Parent will be able to better align and be equipped to manage its operations in the US, Canada and EMEA, given the time zones and geographic proximity of these regions to the US compared to Australia which is expected to result in efficiencies in overhead costs over time.

### **Retention of the ASX listing**

At completion of the transaction, BLY's corporate and tax domicile will be changed to Canada. BLY will become a wholly owned subsidiary of New BLY Parent and those Shareholders (other than Ineligible Foreign Shareholders<sup>4</sup>) will hold New BLY Parent CDIs instead of BLY Shares. New BLY Parent will

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<sup>4</sup> Ineligible Foreign Shareholders being Shareholders whose address is outside stated jurisdictions as set out in Section 3.18 of the Explanatory Memorandum.

apply to be listed on the ASX and BLY will be delisted on ASX. The Re-Domiciliation is not expected to result in material changes to the Company, its strategy, or its businesses.

The listing of New BLY Parent's CDIs on the ASX is a condition precedent to the implementation of the Scheme and accordingly, Shareholders (other than Ineligible Foreign Shareholders<sup>5</sup>) will continue to be able to trade their shares through New BLY Parent CDIs and New BLY Parent will be required to comply with the ASX listing rules.

There are no significant disadvantages to holding New BLY Parent CDIs relative to direct ownership of BLY shares. Based on the disclosure in the Explanatory Memorandum, the rights of Shareholders will not be impacted due to their inability to have a direct ownership in New BLY Parent. A detailed description of the rights of CDI holders and the differences between holding shares and CDIs are set out in Appendix E of the Explanatory Memorandum.

We consider it an advantage that Shareholders, who wish to retain the ability to trade on the ASX will continue to be able to do so, with little change in their rights. We recognise that were this not the case Shareholders would likely see this as a disadvantage.

#### **Comparable shareholder protection**

The Explanatory Memorandum sets out the comparative provisions between Australian and Canadian company rules (refer Section 8.4 of the Explanatory memorandum). In our opinion, the Shareholders (other than Ineligible Foreign Shareholders) will not be prejudiced due to the Re-domicile Transaction as the regulations in Canada are not materially dissimilar to those observed in Australia.

#### **Cost of insurance**

The insurance market in Australia for BLY is currently very expensive with the expected cost to maintain existing levels expected to increase in the future. As a Canadian domiciled company BLY will be able to take advantage of North America's more competitive and cost effective insurance market.

## **4.2 Disadvantages of the Re-domicile Transaction**

Based on our analysis, if approved, the Re-domicile Transaction is expected to result in the following disadvantages.

#### **Change of jurisdiction**

Following the Re-domicile Transaction, actions taken by Australian Shareholders with respect to New BLY Parent will be governed by the Canadian legal system. We are of the view that Australian Shareholders are unlikely to be prejudiced due to the Re-Domiciliation and an Australian shareholder will be able to seek enforcement of the laws in the same manner as a Canadian shareholder. However this unfamiliarity may be seen as a disadvantage to Australian based investors (refer Section 8.4 of the Explanatory memorandum for further detail as to the differences between Australian and Canadian company law requirements).

#### **Potential increase in costs**

After the completion of the Re-domicile Transaction, New BLY Parent will have compliance and regulatory obligations in two jurisdictions – Canada and Australia, which may increase costs. Whilst the

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<sup>5</sup> Ineligible Foreign Shareholders being Shareholders whose address is outside stated jurisdictions as set out in Section 3.18 of the Explanatory Memorandum.

New BLY Parent will prepare two sets of financial statements these will be prepared in accordance with substantially the same standards.

**Ineligible Foreign Shareholders will not be able to receive New BLY Parent CDIs**

An existing BLY Shareholder who is considered ineligible as their address is a place outside various designated countries will not be able to receive New BLY Parent CDIs to which they would have been entitled. Those shares will be sold with the net proceeds distributed to the Ineligible Foreign Shareholders after deducting sale costs.

**Tax implications**

As set out in Section 9 of the Explanatory Memorandum, the Re-domicile Transaction may have adverse tax implications for individual Shareholders. Individual Shareholders are advised to seek their own professional advice if they are unsure of the tax implications due to the Restructure.

### **4.3 Other matters relating to the Re-domicile Transaction**

In forming our opinion, we have also considered a number of other factors as outlined below. Whilst we do not necessarily consider these to be advantages or disadvantages of the Re-domicile Transaction, we consider it necessary to address these considerations in arriving at our opinion.

**One-off costs related to the Re-domicile Transaction**

The Restructuring of which the Re-domicile Transaction is only one part involves BLY incurring various costs relating to professional advisory fees as well as fees and taxes payable to regulators and other Governmental Agencies. These costs are expected to total up to US\$40.4 million, of which a significant majority will have already been incurred as at the date that Shareholders meet to vote on the Re-domicile Transaction. Some of these costs will be incurred irrespective of whether the Re-domicile Transaction is approved.

**Availability of tax losses**

BLY has, prima facie, unused tax losses available to offset against future taxable income. Whilst the Re-domicile Transaction may increase the risk of failure under the continuity of ownership test, BLY may still satisfy the same business test or alternatively a similar business test (depending on the applicable loss year). However, the availability of any tax losses will first be impacted by the Recapitalisation as the exchange of debt for BLY Shares is expected to give rise to a commercial debt forgiveness under Australian tax legislation.

**The Shareholder rights of New BLY Parent Shares will generally reflect the rights of the existing BLY Shares**

If the Re-domicile Transaction is approved, Shareholders will no longer hold securities in an Australian domiciled entity as they will exchange these securities for shares in a Canadian domiciled company, New BLY Parent.

The rights of New BLY Parent Shares will generally reflect the rights of the existing BLY Shares in many respects including the ability to receive dividends and to vote. These are discussed in further detail in Sections 8.3 and 8.4 of the Explanatory Memorandum.

**Share price of New BLY Parent Shares likely to be similar to BLY Shares**

New BLY Parent Shares do not have any trading history and therefore the trading price of New BLY Parent Shares post the implementation of the Re-domicile Transaction is uncertain. However,

immediately following the implementation of the Re-domicile Transaction New BLY Parent Shares will likely reflect the trading price of the BLY Shares immediately prior to implementation, given executives, assets, operations and strategy of the BLY Group are expected to remain the same post the Re-domicile Transaction.

#### **Tax implications associated with the Re-domicile Transaction**

If the Re-domicile Transaction becomes effective, it may trigger taxation consequences for certain Shareholders.

For further detail regarding the taxation consequences of the Re-domicile Transaction and in relation to the holding and disposal of New BLY Parent Shares, refer to Section 9 of the Explanatory Memorandum.

Scheme Participants should consult their professional advisers on the tax implications of the Re-domicile Transaction for their particular circumstances.

#### **4.4 Alternative jurisdictions for the Re-domicile Transaction**

BLY management have considered the merits of a number of jurisdictions for the purposes of the Re-domicile Transaction. The US or Canada were considered the most appropriate jurisdiction given they are well-established financial centres, with developed legal and regulatory frameworks. The geographic location of the North America makes it an ideal location to manage BLY's business operations in North America and EMEA. Ultimately the decision has been made to re-domicile to Canada.

#### **4.5 The Re-domicile Transaction may be implemented even if you vote against it**

In the event Shareholders do not vote or vote against the Scheme, the Re-domicile Transaction will be implemented if it is approved by the Requisite Majorities of Shareholders and the Court and all other conditions to the Scheme are satisfied or waived. If this occurs, on the Implementation Date, all BLY Shares will be transferred to New BLY Parent and Shareholders will be entitled to receive one New BLY Parent CDI for each BLY Share held on the Record Date, even though a particular shareholder did not vote on or voted against the Re-domicile Transaction.

It is also relevant in this respect to note that BLY's Major Shareholders, being CBP, Ascribe and Corre, which have a Relevant Interest in Shares of 53.3%, 20.7% and 2.9% respectively as at the date of this Explanatory Statement, intend to vote in favour of the Re-domiciliation Transaction.

#### **4.6 Consequences should the Re-domicile Transaction not proceed**

The Re-domiciliation will not be implemented if Shareholders do not approve the Scheme, the Court does not approve the Scheme, or any other conditions precedent to the Scheme are not satisfied or waived. If the Re-domicile Transaction is not implemented, BLY will remain as an Australian domiciled company listed on the ASX. Further,

- Shareholders will continue to hold their interests in BLY and the underlying assets of the BLY Group
- a portion of the costs relating to the Re-domicile Transaction would have been incurred. The costs related to the Re-domicile Transaction are detailed in Section 4.3 of this report
- the Selective Buy-Back will not proceed, and
- the advantages, disadvantages and other matters relating to the Re-domiciliation will not be realised, and the disadvantages and other consideration will not arise.

### **5 Other matters**



**Boart Longyear**  
*Independent Expert Report*  
24 July 2021

In forming our opinion, we have considered the interests of Shareholders as a whole. This advice therefore does not consider the financial situation, objectives or needs of individual Shareholders. It is not practical or possible to assess the implications of the Re-domicile Transaction on individual Shareholders as their financial circumstances are not known. The decision of Shareholders as to whether or not to approve the Re-domicile Transaction is a matter for individuals based on, amongst other things, their risk profile, liquidity preference, investment strategy and tax position. Individual Shareholders should therefore consider the appropriateness of our opinion to their specific circumstances before acting on it. As an individual's decision to vote for or against the proposed resolutions may be influenced by his or her particular circumstances, we recommend that individual Shareholders including residents of foreign jurisdictions seek their own independent professional advice.

We note that the Recapitalisation is not dependent on the Re-domicile Transaction and will proceed regardless of whether the Re-domicile Transaction is approved.

Our report has also been prepared in accordance with the relevant provisions of the Corporations Act and other applicable Australian regulatory requirements. This report has been prepared solely for the purpose of assisting Shareholders in considering the Re-domicile Transaction. We do not assume any responsibility or liability to any other party as a result of reliance on this report for any other purpose.

All currency amounts in this report are denominated in US dollars unless otherwise stated.

Neither the whole nor any part of this report or its attachments or any reference thereto may be included in or attached to any document, other than the Explanatory Memorandum to be sent to Shareholders in relation to the Re-domicile Transaction, without the prior written consent of KPMG Corporate Finance as to the form and context in which it appears. KPMG Corporate Finance consents to the inclusion of this report in the form and context in which it appears in the Explanatory Memorandum.

We refer readers to the limitations and reliance on information as set out in Section 6.5 of our report. In this respect, Shareholders should recognise that our opinion is based on prevailing market, economic and other conditions at the date of this report and corresponds with a period of significant volatility in global financial markets and widespread macro-economic uncertainty associated with the COVID-19 pandemic. To the extent possible, we have reflected these conditions in our opinion. However, the factors driving these conditions can change over relatively short periods of time. The impact of any subsequent changes in these conditions on the global economy and financial markets generally, and the assets being valued specifically, could impact upon value in the future, either positively or negatively.

We note that we have not undertaken to update our report for events or circumstances arising after the date of this report other than those of a material nature which would impact upon our opinion.

The above opinion should be considered in conjunction with and not independently of the information set out in the remainder of this report, including the appendices.

Yours faithfully

Ian Jedlin  
Authorised Representative

Adele Thomas  
Authorised Representative



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## **6 The Re-domicile Transaction**

### **6.1 Summary of the Re-domicile Transaction**

Under the RSA the Board of BLY is required to take all steps to redomicile the BLY business to Canada.

The Re-domicile Transaction will be implemented via a court approved scheme of arrangement under Part 5.1 of the Corporations Act (the Scheme). If the Scheme is approved, the Redomicile Transaction will result in

- BLY becoming a wholly owned subsidiary of New BLY Parent, a new holding company incorporated in Ontario, Canada
- Shareholders of BLY as at the Re-domiciliation Scheme Record Date (except for Ineligible Foreign Shareholders<sup>6</sup>) will have each BLY Share held at the Re-domiciliation Scheme Record Date exchanged for a CDI representing a beneficial interest in a New BLY Parent CDI which will be able to be traded on the ASX (subject to ASX approval)
- Ineligible Foreign Shareholder will not be eligible to receive New BLY Parent CDIs under the Re-domiciliation Transaction, their securities will be sold and they will receive the net proceeds of the sale of the New BLY Parent CDIs to which they would otherwise have been entitled, and
- Each New BLY Parent CDI received by Shareholders will be a unit of beneficial ownership in a New BLY Parent Share. All New BLY Parent CDIs will be registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules.

As discussed previously it is BLY's intention to apply for listing of New BLY's Parent's shares on a North American stock exchange following the Re-domiciliation Implementation Date. New BLY Parent would also retain the listing of the BLY Parent CDIs on the ASX (subject to ASX approval).

Following the Redomicile Transaction, the executives, assets, operations and strategy of the BLY are expected to remain the same.

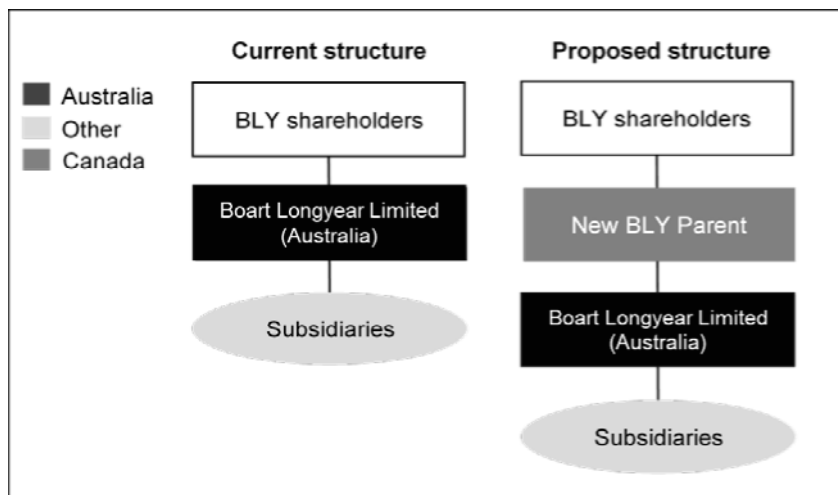
The Redomicile Transaction will be achieved by "top-hatting" BLY with New BLY Parent. The diagram below provides an overview of BLY's current group structure and the group structure of New BLY Parent if the Redomicile Transaction is approved.

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<sup>6</sup> Ineligible Foreign Shareholders being Shareholders whose address is outside stated jurisdictions.



**Figure 1: Current and proposed relevant group structure**



Source: Management

Completion of the Re-domicile Transaction requires the approval of Shareholders and the satisfaction of a number of conditions precedent. Further detail in relation to the conditions precedent are set out in Section 6.2 of the report.

Readers of this report are strongly encouraged to read the Explanatory Memorandum in its entirety before deciding whether or not to support the Scheme and thus the Re-domicile Transaction.

## 6.2 Key conditions of the Re-domicile Transaction

The Re-domicile Transaction is conditional on necessary Shareholder approvals, approval of the Court and the satisfaction or waiver of a number of other conditions, which are outlined in Sections 3.4 of the Explanatory Memorandum. These conditions are summarised below:

- the independent expert concluding that the Re-domicile Transaction is in the best interests of the Shareholders of the Company
- Shareholders of the Company approving the required resolutions at the general meeting by the requisite majorities
- court approval of the both the Re-domicile Transaction and the Creditors' schemes of arrangement (which form part of the Restructuring)
- Supporting Creditors and the New BLY Parent obtaining approval under the Foreign Acquisitions and Takeovers Act 1975 (Cth), and
- the Company obtaining all other relevant regulatory approvals, confirmations, consents or waivers, including confirmation from the ASX that it approves admission of New BLY Parent to the ASX.

## 6.3 Technical requirements

Section 412(1) of the Corporations Act requires that an explanatory statement issued in relation to a proposed scheme of arrangement under Section 411 of the Corporations Act includes information that is material to the making of a decision by a member as to whether or not to approve the relevant proposal.

Part 3 of Schedule 8 of the Corporations Regulations specifies that the explanatory statement to be sent to shareholders must include a report prepared by an expert where either:

- a party to the scheme of arrangement has a shareholding of not less than 30% of the voting shares in the company; or
- the parties to the proposed scheme have a common director(s).

The independent expert must state whether, in the expert's opinion, the proposed scheme of arrangement is in the best interests of the members of the body as a whole and set out the expert's reasons for forming that opinion.

Even where an IER is not strictly required by the law, it is not uncommon for Directors to commission one to ensure they are providing the information that is material to the making of a decision by a creditor or member.

Whilst an IER is not required by law having regard to the Re-domicile Transaction structure, the Directors of BLY have commissioned KPMG Corporate Finance to prepare an independent expert report for the benefit of Shareholders.

## **6.4 Basis of assessment**

Regulatory Guide (RG) 111 "Content of expert reports", issued by ASIC, indicates the principles and matters which it expects a person preparing an IER to consider. RG 111 distinguishes between the analysis required for control transactions and other transactions.

RG 111.35 and 111.36 state that in the absence of a change of control, change in the underlying economic interests of security holders or selective treatment of different security holders, the issue of 'value' may be of secondary importance. The expert should provide an opinion as to whether the advantages of the transaction outweigh the disadvantages. RG 111.37 states that where such a transaction involves a scheme of arrangement and the expert concludes that the advantages of the transaction outweigh the disadvantages, the expert should say that the scheme is in the best interests of the members.

Whilst the method required for evaluating the transaction contemplated by the Scheme is not specified in RG 111, RG 111.8-34 establishes that any assessment by an expert should focus on the substance of the transaction rather than its legal form.

In the present circumstances the underlying economic interests of the Shareholders will be unchanged as a result of the Schemes. Shareholders effectively retain their existing ownership interest in the assets of BLY.

Accordingly, in the context of our report, we do not consider it appropriate to treat the Schemes as a control transaction. Rather the Scheme will be in the best interests of Shareholders, if Shareholders, as a whole, are assessed as being, on balance, better off, or, at least not worse off, if the Scheme proceeds than if it does not.

In forming our opinion as to whether the Re-domicile Transaction is in the best interests of Shareholders we have considered the following advantages and disadvantages:

- the potential operational benefits to be derived from the Restructuring and the Re-domicile Transaction
- impact of the arrangements on Shareholders
- taxation implications

- changes to shareholder rights
- implication of not approving the Schemes, and
- other matters relating to the Restructuring and the Re-domicile Transaction.

In forming our opinion, we consider the interests of Shareholders as a whole. As an individual shareholder's decision to vote for or against the Re-domicile Transaction may be influenced by his or her particular circumstances, our IER will recommend they each consult their own financial advisor.

## **6.5 Limitations and reliance on information**

In preparing this report and arriving at our opinion, we have considered the information detailed in Appendix 2 of this report. In forming our opinion, we have relied upon the truth, accuracy and completeness of any information provided or made available to us without independently verifying it. Nothing in this report should be taken to imply that KPMG Corporate Finance has in any way carried out an audit of the books of account or other records of BLY for the purposes of this report.

Further, we note that an important part of the information base used in forming our opinion is comprised of the opinions and judgements of management. In addition, we have also had discussions with management of BLY in relation to the nature of the BLY's business operations, its specific risks and opportunities and its prospects for the foreseeable future in the context of this specific transaction. This type of information has been evaluated through analysis, enquiry and review to the extent practical. However, such information is often not capable of external verification or validation.

BLY has been responsible for ensuring that information provided by it or its representatives is not false or misleading or incomplete. Complete information is deemed to be information which at the time of completing this report should have been made available to KPMG Corporate Finance and would have reasonably been expected to have been made available to KPMG Corporate Finance to enable us to form our opinion.

We have no reason to believe that any material facts have been withheld from us but do not warrant that our inquiries have revealed all of the matters which an audit or extensive examination might disclose. The statements and opinions included in this report are given in good faith, and in the belief that such statements and opinions are not false or misleading.

The information provided to KPMG Corporate Finance included forecasts/projections and other statements and assumptions about future matters (forward-looking financial information) prepared by the Management. Whilst KPMG Corporate Finance has relied upon this forward-looking financial information in preparing this report, BLY remains responsible for all aspects of this forward-looking financial information. The forecasts and projections as supplied to us are based upon assumptions about events and circumstances which have not yet transpired. We have not tested individual assumptions or attempted to substantiate the veracity or integrity of such assumptions in relation to any forward-looking financial information, however we have made sufficient enquiries to satisfy ourselves that such information has been prepared on a reasonable basis.

Notwithstanding the above, KPMG Corporate Finance cannot provide any assurance that the forward-looking financial information will be representative of the results which will actually be achieved during the forecast period. Any variations in the forward looking financial information may affect our valuation and opinion.

The opinion of KPMG Corporate Finance is based on prevailing market, economic and other conditions at the date of this report and corresponds with a period of significant volatility in global financial markets

and widespread macro-economic uncertainty associated with the COVID-19 pandemic. To the extent possible, we have reflected these conditions in our opinion. However, the factors driving these conditions can change over relatively short periods of time. The impact of any subsequent changes in these conditions on the global economy and financial markets generally, and the assets being valued specifically, could impact upon value in the future, either positively or negatively.

We note that we have not undertaken to update our report for events or circumstances arising after the date of this report other than those of a material nature which would impact upon our opinion.

## 7 Company overview

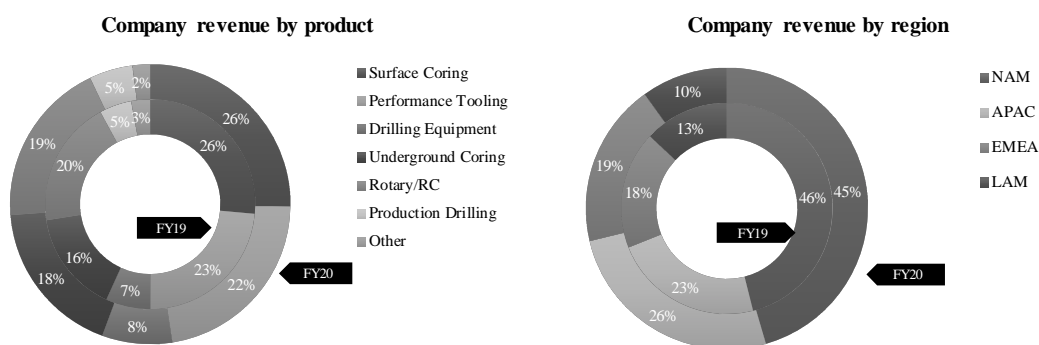
### 7.1 Overview

BLY is a leading provider of drilling services, drilling equipment and performance tooling for mining and drilling companies, with more than 130 years of expertise in the mineral drilling market. The Company also provides aftermarket parts and services, energy drilling, oil sands exploration and production drilling. BLY comprises of two main operating divisions: global drilling services (Drilling Services) and global products (Products), which are discussed in further detail below. The integrated business model of providing both drilling services and drilling products globally gives BLY the ability to integrate knowledge gained from both divisions into the development of new products and improve its drilling services offering.

BLY operates across four regions: Asia Pacific (APAC), North America (NAM), Europe, the Middle East and Africa (EMEA), and Latin America (LAM). In FY20, operations in the NAM region accounted for 44.3% of the Company's total revenue, followed by APAC with 25.9%, EMEA with 19.5% and LAM with 10.2%.

A split of BLY's revenue by product and geographic region for FY19 and FY20 is shown below.

**Figure 2: BLY's revenue by product and region**



Source: BLY investor presentation for FY20 and FY19.

### 7.2 Recent developments

BLY operates a business that can be highly cyclical and typically follows major trends within the mining industry. The mining industry has had five industry cycles since 2000<sup>7</sup> and going forward, similar cyclicity and greater volatility within cycles are expected by market participants as they face challenges in relation to financing, volatile share prices and cyclical capital expansion. In addition, the exploration,

<sup>7</sup> Through-cycle investment in mining, McKinsey & Company, 8 July 2020

mining, and construction markets were materially impacted by restrictions imposed as a result of the COVID-19 pandemic.

The revenue and earnings of BLY are linked to commodity prices. Since the onset of the COVID-19 pandemic in early 2020, the decline in customer demand, disrupted global supply chains and market volatility led to a significant decline in commodity prices. In a declining commodity pricing environment mining companies typically cancel or defer capital expenditure and exploration projects to focus on cost reductions and capital allocations, resulting in a reduction in global mining exploration activity and mining investments. The trend in decreased mining exploration is expected to reverse going forward, with commodity prices predicted to continue to appreciate, encouraging stronger mining investment and mining services expenditure in FY21 as noted in Appendix 5.

The percentage utilisation of operating drilling rigs in Drilling Services can be seen as an economic indicator for the performance of the division. During FY20, BLY's operating rig utilisation rate was approximately 37%, a decrease from 41% in FY19 and 46% in FY18. Comparatively, at the top of the cycle, the percentage utilisation was approximately 55.0% to 65.0%.

For Products, order backlog can be seen as an economic indicator. Average backlog increased 6.5% from FY18 to FY19, and 13.1% from FY19 to FY20. An increase in backlog reflects increased demand for drilling products. This measure also acts as a good leading indicator for future increases in volume for Drilling Services, as mining businesses increase drilling inventory in expectation of higher workflow.

In response to the continued downturn and challenging capital structure, BLY continued to position the business to operate more efficiently across all phases of the mining cycle. Following a strategic review of the business and in order to achieve cost saving, BLY committed to undertaking the following key initiatives:

- controlling sales, general and administrative costs (SG&A) and other overhead related costs
- optimising the commercial organisation to drive value through the contracting and pricing processes
- leveraging the supply chain function across the business, and
- focusing on operational efficiencies and productivity at the drill rig level and across the global organisation.

These initiatives resulted in reduced overall expenditure of approximately US\$60.9 million in FY20.

Going forward, BLY will focus on the following initiatives to improve business performance:

- maintaining and improving safety and compliance to reduce job related injuries and protect against potential safety risks
- focusing on expanding mining and mineral drilling customer bases by aiming to improve efficiency, productivity and commercial practices
- fostering strong customer relationships and carefully managing pricing and contract terms
- balancing investing in new products that respond to customer needs, whilst also managing capital expenditure, and
- improving cash generation through effective liquidity and cost management.

Strategically, BLY intends to focus on increasing data acquisition at drilling rigs for processes such as core orientation, core logging, survey and assay. This subsurface resource data can then be sent back to

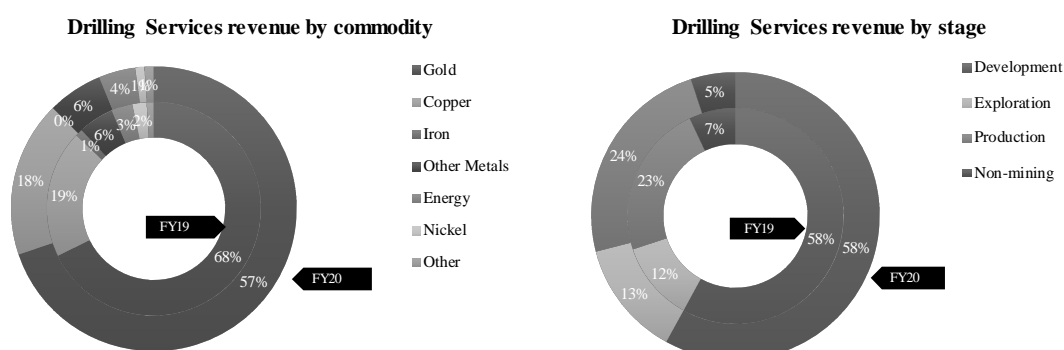
customers in an instantaneous, low-cost and user-friendly manner through the Geological Data Services business, a segment of the Products business.

### 7.3 Drilling Services

Drilling Services provides a broad range of drilling services to mining and energy companies, water utilities, geotechnical engineering firms, government agencies and other mining services companies in approximately 22 countries. The division primarily offers drilling services for commodities such as gold, copper, and nickel, as well as for the exploration and development of non-conventional energy sources such as oil shale, oil sands, coal, coal seam gas and geothermal energy. BLY specialises in a range of drilling services technology, including surface and underground diamond core drilling, underground percussive drilling, sonic drilling, surface rotary drilling, surface geotechnical drilling, and surface and underground reverse circulation drilling.

An analysis of Drilling Services revenue by commodity and stage for FY19 and FY20 is shown below.

**Figure 3: Drilling Services revenue by commodity and stage**



Source: BLY investor presentation for FY20 and FY19.

Drilling Services provides services to major and intermediate mining companies which represented 89% of revenues during FY20, with no single contract contributing more than 10% of the consolidated revenue. Major customers during FY20 included, but were not limited to, AngloGold Ashanti Limited, Barrick Gold Corporation, Newmont and Rio Tinto Ltd.

Drilling Services operates in the greenfield, development and production stages of the mining cycle, with the development and production stages generating the majority of revenue. In FY20, Drilling Services revenue, which accounted for approximately 69% of the Company's revenue, decreased by 11.6% to US\$456.3 million. This decrease was primarily driven by volume reduction due to the COVID-19 pandemic impacts through the second and third quarters as governments and customers restricted activities while developing safe work practices to protect employees.

The recovery from the COVID-19 pandemic restrictions in Canada, Australia, Asia and Africa was faster than in the United States, Chile, and Argentina. The majority of revenue lost was attributable to these three countries, which was partially offset by cost reductions implemented as part of the COVID-19 pandemic management plan. Prices observed were broadly in line with prior year with changes in foreign exchange rates resulting in a US\$0.5 million decrease in revenue in FY20 compared to FY19.

With recent increases in commodity prices along with stronger product sales, which act as a leading indicator for increased volume in Drilling Services, there is an opportunity for revenue to grow in the near future. However, low rig utilisation rates have caused an oversupply of rigs in the market, creating a

highly competitive environment resulting in price and margin pressures. As such, the Company has continually sold excess rigs and ancillary equipment over the last five to six years. During FY20, the Company had an average of 683 drilling rigs deployed globally and an average rig utilisation of 37%, this compares to 921 drilling rigs in FY15 and an average rig utilisation of 36%.

## **7.4 Products**

Products, designs, manufactures and sells a range of drilling equipment and performance tooling, including wireline core extraction systems, drilling rigs, diamond drill bits and drill rods for mine development, mine production and environmental and infrastructure drilling. The Company offers these products to environmental, mining, resources, infrastructure, and energy industries. Its coring tools include conventional diamond drill and advanced wireline coring systems used in minerals drilling.

Products predominantly sells exploration tooling and production tooling to drilling services contractors and mining companies.

Overall, Products accounted for 30.0% of the Company's total revenue during FY20. The division carries significant inventory levels, which have decreased year on year as management continues to improve inventory metrics and reevaluate key assumptions in the calculation of allowance for excess or obsolete inventory. As at 31 December 2020, inventory levels remained high as a percentage of revenue at 24.1%, with a decrease of only 2.9% from FY19 to FY20. Notwithstanding the 13.1% increase in average backlog from FY19 to FY20, there was sufficient inventory on hand to fill most customer demand at 31 December 2020.

During FY20, revenue from Products decreased by 9.9% to US\$257.4 million. This decrease was mainly due to the COVID-19 pandemic impacted volume losses and unfavourable currency translations. Specifically, revenue generated from capital equipment, spares, and production tooling were key contributors to the lower revenue in FY20 relative to prior period.

Upon elimination of the impacts mentioned, the Products business posted modest growth with a backlog of product orders valued at US\$44.6 million at 31 December 2020, representing a year-on-year (YoY) increase of 24.2% compared to \$35.9 million at 31 December 2019. Furthermore, the segment profit increased by 12.3% to US\$16.4 million compared to FY19. Management believe the growth is underpinned by an increase in demand for consumables during the year and it is expected to continue growing over FY21.

BLY's research and development (R&D) activities focus on the development, design and testing of new and improved products. The Company works in co-operation with customers to identify issues and develop technical solutions. During FY20, the Company launched one new product and as at 31 December 2020, the Company had 408 issued patents, 428 registered trademarks, 131 pending patent applications and 13 pending trademark applications. The quality of BLY's drilling equipment continues to act as a barrier to competitors from low cost countries entering the market (such as China and India), as the product quality, performance and safety standards of the Company's products are superior, particularly in the high-end hard rock deep drilling market.

## **8 Financial overview**

### **8.1 Going concern basis**

BLY's financial reports for FY20 were prepared by management on a going concern basis, which contemplates continuity of normal business activities and realisation of assets and settlement of liabilities





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in the ordinary course of business. In this regard, the Directors highlight the following risks which give rise to material uncertainty:

- the Company incurred a net loss after tax of US\$98.8 million (FY19: US\$56.6 million)
- the Company had net liabilities of US\$469.4 million (FY19: US\$382.2 million), and
- based on internal projections difficulties may arise in complying with the financial covenants and terms under the amended credit facility agreement in the absence of improved mining market conditions and financial performance of the Company.

In the Directors' opinion, the ability of the Company to continue as a going concern is dependent on:

- securing an agreement to remove the obligation to pay cash interest on the Senior Secured Notes in June 2021 and December 2021, and
- the ongoing support of the Company's debt providers, including negotiating a refinancing or recapitalisation of the debt facilities, which currently expire in the second half of 2022.

Notwithstanding the above, the Directors believe that the Company will be successful in reaching an agreement with the debt providers with respect to the removal of the obligation to pay cash interest on the Senior Secured Notes through either:

- a separate agreement specifically in relation to the interest payable on the Senior Secured Notes, and/or
- a refinancing or recapitalisation and accordingly have prepared the financial report on the going concern basis.



## 8.2 Financial performance

The historical consolidated financial performance of BLY for FY18, FY19 and FY20 are summarised below.

**Table 1: Financial performance**

Period	FY18	FY19	FY20
US\$ million unless otherwise stated	Audited	Audited	Audited
Revenue	770.2	745.0	657.3
Cost of goods sold	(639.1)	(606.3)	(559.8)
<b>Gross margin</b>	<b>131.1</b>	<b>138.7</b>	<b>97.5</b>
Other income	10.4	6.8	5.8
General and administrative expenses	(44.0)	(43.6)	(28.9)
Sales and marketing expenses	(22.1)	(20.3)	(17.0)
Other expenses	(21.1)	(15.0)	(17.1)
<b>EBITDA</b>	<b>54.2</b>	<b>66.5</b>	<b>40.3</b>
Depreciation and amortisation	(36.6)	(39.3)	(41.0)
<b>EBIT</b>	<b>17.6</b>	<b>27.2</b>	<b>(0.7)</b>
Interest income	0.9	0.1	0.0
Finance costs	(69.5)	(75.4)	(92.9)
<b>Profit / (loss) before taxation</b>	<b>(51.0)</b>	<b>(48.2)</b>	<b>(93.5)</b>
Income tax expense	7.5	(8.5)	(5.3)
<b>Profit / (loss) after tax attributable to equity holders of the parent</b>	<b>(43.5)</b>	<b>(56.6)</b>	<b>(98.8)</b>
Basic (loss) earnings per share (cents)	(52.9)	(64.6)	(112.3)
Diluted (loss) earnings per share (cents)	(52.9)	(64.6)	(112.3)
<b>Financial metrics:</b>			
Revenue growth	-	(3.3)%	(11.8)%
Gross margin	17.0%	18.6%	14.8%
EBITDA margin	7.0%	8.9%	6.1%
EBIT margin	2.3%	3.6%	(0.1)%
COGS as a % of revenue	(83.0)%	(81.4)%	(85.2)%
Operating expenses as a % of revenue	(11.3)%	(10.6)%	(9.6)%
Profit / (loss) after tax margin	(5.7)%	(7.6)%	(15.0)%

Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.

Note 1: FY18 results do not reflect the impact of AASB 16 – Leases, which was adopted as of 1 January 2019.

With regard to the historical financial performance summarised above, we note the following:

- as the mining and resources markets have contracted, FY20 revenue of US\$657.3 million decreased by 11.8%, compared to FY19 revenue of US\$745.0 million. In relation to the revenue impact of the business divisions, we note the following:
  - FY20 revenue from Drilling Services decreased by 11.6% to US\$456.3 million compared to FY19 primarily due to the pause in activities imposed by governments and customers due to the outbreak of the COVID-19 pandemic, and weak sentiment in the global mining industry

- FY20 revenue from Products decreased by 9.9% to US\$257.4 million compared to FY19, primarily due to the COVID-19 pandemic impacted volume losses and unfavourable currency translations
- BLY implemented its business continuity plan in light of the COVID-19 pandemic, including measures required to protect health and well-being of employees while ensuring ongoing operational sustainability, ceasing all non-essential international and domestic travel, as well as conserving cash by enforcing temporary salary reductions and amending the terms of the Company's Senior Secured Notes to satisfy interest payments due
- as a result of the saving initiatives implemented during the early stages of the COVID-19 pandemic to combat the decline in revenues, expenses comprising Cost of Goods Sold (COGS) and SG&A totalled US\$646.6 million in FY20, representing a 9.6% decrease compared to FY19. Refer to Section 7.2 for further details on the cost saving initiatives
- the adjusted EBITDA is not shown in the table above as it is not a comprehensive representation of all the significant transactions the Company recognised throughout the year. For instance, the adjustments include government aid received throughout the business for the COVID-19 pandemic relief and gains from sales of assets, but exclude costs incurred to quarantine crews unable to work as a result of the COVID-19 pandemic, contract termination costs, legal fees and indirect tax write-offs. Further, the adoption of AASB 16 improves EBITDA in FY19 by US\$9.2 million relative to FY18 (as lease payments are no longer deducted above the EBITDA line but are substituted with deductions for right of use (ROU) asset depreciation and interest below the EBITDA line). During the period FY18 to FY20, the Company incurred the following extraordinary expenses:

**Table 2: Adjusted EBITDA**

Period	FY18	FY19	FY20
US\$ million unless otherwise stated	Reviewed	Reviewed	Reviewed
<b>EBITDA</b>	54.1	66.5	40.3
Impairments			
Property, plant and equipment	0.1	0.2	8.3
Intangible assets	-	9.0	0.5
Inventories	10.9	0.8	5.0
Employee and related costs	2.6	1.7	1.3
Legal provisions	-	2.6	-
Other restructuring expenses	12.9	6.2	4.7
Onerous lease	-	0.3	-
<b>Total of significant and non-recurring items</b>	<b>26.5</b>	<b>20.8</b>	<b>19.8</b>
<b>Adjusted EBITDA</b>	<b>80.6</b>	<b>87.3</b>	<b>60.1</b>

Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.

Note 1: EBITDA is defined as earnings before interest, tax, depreciation and amortization.

Note 2: Adjusted EBITDA is defined as earnings before interest, tax, depreciation and amortization and before major restructuring initiatives, impairments of assets, and other significant and non-recurring transactions outside the ordinary course of the business.

- over the period FY18 to FY20, COGS were impacted by the ongoing cost reduction actions implemented by management and its decline was broadly in line with that of revenue. COGS decreased as a percentage of revenue from 83.0% in FY18 to 81.4% in FY19. However, due to the impact of the COVID-19 pandemic on the Company's revenue performance, revenue generated in FY20 decreased to a greater extent relative to COGS, resulting in COGS as a percentage of revenue

of 85.2% in FY20. In absolute terms, COGS decreased by 5.1% to US\$606.3 million in FY19, and 7.7% to US\$559.8 million in FY20

- cost reduction measures implemented by management include reducing the SG&A run rate of both business divisions. SG&A expenses are classified in the statement of financial performance as ‘general and administrative expenses’ and ‘sales and marketing expenses’. During FY20, BLY realised additional cost savings of approximately US\$16.4 million or 15.9%, reducing FY20 SG&A expenses to US\$86.9 million compared to FY19 (FY19: US\$0.6 million or 0.5% in additional cost savings, reducing SG&A expenses to US\$103.3 million from FY18)
- other expenses increased from US\$15.0 million to US\$17.1 million during FY20. These expenses primarily related to foreign exchange changes and impairment charges
- finance costs during FY20 increased by 23.2% to US\$92.9 million from US\$75.4 million in FY19, primarily due to an increase in interest on loans and bank overdrafts, partially as a result of the amendment for interest payments to be made in payment in kind (PIK) instead of cash, and
- income tax expenses of US\$5.3 million for FY20 decreased by 37.9% from FY19. Refer to Section 11 for further details on BLY’s tax position as at 31 December 2020.

On 29 April 2021, BLY announced its results for the first quarter ended 31 March 2021, noting the improvement in the level of exploration and mining activity, which was last experienced prior to 2014. Revenue generated in the quarter increased by US\$38 million (or 22%) compared to the quarter ended 31 March 2020 and adjusted EBITDA increased by US\$17 million (or 189%), driven by the increased demand for products and services, along with ongoing cost management and productivity improvements. The net loss after tax has also decreased by US\$15 million compared to the quarter ended 31 March 2020.



### 8.3 Financial position

The historical consolidated financial position of BLY as at 31 December 2018, 31 December 2019, and 31 December 2020 are summarised below.

**Table 3: Financial position**

As at	31 Dec 2018	31 Dec 2019	31 Dec 2020
US\$ million unless otherwise stated	Audited	Audited	Audited
<b>Current assets</b>			
Cash and cash equivalents	38.9	20.2	23.5
Trade and other receivables	119.6	113.7	109.6
Inventories	165.4	163.1	158.3
Current tax receivable	0.3	2.5	0.5
Prepaid expenses and other assets	12.8	13.6	10.1
Assets classified as held for sale	0.5	-	0.4
<b>Total current assets</b>	<b>337.5</b>	<b>313.1</b>	<b>302.4</b>
<b>Non-current assets</b>			
Property, plant and equipment	114.1	165.0	152.0
Goodwill	103.9	104.5	105.1
Other intangible assets	37.8	27.6	31.6
Deferred tax assets	20.7	16.9	13.3
Non-current tax receivable	16.3	10.8	1.6
Other assets	7.0	4.0	3.8
<b>Total non-current assets</b>	<b>299.7</b>	<b>328.8</b>	<b>307.2</b>
<b>Total assets</b>	<b>637.2</b>	<b>642.0</b>	<b>609.6</b>
<b>Current liabilities</b>			
Trade and other payables	105.0	111.1	98.0
Provisions	19.9	14.4	13.9
Current tax payable	8.7	5.4	8.3
Loans and borrowings	1.2	8.3	10.2
<b>Total current liabilities</b>	<b>134.8</b>	<b>139.3</b>	<b>130.4</b>
<b>Non-current liabilities</b>			
Loans and borrowings	720.3	793.4	868.3
Deferred tax liabilities	17.5	16.9	18.7
Provisions	79.5	74.5	61.6
<b>Total non-current liabilities</b>	<b>817.2</b>	<b>884.8</b>	<b>948.6</b>
<b>Total liabilities</b>	<b>952.0</b>	<b>1,024.1</b>	<b>1,079.0</b>
<b>Net assets</b>	<b>(314.9)</b>	<b>(382.2)</b>	<b>(469.4)</b>
<b>Equity</b>			
Share capital	1,468.8	1,468.8	1,469.4
Reserves	(116.2)	(117.8)	(117.6)
Other equity	(137.2)	(137.2)	(128.8)
Retained earnings/(Accumulated losses)	(1,532.7)	(1,595.6)	(1,692.9)
Non-controlling interest	2.4	(0.4)	0.5
<b>Total equity</b>	<b>(314.9)</b>	<b>(382.2)</b>	<b>(469.4)</b>
<b>Calculation of debtor and creditor days</b>			
Debtor days <sup>1</sup>	56.7	55.7	60.8
Creditor days <sup>1</sup>	60.0	66.9	63.9
<b>Statistics</b>			
Number of securities on issue (million) <sup>2</sup>	26,296.2	87.7	88.5
NA per securities (US\$) <sup>3</sup>	(0.01)	(4.4)	(5.3)
NTA per securities (US\$) <sup>4</sup>	(0.01)	(2.9)	(3.8)
Gearing <sup>5</sup>	-216.8%	-204.5%	-182.2%

Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.

Note 1: Based on 365 days in a year.

Note 2: On 30 October 2019, BLY completed a consolidation of the Company's issued capital on a basis that every 300 shares be consolidated into 1 share.

Note 3: NA per security calculated as net assets divided by the number of securities on issue at period end.

Note 4: NTA per security calculated as net tangible assets divided by the number of securities on issue at period end.

Note 5: *Gearing is calculated based on net debt divided by total equity.*

Note 6: *FY18 results do not reflect the impact of AASB 16 – Leases, which was adopted as of 1 January 2019.*

With regard to the historical financial position summarised above, we note the following:

- as a result of an increased use of cash in operating activities in FY20 offset by a reduction in cash interest paid during the year, cash and cash equivalents increased by US\$3.3 million, or 16.2%, to US\$23.5 million as at 31 December 2020. Included in this balance is US\$7.6 million relating to cash interest paid, as well as US\$0.2 million of restricted cash that cannot be accessed until certain conditions, pertaining to both the asset-based revolver bank loan (ABL) and secure facility leases, are met
- inventories decreased by US\$4.8 million, or 2.9% to US\$158.3 million as at 31 December 2020. The reduction primarily related to inventory saving initiatives implemented by management, and the impacts of a change in key assumptions used to estimate the allowance for excess or obsolete inventory. The change in estimate was a result of the decline in the demand for products and consumables used in the Drilling Services business, the high inventory balances across the Company, and the reduced speed at which inventory was turning in the current market. This resulted in an increase in obsolescence expense of US\$5.0 million recognised in FY20
- as at 31 December 2020, the income tax receivable (US\$2.1 million) was classified as US\$0.5 million of current tax receivables and US\$1.6 million as non-current tax receivable. In addition, the Company has accounted for the potential tax payable arising from audits by the Canadian Revenue Authority (CRA) in its provisions, which is discussed further in Section 11
- in response to challenging market conditions, the Company classified certain excess rigs and ancillary equipment that were underutilised, totalling US\$0.4 million, as assets held for sale as at 31 December 2020. We note that as of April 2021 the company had sold some of the assets held for sale, which resulted in a reduced balance of US\$0.3 million as at the date of this report.
- as at 31 December 2020, the net value of property, plant and equipment (PP&E) decreased by US\$13.1 million, or 7.9% to US\$152.0 million from 31 December 2019. The decrease related to depreciation expenses of US\$37.6 million, disposals of US\$3.6 million, and impairment charges of US\$8.3 million. These decreases were partially offset by US\$4.4 million in foreign currency movements and current year additions of US\$32.1 million
- as of 1 January 2019, the Company adopted AASB 16 and reflected leased assets under PP&E, whilst PP&E balances as at 31 December 2018 include lease accounting under guidance in IAS 17, classifying agreements as finance leases or operating leases. As at 31 December 2020, the Company had ROU assets with a net book value of US\$31.9 million and corresponding lease liabilities of US\$36.6 million, compared to US\$35.6 million and US\$36.6 million as at 31 December 2019
- the Company identified the global economic impact of the COVID-19 pandemic as a potential indicator of impairment, and accordingly impairment charges of US\$6.8 million against PP&E in the Latin America Drilling Services cash generating unit (CGU) were recorded and recognised in other expenses. Utilisation rates lower than current levels could lead to further future asset impairments
- the carrying balance of other intangible assets increased by US\$3.9 million to US\$31.6 million as at 31 December 2020, due to additions of US\$7.0 million and foreign currency exchange differences of US\$0.9 million, which were partially offset by amortisation of US\$3.4 million, impairment charges of US\$0.5 million and disposals of US\$0.1 million



- deferred tax assets (DTAs) as at 31 December 2020 decreased by 21.5% to US\$13.3 million from 31 December 2019
- total assets as at 31 December 2020 decreased by US\$32.3 million, or 5.0% to US\$609.6 million. The reduction is primarily a result of impairment of PP&E, reductions in tax receivables and a decrease in working capital balances offset by increases in intangible assts and cash
- trade and other payables as at 31 December 2020 decreased by US\$13.1 million, or 11.8% to US\$98.0 million. Despite the creditor days figure increasing to approximately 61 days at 31 December 2020 (31 December 2019: approximately 56 days), a lower level of manufacturing activity and continued focus on cost control led to the resultant decrease in trade and other payables. Further, accrued legal and environmental costs of US\$5.3 million as at 31 December 2020 were reclassified from trade and other payables to provisions
- provisions as at 31 December 2020 decreased by US\$13.5 million, or 21.3%, to US\$75.5 million as compared to 31 December 2019. This decrease is primarily the result of decreases in provision for tax contingencies, pension and post-retirement benefits, restructuring and termination costs. This was partially offset by an increase in the provision for employee benefits and legal contingencies. Provisions of US\$89.0 million as at 31 December 2019 decreased by 10.4% from US\$99.4 million as at 31 December 2018. These balances were primarily made up of provisions for tax contingencies and employee provisions, including pension and post-retirement benefits, annual leave, long service leave and bonuses
- as at 31 December 2020, the current tax payable of US\$10.2 million related primarily to income tax payable, as well as other tax related expenses, attributable to BLY and entities in the consolidated group, and
- loans and borrowings as at 31 December 2020 totalled US\$878.6 million and increased by US\$76.9 million during FY20, primarily driven by accredited interest for the period. See Section 10.1 for further detail.

## 8.4 Statement of cash flows

The historical consolidated statement of cash flows of BLY for FY18, FY19 and FY20 are summarised below.

**Table 4: Statement of cash flows**

For	FY18	FY19	FY20
US\$ million unless otherwise stated	Audited	Audited	Audited
<b>Cash flow from operating activities</b>			
<b>Profit / (loss) for the year</b>	<b>(43.5)</b>	<b>(56.6)</b>	<b>(98.8)</b>
<i>Adjustments provided by operating activities:</i>			
Income tax expense recognised in profit	(7.5)	8.5	5.3
Finance costs recognised in profit	69.5	75.4	92.9
Depreciation and amortisation	36.6	39.3	41.0
Interest income recognised in profit	(0.9)	(0.1)	(0.0)
Other non-cash items	(17.1)	(6.6)	12.5
Impairment of current and non-current assets	11.5	10.0	8.8
Loss (gain) on sale or disposal of non-current assets	(7.8)	(3.2)	(2.0)
Non-cash foreign exchange loss (gain)	2.1	(0.2)	1.6
Shares issued	-	-	0.3
Shares issued to directors	0.02	-	0.3
<i>Changes in net assets and liabilities, net of effects from acquisition and disposal of</i>			
Trade and other receivables	3.0	2.2	5.3
Inventories	4.0	6.4	(3.8)
Other assets	(1.0)	1.2	0.1
Trade and other payables	(18.9)	7.8	(9.0)
Provisions	(5.8)	(7.1)	3.1
Cash generated from operations	24.1	77.0	57.6
Interest paid	(6.1)	(30.8)	(7.6)
Interest received	0.9	0.1	0.0
Income taxes (paid) / received	(15.2)	(10.9)	(0.6)
<b>Net cash flows from operating activities</b>	<b>3.7</b>	<b>35.3</b>	<b>49.4</b>
<b>Cash flows from investing activities</b>			
Purchase of property, plant and equipment	(37.1)	(47.1)	(25.1)
Proceeds from sale of property, plant and equipment	13.7	5.8	5.2
Intangible costs paid	(2.0)	(3.6)	(7.0)
<b>Net cash flows used in investing activities</b>	<b>(25.4)</b>	<b>(44.9)</b>	<b>(26.9)</b>
<b>Cash flows from financing activities</b>			
Payments for debt issuance costs	-	(1.4)	(0.2)
Proceeds from borrowings	16.7	31.4	62.5
Repayment of borrowings	(5.3)	(40.9)	(81.3)
<b>Net cash flows provided by / (used in) financing activities</b>	<b>11.3</b>	<b>(11.0)</b>	<b>(18.9)</b>
Net increase/(decrease) in cash held	(10.0)	(20.5)	3.5
Cash and cash equivalents at the beginning of the year	43.8	38.9	20.2
Effects of exchange rate changes on opening cash brought forward	5.2	1.8	(0.2)
<b>Cash and cash equivalents at the end of the year</b>	<b>38.9</b>	<b>20.2</b>	<b>23.5</b>

Source: BLY financial report for FY20 and FY19, and KPMG Corporate Finance Analysis.

Note 1: FY18 results do not reflect the impact of AASB 16 – Leases, which was adopted as of 1 January 2019.

With regard to the historical statement of cash flows summarised above, we note the following:

- as at 31 December 2020, net operating cash flows was US\$49.4 million (FY19: US\$ 35.3 million), representing an improvement of US\$14.1 million over FY19. This improvement primarily reflects the successful conversion of the 2020 interest instalments for debt from payment in cash to PIK, as well as a number of long-term initiatives implemented to decrease working capital needs, and improve productivity and capital management. The Company also received US\$6.2 million in funds under the Canada Employee Wage Subsidy program for the COVID-19 pandemic relief

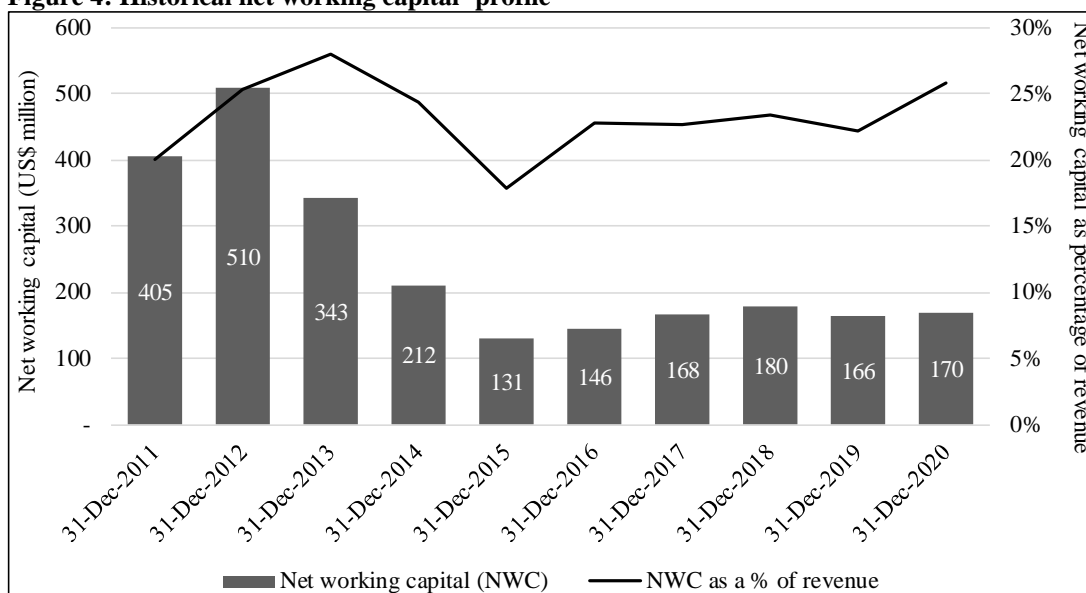


- capital expenditures reduced from the outlay of US\$47.1 million in FY19 to US\$25.1 million in FY20, primarily due to a lower amount of investment of US\$32.1 million (FY19: US\$50.7 million) in capital equipment and R&D as the Company continued to conserve cash during the COVID-19 pandemic. The investments were made to support existing operations during FY20 and prepare the Company for the expected increase in demand in FY21. The capital expenditures incurred in FY20 were partially offset by proceeds from the sale of PP&E of US\$5.2 million in FY20, which was broadly in line with the amount of US\$5.8 million in FY19, and
- during FY20, the Company recorded US\$18.9 million in net cash flows from financing activities compared to US\$11.0 million in FY19. The difference is primarily due to higher repayment of borrowings and lease facilities, partially offset by higher proceeds from borrowings. In comparison, proceeds from borrowings in FY19 were US\$31.4 million.

## 9 Working capital

The historical NWC balances of BLY are illustrated in the graph below.

**Figure 4: Historical net working capital<sup>1</sup> profile**



Source: BLY financial reports for FY12, FY13, FY14, FY15, FY16, FY17, FY18, FY19 and FY20.

Note 1: Calculation for net working capital = Trade and other receivables + Inventories – Trade and other payables.

With regard to the historical NWC above, we note the following:

- NWC increased by US\$105 million from 31 December 2011 to 31 December 2012 due to significant build-up of inventories and equipment over the period
- NWC has been steadily declining since FY12 as the Company focused on carefully managing working capital levels to ensure that inventory is sufficient to meet demand but is not obsolete
- consolidation and integration of inventory management and supply chain functions combined with lower revenues has reduced the working capital requirements. The slight increase in net working capital from US\$131.0 million at 31 December 2015 to US\$146.0 million at 31 December 2016 was due to a decrease in trade and other payables as opposed to an increase in inventories or receivables. NWC increased in the beginning of 2017 with improving market conditions



- as a percentage of revenue NWC peaked in FY13 at 28.0% as revenue dropped significantly by 39.2% from FY12 to FY13. As NWC management initiatives were put in place NWC as a percentage of revenue has followed a downward trend, before increasing slightly in FY16 due to a decrease in revenue and a corresponding decrease in trade payables, then remained broadly consistent throughout FY17 to FY19. As at 31 December 2020, NWC as a percentage of revenue had increased from 22.2% at 31 December 2019 to 25.8%, primarily due to a decrease in revenue only partially offset by corresponding lower trade receivables and inventories and lower trade payables, and
- the majority of the Company's working capital is cyclical, with the balance decreasing towards the first and fourth quarters of the calendar year. The cyclicity is primarily influenced by the seasonality in the mining and resources industry where shutdowns by mining companies at year end reduce mining activity and hence the demand for drilling services. A portion of the Company's working capital is counter cyclical as exploration drilling services provided to the oil & gas sector are traditionally provided during the second and third quarters of the year.

## 10 Liquidity and debt facilities

### 10.1 Debt facilities

BLY's debt facilities as at 31 December 2020 are summarised below.

**Table 5: Debt facilities as at 31 December 2020**

US\$ million unless otherwise stated	Total facilities	Amount drawn	Available facility <sup>1</sup>	Interest Rate	Maturity
Senior Secured notes	217.0	217.0	-	Variable <sup>2</sup>	Dec-22
Senior Unsecured notes	88.9	88.9	-	1.5% <sup>3</sup>	Dec-22
Term Loan - Tranche A	132.5	132.5	-	8.0% <sup>4</sup>	Dec-22
Term Loan - Tranche B	159.9	159.9	-	8.0% <sup>4</sup>	Dec-22
ABL <sup>1</sup>	75.0	23.0	17.9	Variable <sup>5</sup>	Jul-22
Backstop ABL	45.0	45.0	-	11% <sup>6</sup>	Oct-22

Source: BLY financial report for FY20 and FY19.

Note 1: Outstanding letters of credit and other facility specific restrictions as at 31 December 2020 reduce the amount of funds available to be drawn from the ABL. This is explained in further detail below.

Note 2: Interest is PIK from 1 January 2020 to 30 June 2020 at an interest rate of 12.0%. Interest is PIK from 1 July 2020 to 31 December 2020 at an interest rate of 14.5%. Interest in cash at a reduced interest rate of 10% p.a. from 1 January 2021. The effective interest rate on a go-forward basis is 14.4%. US\$0.6 million of senior secured notes is subject to interest in cash at an interest rate of 10% p.a.

Note 3: Interest is 1.5% PIK at the Company's election until maturity.

Note 4: Interest is 8% PIK.

Note 5: Applicable interest rates for the ABL are based on a base rate plus a margin, where:

- base rate = US dollar LIBOR or prime rate determined by the Bank of America.

- margin = based on leverage according to a pricing grid.

Note 6: Interest is PIK at 11% at the Company's election or 10% cash. Maturity date is October 2022 or 90 days after the ABL due date.

With regard to the debt facilities above, we note the following:

- the Company had US\$217.0 million of senior secured notes outstanding as at 31 December 2020. These notes carried an interest rate of 10.0% p.a. and a maturity date of December 2022. On 19 June 2020, the Company reached an agreement with the relevant noteholders and the ASX to satisfy the

interest payments due in respect of the notes on 30 June 2020 and 31 December 2020 by way of PIK instead of cash. The senior secured notes include a premium which is expressed as a percentage of the principal redeemed or repaid and includes PIK interest. The premium is payable at the maturity of the notes due in December 2022, as well as in circumstances whereby the notes are redeemed prior to maturity, and the premium percentage increases over time from 0.9% to 24.4% of the principal balance, subject to the timing of repayment. The debt modification, stated terms and applicable premium result in an effective interest rate on the notes is 14.4% p.a.

- the Company had US\$88.9 million of senior unsecured notes outstanding as at 31 December 2020. These notes have an applicable interest rate of 1.5% p.a. in PIK and mature in December 2022
- the Term Loan facility has an interest rate of 8.0% payable-in-kind and is structured into Term Loan A and Term Loan B. As at 30 December 2020 Term Loan A had principal outstanding of US\$132.5 million maturing in December 2022, and Term Loan B had principal outstanding of US\$159.9 million maturing in December 2022
- the Company had an ABL with an available facility of US\$75.0 million as at 31 December 2020. Letters of credit of US\$5.8 million were drawn under the facility in addition to an outstanding amount of US\$23.0 million, reducing remaining funds available through this facility
  - the facility has an ‘availability block’ of US\$10.0 million, which releases when the Company achieves certain net debt to EBITDA leverage ratios
  - the borrowing on this facility is limited to the lower of the lender’s commitment or the ‘borrowing base’ that supports the ABL. As at 31 December 2020, the borrowing base was US\$55.0 million, which reduced collateral availability by US\$10.0 million
  - the facility is subject to a minimum liquidity requirement of 15% of the lesser of ‘borrowing base’ or ‘facility capacity’ less the ‘availability block’ on the last day of any month. As at 31 December 2020, the minimum liquidity requirement was US\$8.3 million
  - the amount of funds available to be drawn from the ABL as at 31 December 2020 was US\$17.9 million, as summarised in the following table

**Table 6: Funds available at 31 December 2020**

US\$ million unless otherwise stated	31-Dec-20
<b>ABL available facility</b>	<b>75.0</b>
Drawn	23.0
Letters of credit	5.8
Availability block	10.0
Borrowing base adjustment	10.0
Minimum liquidity	8.3
<b>Undrawn amount</b>	<b>17.9</b>

Source: BLY financial report for FY20.

- the ABL interest rate is based on 30-day US\$ LIBOR with the margin based on a pricing grid linked to the Company’s leverage. As at 31 December 2020, the applicable margin was 3.5% for LIBOR based loans
- the scheduled maturity date of the facility is July 2022. As at 31 December 2020, the Company was in compliance with all of its debt covenants

- the Backstop ABL term loan facility has an interest rate of 11.0% p.a. payable-in-kind or 10.0% p.a. in cash. The facility is due to mature in October 2022 and is secured by substantially the same collateral as the ABL facility. As at 31 December 2020, the amount outstanding under this facility was US\$45.0 million
- as at 31 December 2020, accrued interest for the debt facilities was as follows:
  - Senior Secured Notes – US\$62.3 million
  - Senior Unsecured Notes – US\$4.5 million
  - Term Loan A – US\$23.1 million
  - Term Loan B – US\$27.9 million
  - Backstop ABL – US\$13.0 million.
- BLY announced its engagement with Rothschild & Co. on 7 January 2021 to support the Company's evaluation of potential options in anticipation of the maturation of the debt facilities through the second half of 2022 including for refinancing or recapitalisation.

BLY had a total amount of debt facility drawn of US\$883.2 million as at 31 March 2021. With regard to the debt facilities, we note the following:

- the Company had an ABL with an available facility of US\$75.0 million as at 31 March 2021. Letters of credit of US\$6.0 million were drawn under the facility in addition to an outstanding amount of US\$31.4 million, reducing remaining funds available through this facility. Other adjustments reducing the amount of funds available to be drawn include the ABL facility block and borrowing base availability adjustment of US\$20.8 million. As at 31 March 2021, the amount of funds available to be drawn from the ABL was US\$16.8 million
- as at 31 March 2021, accrued interest for the debt facilities was as follows:
  - Senior Secured Notes – US\$62.3 million
  - Senior Unsecured Notes – US\$4.9 million
  - Term Loan A – US\$26.3 million
  - Term Loan B – US\$31.7 million
  - Backstop ABL – US\$13.6 million.

On 8 June 2021, BLY announced the completion of its US\$65 million short-term financing implementation to ensure adequate liquidity for operations through the restructuring process, as well as the consent approval to amend its Senior Secured Notes. The additional financing is comprised of:

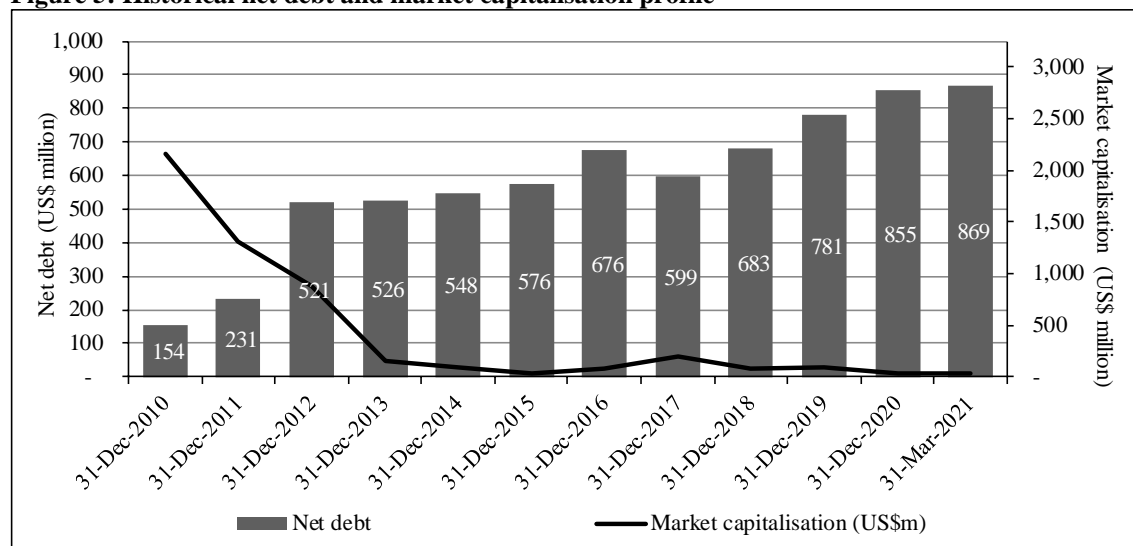
- an incremental, short-term US\$50 million credit facility with Corre, FPA and Nut Tree to provide additional working capital until the Recapitalisation and related transactions are completed, and
- an additional US\$15 million of accessible liquidity and four-year extension of the term of the ABL facility.

Further, BLY received consents from the holders of 99.75% of the Senior Secured Notes due in December 2022 to permit the Company to incur additional financial indebtedness and to satisfy the interest payments due on 30 June 2021 in respect of notes held by consenting note holders by way of PIK at the rate of 14.5%.

## 10.2 Historical net debt and market capitalisation profile

BLY's historical net debt<sup>8</sup> and market capitalisation profile is illustrated below.

**Figure 5: Historical net debt and market capitalisation profile**



Source: BLY financial reports for FY12 to FY20, First Quarter 2021 Appendix 4C, S&P Capital IQ, and KPMG Corporate Finance Analysis.

In FY12, BLY geared up to increase their production capacity in line with the peak of the mining exploration cycle. However, the contraction in the exploration market post 2012 has led to customers reducing capital expenditure, resulting in lower demand for exploration drilling and expenditure, whilst underground production drilling remained relatively stable. This has produced an oversupply of drill rigs in the market, causing BLY to be impacted by low rig utilisation rates, a reduction in order backlogs and an increase in financial leverage. This has resulted in a fall in market capitalisation in line with the mining down-cycle over time. Even the demand for exploration activities at the highest point in the most recent cycle in 2018 was not enough to reduce the Company's debt significantly.

In response to the prolonged contraction in the mining market, the Company negotiated a number of amendments to its credit facilities to maintain liquidity as well as recapitalisations in FY14 and FY17 to reduce the debt amounts outstanding.

## 10.3 Credit rating

During the last twelve months (LTM), BLY was subject to a series of credit rating downgrades, as summarised below:

- 24 June 2020 – S&P revised the BLY's credit ratings as follows, reflecting the completion of the amendment to Senior Secured Notes due December 2022 which saw the conversion of the June 2020 and December 2020 interest payments from cash to PIK:
  - corporate credit rating downgraded from 'CCC' to 'SD' (selective default)

<sup>8</sup> Net debt is calculated as gross debt less cash and cash equivalents

- rating outlook downgraded to ‘Negative’
- senior secured notes downgraded to ‘D’ with recovery rating ‘3’
- senior unsecured notes downgraded to ‘C’ with recovery rating ‘6’.
- 2 July 2020 – S&P revised the Company’s credit ratings as follows:
  - corporate credit rating reinstated from ‘SD’ to ‘CCC+’
  - rating outlook affirmed to be ‘Negative’
  - senior secured notes reinstated from ‘D’ to ‘CCC+’ with recovery rating ‘3’
  - senior unsecured notes reinstated from ‘C’ to ‘CCC-’ with recovery rating ‘6’.
- 2 July 2020 – Moody’s Investors Service (Moody’s) affirmed the Company’s credit rating as follows:
  - corporate family rating and probability of default to be ‘Caa2’
  - rating outlook to be ‘Stable’
  - senior secured notes to be ‘Caa1’
  - senior unsecured notes to be ‘Caa3’
  - speculative grade liquidity rating to be ‘SGL-3’.
- 8 March 2021 – S&P revised the Company’s credit ratings as follows:
  - corporate credit rating downgraded from ‘CCC+’ to ‘CC’
  - rating outlook moved to ‘CreditWatch Negative’
  - senior secured notes downgraded from ‘CCC+’ to ‘CC’ with recovery rating ‘4’
  - senior unsecured notes remained unchanged at ‘C’ with recovery rating ‘6’.
- 20 May 2021 – S&P revised the Company’s credit ratings as follows:
  - corporate credit rating downgraded from ‘CC’ to ‘D’
  - rating outlook removed from ‘CreditWatch Negative’
  - senior secured notes downgraded from ‘CC’ to ‘D’ with recovery rating ‘4’
  - senior unsecured notes remained unchanged at ‘D’ with recovery rating ‘6’.
- 4 June 2021 – Moody’s revised the Company’s credit ratings as follows:
  - corporate family rating and probability of default lowered to be ‘Ca’
  - rating outlook to be ‘Negative’
  - senior secured notes to be ‘Ca’
  - senior unsecured notes to be ‘C’, and
  - speculative grade liquidity rating to be ‘SGL-4’.

Further reductions in liquidity may cause additional downgrades to the Company’s corporate and debt credit ratings. However, the Company confirmed its capital restructure plans on 26 February 2021 as part

of the FY20 earnings announcement and its expectation for the Company's debt rating and outlook to improve upon successful completion of the restructuring process.

## **11 Tax position**

In relation to BLY's tax position, we note the following:

- BLY is the head entity in the Australian tax consolidated group comprising the Australian wholly-owned entities. Under the Australian tax consolidation regime, these entities are treated as a single entity for income tax purposes
- BLY's unsettled assessments with the CRA for the years 2010 to 2014 will, if upheld, result in federal and provincial tax liabilities (including interest) approximating a maximum of CAD\$35 million in future cash outlay after the application of tax credits and payments. The outcome and timing of any resolution of the Canadian reassessments are unknown. Interest will continue to accrue on all disputed and unpaid amounts until they are paid, or, alternatively, until the disputes are resolved in the Company's favour
- BLY has also recorded a tax provision related to the CRA's audits of the 2010 through 2017 tax years. The provision reflects the uncertainties regarding the outcome of those audits and assessments have not yet been received for the tax years 2015 through 2017. While the Company believes it is appropriately reserved in respect of the CRA tax disputes, the resolution of those disputes on terms substantially as assessed by the CRA could be material to the Company's financial position or results of operations. Interest will continue to accrue on all disputed and unpaid amounts until they are paid, or otherwise settled, and
- BLY is also under audit by the ATO. The resolution of potential assessments by the ATO may adversely affect BLY's liquidity.

## **12 Capital structure and ownership**

As at 31 December 2020, BLY had the following securities on issue:

- 88,511,800 ordinary shares, held by approximately 3,607 individual Shareholders, and
- 43,158 unquoted share options, held by 13 individual option holders that are not publicly traded on the ASX under the code "BLYAA". The unquoted share options do not carry rights to vote.

## 12.1 Ordinary Shareholders

Issued capital in BLY is listed and traded on the ASX. The table below summarises the top 20 ordinary Shareholders as at 30 June 2021.

**Table 7: Top 20 Shareholders as at 30 June 2021**

Shareholder	Number of ordinary shares	Percentage of issued capital
Centerbridge Credit Partners	47,189,770	53.31%
Ascribe Capital	18,308,703	20.69%
Paradise Investment Management	2,777,992	3.14%
Corre Partners	2,588,537	2.92%
Cranport	1,398,333	1.58%
Mr Zhong Wei Miao	1,249,800	1.41%
Mr Alfred Otte	1,081,735	1.22%
BLY Aus Plans Control	920,048	1.04%
Mr Allan K Clarke	605,682	0.68%
Ms Katina Riadis	450,000	0.51%
Mr Kevin McArthur	428,796	0.48%
Mr Christopher S King	405,025	0.46%
Mr Jeffrey Olsen	271,872	0.31%
Mr Jimmy Yip	270,454	0.31%
Mrs Guixing Jian	268,688	0.30%
Mr Mark A Lee	263,036	0.30%
Mr Tye Burt	260,851	0.29%
Mr James D Kern	202,602	0.23%
Russell Investments	202,444	0.23%
Dr Sow Keong Lim	200,000	0.23%
<b>Total shares held by top 20 shareholders</b>	<b>79,344,368</b>	<b>89.64%</b>
Other shareholders	9,167,432	10.36%
<b>Total shares on issue</b>	<b>88,511,800</b>	<b>100%</b>

Source: Share register analysis provided by BLY and KPMG Corporate Finance Analysis.

The top 20 registered Shareholders account for approximately 89.64% of the ordinary shares on issue.

## 12.2 Director's interest

As at 30 June 2021, the Directors held the following shares:

**Table 8: Director's interest**

Name	Position	Total interest in ordinary shares held
Kevin McArthur	Non-executive Chairman	428,796
Tye Burt	Non-executive Director	260,851
Jason Ireland	Non-executive Director	23,731
James Kern	Non-executive Director	202,602
Rubin McDougal	Non-executive Director (appointed effective 1 March 2020)	165,835
Robert Smith	Non-executive Director	23,731
Jeffrey Olsen	Executive Director	271,872
Denis Despres	Chief Operating Officer	65,778
Miguel Desdin	Chief Financial Officer	65,282
Kari Plaster	Chief Human Resources Officer	10,425
<b>Total</b>		<b>1,518,903</b>

Source: Share register analysis provided by BLY, ASX announcements

As at 30 June 2021, the Executive Director, Jeffrey Olsen, held also 1,081 outstanding share options which were vested and exercisable as of 1 April 2017 and expire on 1 April 2024.

## 13 Share price performance and liquidity analysis

### 13.1 Share price performance

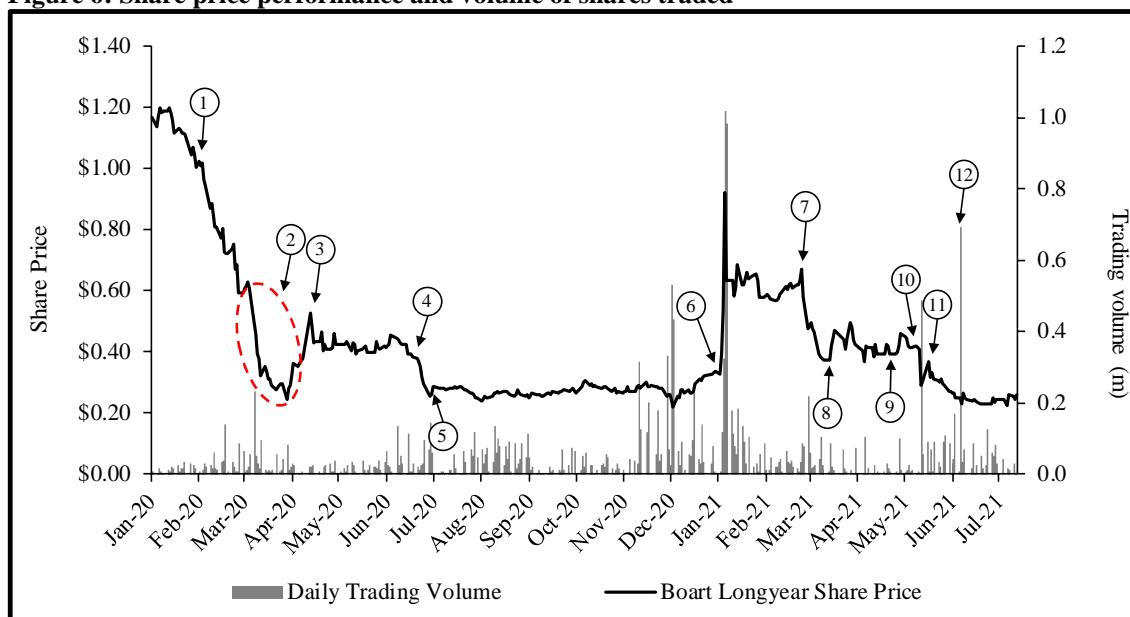
In assessing BLY's share price performance we have:

- analysed the price and volume performance of BLY over the period from 1 January 2020 to 14 July 2021
- compared the share price movement to the Australian All Ordinaries and Metals and Mining indices over the same period ended 14 July 2021, and
- assessed the VWAP and trading liquidity of BLY's shares for the period ending 14 July 2021.

Figure 6 depicts BLY's daily closing price on the ASX in \$ over the period from 1 January 2020 to 14 July 2021, along with the daily volume of shares traded on the ASX as a percentage of total issued capital over the period.



**Figure 6: Share price performance and volume of shares traded**



Source: S&P Capital IQ, KPMG Corporate Finance Analysis and ASX announcements.

As illustrated in Figure 6, BLY's closing share price and volume has remained relatively stable across the period with key movements primarily related to the release of financial reporting figures and the outbreak of the COVID-19 pandemic.

Significant announcements by BLY over the period from 1 January 2020 to 14 July 2021 that may have had an impact on its recent share price include:

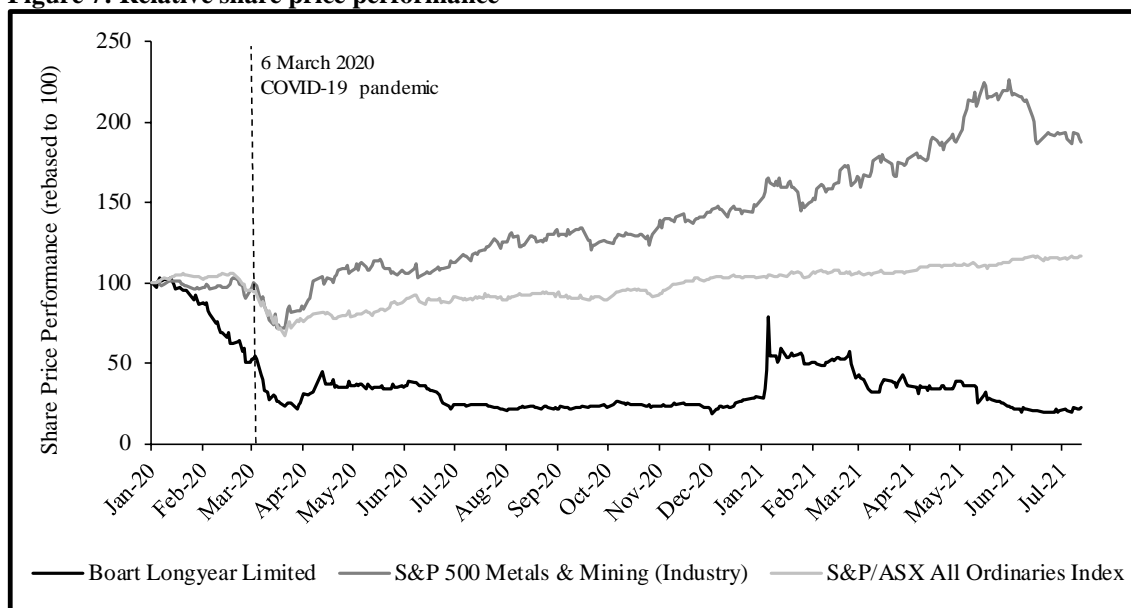
1. on 6 February 2020, BLY released its full year FY19 results update, highlighting that several significant mergers and acquisitions within the mining industry took place in the second half of 2019, resulting in delayed mineral exploration projects and a lower level of market activity. Further, the Company did not achieve the anticipated reduction to its debt-to-EBITDA ratio for FY19 as previously communicated. This announcement was followed by a decrease of 38.5% in the share price from \$0.961 to \$0.591 on 28 February 2020 when the investor presentation for FY19 results was released
2. throughout March 2020, BLY's share price declined in line with the overall share market (reflecting the early impacts of the COVID-19 pandemic) from \$0.630 on 5 March 2020 to close at a low of \$0.246 on 30 March 2020
3. on 15 April 2020, BLY released its full FY19 annual financial report, reporting a 3.2% decrease in overall revenue compared to FY18 and the Company's share price closed at \$0.481 on the same day. This announcement was followed five days later by the announcement of results for the first quarter of FY20 and its expectation that the COVID-19 pandemic would have a greater impact during the quarter ending 30 June 2020 than the first quarter. The share price closed at \$0.434 on 20 April 2020
4. on 24 June 2020, S&P revised the Company's credit ratings to reflect the completion of the amendment to the Senior Secured Notes due December 2022 which saw the conversion of the June 2020 and December 2020 interest payments from cash to PIK. The Company's share price closed at \$0.354 and further information is detailed in Section 10.3

5. on 24 July 2020, S&P reinstated the Company's credit ratings and Moody's affirmed the Company's credit ratings. The Company's share price closed at \$0.277 and further information is detailed in Section 10.3
6. on 7 January 2021, the Company announced the engagement of Rothschild & Co. as advisor to support the Company's evaluation of potential options, including refinancing and recapitalisation, in anticipation of the maturation of its debt facilities through the second half of 2022. The Company's share price closed at \$0.923 following the announcement, representing a 72.0% increase on the last sale price of \$0.537 on the previous day
7. on 26 February 2021, BLY released its full FY20 annual financial report, reporting a 11.8% decrease in overall revenue compared to FY19 and the share price closed at \$0.579 on the same day. Following the announcement, the share price decreased by 35.6% over a two-week period to close at \$0.373 on 11 March 2021
8. on 8 March 2021, S&P downgraded the Company's credit ratings and the share price closed at \$0.395. Further information is detailed in Section 10.3
9. on 29 April 2021, BLY announced its financial performance for the quarter ended 31 March 2021, noting the improvement of the level of exploration and mining activity. Following the announcement, the share price increased by 5.8% to close at \$0.42 on the same day, and subsequently 9.3% the following day to close at \$0.46 on 30 April 2021
10. on 13 May 2021, BLY announced that it had reached an agreement regarding the Recapitalisation. The share price decreased by 28.5% to close at \$0.29 on the same day
11. on 20 May 2021, S&P downgraded the Company's credit ratings and the share price closed at \$0.33 on the same day and decreased by 12.4% over the following week. Further information is detailed in Section 10.3, and
12. on 8 June 2021, BLY announced completion of US\$65 million in additional short term financing to provide adequate liquidity for operations through the restructuring process, as well as the consent approval to amend Senior Secured Notes. The share price decreased by 8.1% to close at \$0.23 on the same day.

Further details in relation to all announcements made by BLY to the ASX can be obtained from either the Company's website or ASX's website at [www.asx.com.au](http://www.asx.com.au).

The figure below illustrates a comparison of the trading performance of BLY's shares relative to the All Ordinaries Index and the Metals and Mining Index over the period 1 January 2020 to 14 July 2021. BLY significantly underperformed the index from the beginning of 2020, especially when the COVID-19 pandemic broke out, as mining activities were disrupted. Over the period to 14 July 2021, the BLY share price depreciated by 76.9%. Over the same period, the All Ordinaries Index and Mining and Metals Index grew by 16.5% and 87.2%, respectively. The BLY share price displayed significantly greater volatility relative to both indices, which is not uncommon given the enhanced diversification of an index when compared to a single company, along with the higher leverage, the small market capitalisation and liquidity of BLY.

**Figure 7: Relative share price performance**



Source: S&P Capital IQ and KPMG Corporate Finance Analysis

## 13.2 VWAP and liquidity analysis

An analysis of the volume of trading in the ordinary shares of BLY, including the VWAP for the period up to 14 July 2021 is set out in the following table.

**Table 9: Volume of trading in ordinary shares**

Period	Price (low) \$	Price (high) \$	Price VWAP \$	Cumulative value \$m	Cumulative volume m	% of issued capital
1 day	0.25	0.26	0.26	0.0	0.0	0.0
1 week	0.23	0.26	0.25	0.0	0.1	0.1
1 month	0.23	0.27	0.24	0.2	0.7	0.8
3 months	0.23	0.48	0.29	0.9	3.2	3.6
6 months	0.23	0.69	0.40	2.2	5.6	6.3
12 months	0.22	1.65	0.67	17.1	25.4	13.9

Source: S&P Capital IQ and KPMG Corporate Finance Analysis

During the 12-month period to 14 July 2021, 13.9% of issued shares were traded. This level of trading indicates that BLY's shares are illiquid, albeit being traded every day over the 12-month period.

## 13.3 Dividends

No dividends have been issued for the half years ended 31 December 2019 through 31 December 2020.

## **14 Implications of the Re-domicile Transaction**

Subsequent to the Re-domicile Transaction, Shareholders will hold a beneficial interest in the same number of securities as were held prior to the implementation of the Scheme. Set out below is a summary of the likely implications of the Re-domicile Transaction to Shareholders.

### **14.1 Business operations**

Post the implementation of the Re-domicile Transaction, New BLY Parent intends to continue to operate the business of BLY in its ordinary course, without any changes to its business operations and strategy or any major redeployment of its executives and fixed assets.

### **14.2 Corporate structure**

If the Redomicile Transaction is approved, New BLY Parent will be interposed as the ultimate holding company of BLY. The corporate structure pre and post the Redomicile Transaction is set out in Section 6.1 of this report.

### **14.3 Dividend policy**

It is not expected that the Re-domicile Transaction will have a material impact on the dividend policy of the BLY Group. Currently BLY does not pay dividends. Future payment of dividends will depend on the financial position and future capital requirements.

### **14.4 Corporate governance, Directors and management**

As outlined in Section 7 of the Explanatory Memorandum, the Re-domicile Transaction is not intended to result in any significant changes to the corporate governance of the BLY Group.

Currently under the terms of the RSA, BLY has agreed that the initial and subsequent post-Recapitalisation composition of the BLY Board will consist of nine directors and include:

- the Chief Executive Officer
- the CBP Nominee Directors, comprising five directors nominated by CBP, and
- the Ad Hoc Group<sup>9</sup> Nominee Directors, comprising three directors nominated by the Ad Hoc Group.

If the Re-domiciliation is approved and implemented, the director nomination rights contemplated by the RSA will be documented by an alternative Director Appointment Deed under Canadian law and the rights of Centerbridge and the Ad Hoc Group to appoint directors under Canadian law will differ to those under Australian law. It is not envisaged to impact on the proposed Board structure.

BLY also does not intend to make changes to the management team of the BLY Group as a result of, or immediately following the implementation of the Re-domicile Transaction.

### **14.5 Shareholder rights and legal implications**

If the Redomicile Transaction is approved, Shareholders will no longer hold securities in an Australian domiciled entity as they will exchange these securities for shares of a Canadian domiciled company, New BLY Parent. This will result in the New BLY Parent being subject to Canadian law and in particular that

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<sup>9</sup> Th Ad Hoc group comprises Ascribe, Ares, Corre, FPA and Nut Tree.

of the Ontario Business Corporations Act (the OBCA) replacing the Corporations Act as the applicable legislative framework.

The Shareholder rights of New BLY Parent Shares, although different, will be similar to the rights of the existing BLY Shares in many respects including the ability to receive dividends and to vote. However there are some important differences which we outline below.

#### **Different takeover laws**

As an Australian domiciled company, the takeover provisions of the Australian Corporations Act currently safeguard BLY from certain control transactions. As a Canadian domiciled company, an important difference for New BLY Parent would be that defensive tactics are not as limited as in Australia. An example is the adoption of a shareholders' rights plan used as a poison pill which is considered generally to be unacceptable in Australia but not in Canada. Noting that there remains an overriding requirement for the company to act to the benefit of shareholders and that securities regulators closely monitor the use of defence tactics.

#### **Rights attaching to New BLY Shares**

We recommend Shareholders read Sections 8.3 and 8.4 of the Explanatory Memorandum which sets out the rights attaching to New BLY Parent Shares and a comparison of Australian and Canadian company rules.

## **14.6 Taxation implications of the Re-domicile Transaction**

If the Scheme becomes effective, it may trigger taxation consequences for Shareholders depending on whether they are residents of Australia or not as the Re-domicile Transaction is likely to be considered a sale of shares for taxation purposes.

#### ***Australian Resident Shareholders***

As stated above the Re-domicile Transaction will likely be considered a sale of shares for taxation purposes and as such give rise to a capital gains tax (CGT) event where held on capital account. Australian Resident Shareholders who would have a capital gain are likely to have available to them CGT scrip for scrip rollover relief should they choose. Otherwise they will realise a gain or capital loss depending on the capital base of the Shares. Shareholders should in this context also read Section 10 of the Explanatory Memorandum.

#### ***Consequences if CGT Script for Scrip Rollover Relief is chosen***

If an Australian Resident Shareholder chooses Rollover Relief in light of capital gain, any capital gain arising on the disposal of their Shares in exchange for New BLY Parent CDIs will be disregarded. The cost base of the New BLY Parent CDIs is worked out by attributing to them, on a reasonable basis, the existing cost base of the Shares that they exchanged for the New BLY Parent CDIs. The Acquisition date of the New BLY Parent CDIs is taken to be the date when the Australian Resident Shareholder acquired the Shares that were exchanged for the New BLY Parent CDIs.

#### ***Consequences if CGT Script for Scrip Rollover Relief is not chosen or does not apply***

If an Australian Resident Shareholder has held their Shares for at least 12 months at the time of disposal, the discount capital gains provision may apply. Australian Resident Shareholders that are an individual or trustee will be taxed on one-half of the capital gain. Australian Resident Shareholders that are a trustee for a complying superannuation entity will be taxed on two-thirds of the capital gain.



**Boart Longyear**  
*Independent Expert Report*  
24 July 2021

If an Australian Resident Shareholder makes a capital loss from the disposal of Shares, the loss may be used to offset capital gains derived in the same or subsequent years of income.

*Non-Resident Shareholders*

Non-Resident Shareholders may be able to disregard any capital gain or loss as a consequence of the Re-domicile Transaction. Non-Resident Shareholders will only make a capital gain or loss on the disposal of 'taxable Australian property'.<sup>10</sup>

For further detail regarding the taxation consequences of the Re-domicile Transaction and in relation to the holding and disposal of New BLY Parent Shares, refer to Section 9 of the Explanatory Memorandum.

Shareholders should consult their professional advisers on the tax implications of the Re-domicile Transaction for their particular circumstances.

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<sup>10</sup> Refer to Section 9.3 (a) of the Explanatory Memorandum for further details.



**Boart Longyear**  
*Independent Expert Report*  
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## **Appendix 1 – KPMG Corporate Finance Disclosures**

### ***Qualifications***

Our report has been prepared in accordance with professional standard APES 225 "Valuation Services" issued by the Accounting Professional & Ethical Standards Board (APESB). The individuals responsible for preparing this report on behalf of KPMG Corporate Finance are Ian Jedlin and Adele Thomas. Ian is member of Chartered Accountants Australia and New Zealand, a Senior Fellow of the Financial Securities Institute of Australasia and holds a Master of Commerce from the University of New South Wales. Adele is a member of Chartered Accountants Australia and New Zealand and holds Bachelor degrees in Commerce and Accounting. Each have a significant number of years' experience in the provision of corporate financial advice, including specific advice on valuations, mergers and acquisitions, as well as the preparation of expert reports. Thomas Kriegel assisted in the preparation of this report.

### ***Disclaimers***

It is not intended that this report should be used or relied upon for any purpose other than KPMG Corporate Finance's opinion as to whether the Re-domicile Transaction is in the best interests of Shareholders. KPMG Corporate Finance expressly disclaims any liability to any Shareholders who relies or purports to rely on the report for any other purpose and to any other party who relies or purports to rely on the report for any purpose whatsoever.

Other than this report, neither KPMG Corporate Finance nor the KPMG Partnership has been involved in the preparation of the Explanatory Memorandum or any other document prepared in respect of the Re-domicile Transaction. Accordingly, we take no responsibility for the content of the Explanatory Memorandum as a whole or other documents prepared in respect of the Re-domicile Transaction.

It is not the role of the Independent Expert to undertake the commercial and legal due diligence that a company, and its advisers may undertake. KPMG Corporate Finance provides no warranty as to the adequacy, effectiveness or completeness of the diligence process, which is outside our control, and beyond the scope of this report. We have assumed that the due diligence process was conducted in an adequate and appropriate manner.

### ***Independence***

KPMG Corporate Finance and the individuals responsible for preparing this report have acted independently.

In addition to the disclosures in our Financial Services Guide which indicate that KPMG has also provided tax services in relation to the impact of the Restructuring, it is relevant to a consideration of our independence that, during the course of this engagement, KPMG Corporate Finance provided draft copies of this report to management of BLY for comment as to factual accuracy, as opposed to opinions which are the responsibility of KPMG Corporate Finance alone. Changes made to this report as a result of those reviews have not altered the opinions of KPMG Corporate Finance as stated in this report.

### ***Consent***

KPMG Corporate Finance consents to the inclusion of this report in the form and context in which it is included with the Explanatory Memorandum to be issued to the Shareholders of BLY. Neither the whole nor any part of this report nor any reference thereto may be included in any other document without the prior written consent of KPMG Corporate Finance as to the form and context in which it appears.

## **Appendix 2 – Sources of information**

In preparing this report we have been provided with and considered the following sources of information:

*Publicly available information:*

- the Company Announcement regarding the Restructuring including the RSA
- annual reports for the three years ended 31 December 2018, 31 December 2019 and 31 December 2020
- company presentations and ASX announcements
- various broker and analyst reports
- various press and media articles
- various reports published by IBISWorld Pty Ltd
- data providers including S&P, S&P Capital IQ and Connect 4

*Non-public information:*

- Board papers and other internal briefing papers prepared by BLY and their advisers in relation to the Restructuring
- Draft Explanatory Memorandum, dated 15 July 2021
- other confidential documents, presentations and work papers.

In addition, we have had discussions with the directors and senior management of BLY and their advisers.





## **PART TWO – FINANCIAL SERVICES GUIDE**

Dated 23 July 2021

### **What is a Financial Services Guide (FSG)?**

This FSG is designed to help you to decide whether to use any of the general financial product advice provided by **KPMG Financial Advisory Services (Australia) Pty Ltd ABN 43 007 363 215**, Australian Financial Services Licence Number 246901 (of which KPMG Corporate Finance is a division) ('**KPMG Corporate Finance**'), Ian Jedlin as an authorised representative of KPMG Corporate Finance, authorised representative number 404177 and Adele Thomas as an authorised representative of KPMG Corporate Finance, authorised representative number 404180 (**Authorised Representative**).

### **This FSG includes information about:**

- KPMG Corporate Finance and its Authorised Representative and how they can be contacted
- The services KPMG Corporate Finance and its Authorised Representative are authorised to provide;
- How KPMG Corporate Finance and its Authorised Representative are paid;
- Any relevant associations or relationships of KPMG Corporate Finance and its Authorised Representative;
- How complaints are dealt with as well as information about internal and external dispute resolution systems and how you can access them; and
- The compensation arrangements that KPMG Corporate Finance have in place.

The distribution of this FSG by the Authorised Representative has been authorised by KPMG Corporate Finance. This FSG forms part of an Investigating Expert's Report (Report) which has been prepared for inclusion in a disclosure document or, if you are offered a financial product for issue or sale, a Product Disclosure Statement (PDS). The purpose of the disclosure document or PDS is to help you make an informed decision in relation to a financial product. The contents of the disclosure document or PDS, as relevant, will include details such as the risks, benefits and costs of acquiring the particular financial product.

### **Financial services that KPMG Corporate Finance and the Authorised Representative are authorised to provide**

KPMG Corporate Finance holds an Australian Financial Services Licence, which authorises it to provide, amongst other services, financial product advice for the following classes of financial products:

- deposit and non-cash payment products;
- derivatives;
- foreign exchange contracts;
- government debentures, stocks or bonds;
- interests in managed investment schemes including investor directed portfolio services;
- securities;
- superannuation;
- carbon units;
- Australian carbon credit units; and
- eligible international emissions units,

to retail and wholesale clients. We provide financial product advice when engaged to prepare a report in relation to a transaction relating to one of these types of financial products. The Authorised Representative is authorised by KPMG Corporate Finance to provide financial product advice on KPMG Corporate Finance's behalf.

### **KPMG Corporate Finance and the Authorised Representative's responsibility to you**

KPMG Corporate Finance has been engaged by BLY Limited (Client) to provide general financial product advice in the form of a Report to be included in Explanatory Memorandum (Document) prepared by BLY in relation to the Re-domicile Transaction (Transaction).

You have not engaged KPMG Corporate Finance or the Authorised Representative directly but have received a copy of the Report because you have been provided with a copy of the Document. Neither KPMG Corporate Finance nor the Authorised Representative are acting for any person other than the Client.

KPMG Corporate Finance and the Authorised Representative are responsible and accountable to you for ensuring that there is a reasonable basis for the conclusions in the Report.

### **General Advice**

As KPMG Corporate Finance has been engaged by the Client, the Report only contains general advice as it has been prepared without taking into account your personal objectives, financial situation or needs.

You should consider the appropriateness of the general advice in the Report having regard to your circumstances before you act on the general advice contained in the Report.



You should also consider the other parts of the Document before making any decision in relation to the Transaction.

**Fees KPMG Corporate Finance may receive and remuneration or other benefits received by our representatives**

KPMG Corporate Finance charges fees for preparing reports. These fees will usually be agreed with, and paid by, the Client. Fees are agreed on either a fixed fee or a time cost basis. In this instance, the Client has agreed to pay KPMG Corporate Finance A\$75,000 for preparing the Report. KPMG Corporate Finance and its officers, representatives, related entities and associates will not receive any other fee or benefit in connection with the provision of the Report.

KPMG Corporate Finance officers and representatives (including the Authorised Representative) receive a salary or a partnership distribution from KPMG's Australian professional advisory and accounting practice (the KPMG Partnership). KPMG Corporate Finance's representatives (including the Authorised Representative) are eligible for bonuses based on overall productivity. Bonuses and other remuneration and benefits are not provided directly in connection with any engagement for the provision of general financial product advice in the Report.

Further details may be provided on request.

**Referrals**

Neither KPMG Corporate Finance nor the Authorised Representative pay commissions or provide any other benefits to any person for referring customers to them in connection with a Report.

**Associations and relationships**

Through a variety of corporate and trust structures KPMG Corporate Finance is controlled by and operates as part of the KPMG Partnership. KPMG Corporate Finance's directors and Authorised Representatives may be partners in the KPMG Partnership. The Authorised Representative is partner in the KPMG Partnership. The financial product advice in the Report is provided by KPMG Corporate Finance and the Authorised Representative and not by the KPMG Partnership.

From time to time KPMG Corporate Finance, the KPMG Partnership and related entities (KPMG entities) may provide professional services, including audit, tax and financial advisory services, to companies and issuers of financial products in the ordinary course of their businesses.

KPMG entities have provided a range of services to BLY for which professional fees are received. Over the past two years professional fees of approximately US\$2.2 million have been received from BLY. Tax services have been provided in relation to the impact of the Restructuring. No other services have related to the Restructuring or alternatives to the Restructuring.

No individual involved in the preparation of this Report holds a substantial interest in, or is a substantial creditor of, the Client or has other material financial interests in the transaction.

**Complaints resolution**

Internal complaints resolution process

If you have a complaint, please let either KPMG Corporate Finance or the Authorised Representative know. Formal complaints should be sent in writing to The Complaints Officer, KPMG, PO Box H67, Australia Square, Sydney NSW 1213. If you have difficulty in putting your complaint in writing, please telephone the Complaints Officer on 02 9335 7000 and they will assist you in documenting your complaint.

Written complaints are recorded, acknowledged within 5 days and investigated. As soon as practical, and not more than 45 days after receiving the written complaint, the response to your complaint will be advised in writing.

External complaints resolution process

If KPMG Corporate Finance or the Authorised Representative cannot resolve your complaint to your satisfaction within 45 days, you can refer the matter to the Financial Ombudsman Service (FOS). FOS is an independent company that has been established to provide free advice and assistance to consumers to help in resolving complaints relating to the financial services industry.

Further details about FOS are available at the FOS website

[www.fos.org.au](http://www.fos.org.au) or by contacting them directly at:

Address: Financial Ombudsman Service Limited, GPO Box 3, Melbourne Victoria 3001

Telephone: 1800 367 287

Facsimile: (03) 9613 6399 Email: [info@fos.org.au](mailto:info@fos.org.au)

The Australian Securities and Investments Commission also has a freecall infoline on 1300 300 630 which you may use to obtain information about your rights.

**Compensation arrangements**

KPMG Corporate Finance has professional indemnity insurance cover as required by the Corporations Act 2001(Cth).

**Contact Details**

You may contact KPMG Corporate Finance or the Authorised Representative using the contact details:

KPMG Corporate Finance

A division of KPMG Financial Advisory Services (Australia) Pty Ltd

Level 38, Tower Three, International Towers Sydney  
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Sydney NSW 2000

PO Box H67  
Australia Square  
NSW 1213

Telephone: (02) 9335 7000

Facsimile: (02) 9335 7200

Adele Thomas / Ian Jedlin

C/O KPMG  
PO Box H67  
Australia Square  
NSW 1213

Telephone: (02) 9335 7000

Facsimile: (02) 9335 7000

## **APPENDIX B: RE-DOMICILIATION SCHEME OF ARRANGEMENT**

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## Scheme of Arrangement

Boart Longyear Limited

ACN 123 052 728

Scheme Shareholders

## SCHEME OF ARRANGEMENT

### Under section 411 of the Corporations Act

#### BETWEEN:

- (1) **Boart Longyear Limited** ACN 123 052 728 whose registered office is at 26 Butler Boulevard, Adelaide Airport, SA 5950 (**BLY**); and
- (2) Scheme Shareholders.

#### BACKGROUND

- (A) BLY is a public company limited by shares. BLY is incorporated in Australia and registered in South Australia. BLY's registered office is at 26 Butler Boulevard, Adelaide Airport, SA 5950. BLY is admitted to the official list of ASX and BLY Shares are quoted on the securities exchange operated by ASX.
- (B) Boart Longyear Ltd (Corporation Number: 2854330) (**New BLY Parent**) is a limited company incorporated in Ontario, Canada. It has its registered address at 333 Bay St, Suite 2400, Toronto, Ontario M5H 2T6, Canada.
- (C) New BLY Parent has one (1) issued and outstanding ordinary share which is held by the Individual Shareholder (the **Subscriber Share**). Other than the Subscriber Share, New BLY Parent has not issued any other shares and has not granted any options or other securities convertible into New BLY Parent Shares.
- (D) The directors of BLY have proposed this Re-domiciliation Scheme to the members of BLY and consider that this Re-domiciliation Scheme is in the best interests of BLY and its members as a whole.
- (E) New BLY Parent has executed the Re-domiciliation Scheme Deed Poll under which it covenants in favour of the BLY Shareholders to carry out its obligations under this Re-domiciliation Scheme, including to provide the Re-domiciliation Scheme Consideration in accordance with the terms of this Re-domiciliation Scheme.
- (F) If this Re-domiciliation Scheme becomes Effective:
  - (1) New BLY Parent will provide the Re-domiciliation Scheme Consideration to Scheme Shareholders in accordance with the terms of this Re-domiciliation Scheme and the Re-domiciliation Scheme Deed Poll; and
  - (2) all of the Scheme Shares, and all of the rights and entitlements attaching to the Scheme Shares as at the Re-domiciliation Scheme Implementation Date, will be transferred to New BLY Parent and BLY will become a wholly owned subsidiary of New BLY Parent; and
  - (3) BLY will enter New BLY Parent's name in the BLY Share Register as the holder of all Scheme Shares.

## OPERATIVE PROVISIONS

### 1. INTERPRETATION

#### 1.1 Definitions

The following definitions apply in this document:

**2014 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2014 Option Plan.

**2014 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2014 Options.

**2015 Options** means the options to eligible participants to purchase fully paid shares of BLY in accordance with the 2015 Option Plan.

**2015 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2015 Options.

**2016 Options means** the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2016 Option Plan.

**2016 Option Plan means** the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2016 Options.

**AHG Member** means any one of Ascribe, Ares, Corre, FPA or Nut Tree.

**Ares** means Ares Management LLC, on behalf of its affiliated funds and accounts being ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company – U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.

**Ascribe** means Ascribe II Investments LLC.

**ASIC** means the Australian Securities and Investments Commission.

**Assumption Deed Poll** means the deed poll of that name entered into by New BLY Parent in favour of the New Warrant Holder, the holders of the Class A 7% Warrants, the Class B 7% Warrants and the Ordinary Warrants, the Option Holder and the Participants.

**ASX** means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691), as the context requires.

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

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

**ASX Settlement Operating Rules** means the settlement operating rules of ASX Settlement.

**Authorisation** means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it from or by a Government Agency; and
- (b) in relation to anything that could be prohibited or restricted by law, if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken.

**Authorised Nominee** means CHESS Depository Nominees Pty Limited (ACN 071 346 503), Australian Financial Licence number 254514), an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.

**BCM** means BL Capital Management LLC, a limited liability company formed under the laws of Delaware.

**BLA** means Boart Longyear Australia Pty Ltd ACN 000 401 025.

**BLI** means Boart Longyear Investments Pty Limited ACN 124 070 373.

**BLY Issuer** means BLY Management Pty Limited ACN 123 283 545.

**BLY Option** means each of the 2014 Options, 2015 Options and the 2016 Options.

**BLY US** means BLY US Holdings Inc., a corporation formed under the laws of the State of Utah.

**BLY Share** means each fully paid ordinary share in the capital of BLY.

**BLY Share Register** means the register of members of BLY maintained by or on behalf of BLY in accordance with section 168(1) of the Corporations Act.

**BLY Share Registry** means Link Market Services Limited.

**BLY Shareholder** means each person who is registered in the BLY Share Register as a holder of BLY Shares.

**Business Day** means:

- (a) when used in relation to the Re-domiciliation Scheme Implementation Date or the Re-domiciliation Scheme Record Date, a business day as defined in the ASX Listing Rules; and
- (b) in all other cases, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales.

**CBP** means CCP II Acquisition Holdings, LLC., Centerbridge Credit Partners AIV III, L.P., Centerbridge Credit Partners Master, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. and Centerbridge Special Credit Partners II, L.P.

**CBP Member** means any one of CCP II Acquisition Holdings, LLC., Centerbridge Credit Partners AIV III, L.P., Centerbridge Credit Partners Master, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. or Centerbridge Special Credit Partners II, L.P.

**CDI** means a CHESS Depository Interest, being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.

**CHESS** means the clearing house electronic subregister system for the electronic transfer of securities operated by ASX Settlement, which provides for the electronic transfer, settlement and registration of securities.

**Class A 7% Warrant** means the unquoted Class A 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class A 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Class B 7% Warrant** means the unquoted Class B 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class B 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Conditions** means each of the conditions precedent in clause 2.1.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Corre** means Corre Partners Management, LLC and those entities affiliated with it including Corre Opportunities Qualified Master Fund, LP, Corre Horizon Fund, LP and Corre Horizon II Fund, LP.

**Court** means the Supreme Court of New South Wales.

**Creditors' Scheme Companies** means BLY, BLY Issuer, BLI, BLA, Votaint, BCM and BLY US.

**Creditors' Schemes** means the Secured Creditors' Scheme and the Unsecured Creditors' Scheme.

**Creditors' Schemes Effective Date** means the date upon which each of the conditions precedent in the Creditors' Schemes have been satisfied or waived.

**DTC** means The Depository Trust Company, a central securities depository registered as a clearing agency with the Securities Exchange Commission.

**Effective** means the coming into effect, under section 411(10)) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Re-domiciliation Scheme.

**End Date** means 31 December 2021.

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

**Finance Document** means:

- (a) in respect of the Secured Creditors' Scheme, each of the documents listed in Schedule 1 of the Secured Creditors' Scheme other than an Incremental Finance Document; and
- (b) in respect of the Unsecured Creditors' Scheme, each of the documents listed in Schedule 1 of the Unsecured Creditors' Scheme other than an Incremental Finance Document; and
- (c) any other document entered into by a Creditor Scheme Company under which it has granted a security interest over its property to secure the Secured Money; and
- (d) any other document designated as:



- (i) a "Loan Document under the Term Loan A and Term Loan B; or
- (ii) a "Notes Document" under the SSN Indenture.

**FPA** means First Pacific Advisors, LP and those entities affiliated with it including FPA New Income, Inc., Motion Picture Industry Health Plan (Active), Motion Picture Industry Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.

**Government Agency** means a government, government department or a governmental, semi-governmental, administrative, statutory or judicial entity, agency, authority, commission, department, tribunal, or person charged with the administration of a law or agency, whether in Australia or elsewhere, including the Australian Competition and Consumer Commission, ASIC, ASX, the Takeovers Panel, and any self-regulatory organisation established under statute or by ASX.

**GST Law** means the same as "GST law" means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Incremental Finance Documents** means together:

- (a) the Incremental Finance Facility; and
- (b) any Loan Document (as that term is defined in the Incremental Finance Facility).

**Incremental Finance Facility** means the Term Loan Securities Agreement dated 1 June 2021 between, amongst others, BLY Issuer, the guarantors party thereto, the purchasers party thereto, Wilmington Trust, National Association, as agent and U.S. Bank National Association, as collateral agent, and providing for the issuance of term loan securities with a final repayment date of 31 December 2021.

**Individual Shareholder** means Gordon Ross Amos.

**Ineligible Foreign Shareholder** means:

- (a) each BLY Shareholder whose address as shown in the Register as at the Redomiciliation Scheme Record Date is in any jurisdiction other than Australia, New Zealand, Switzerland, Hong Kong, Spain, Luxembourg, the Netherlands, Ireland, Italy, Bermuda, the Cayman Islands, Canada or the United States of America; or
- (b) a BLY Shareholder to whom BLY considers it would be unlawful for New BLY Parent to issue New BLY Parent CDIs in accordance with the laws of the jurisdiction in which the BLY Shareholder is located.

**Long Term Incentive Plan** means Boart Longyear's 2020 Long Term Incentive Plan effective 30 July 2020.

**New BLY Parent CDI** means a CDI representing one (1) New BLY Parent Share.

**New BLY Parent Share** means a fully paid common share in New BLY Parent.

**New Warrants** the warrants issued by BLY on the terms set out in Schedule 11 of the Unsecured Creditors' Scheme.

**New Warrant Holder** means the holder of the New Warrants.

**Nut Tree** means Nut Tree Capital Management and Nut Tree Master Fund, LP.

**Option Holder** means each holder of a BLY Option.

**Ordinary Warrant Deed Poll** means the ordinary warrant deed poll dated 31 August 2017 executed by BLY.

**Ordinary Warrants** means quoted ordinary warrants trading on ASX initially issued in September 2017 to all eligible BLY Shareholders, which are subject to an Ordinary Warrant Deed Poll.

**Participant** means each eligible participant to the Long Term Incentive Plan.

**Re-domiciliation Implementation** means the implementation of this Re-domiciliation Scheme.

**Re-domiciliation Independent Expert** means KPMG Financial Advisory Services (Australia) Pty Ltd.

**Re-domiciliation Independent Expert's Report** means a report prepared by the Re-domiciliation Independent Expert in accordance with ASIC Regulatory Guide 111.

**Re-domiciliation Scheme** means this scheme of arrangement under Part 5.1 proposed between BLY and the Scheme Shareholders, set out in this document, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed by BLY and New BLY Parent.

**Re-domiciliation Scheme Consideration** means the consideration to be provided by New BLY Parent to each Scheme Shareholder for the transfer of each Scheme Share under this Re-domiciliation Scheme, being one (1) New BLY Parent Share in the form of a New BLY Parent CDI, for each one (1) BLY Share held by a Scheme Shareholder as at the Re-domiciliation Scheme Record Date, to be satisfied in the manner as set out in clause 3.2.

**Re-domiciliation Scheme Deed Poll** means the deed poll pursuant to which New BLY Parent covenants in favour of Scheme Shareholders to (among other things) provide the Re-domiciliation Scheme Consideration in accordance with the terms of this Re-domiciliation Scheme.

**Re-domiciliation Scheme Effective Date** means the date on which each of the conditions precedent in clause 2.1 have been satisfied or waived in accordance with the terms of this Re-domiciliation Scheme.

**Re-domiciliation Scheme Implementation Date** means the Business Day which is two Business Days after the Re-domiciliation Scheme Record Date, or such other date as BLY and New BLY Parent may agree in writing, may be ordered by the Court or may be required by ASX.

**Re-domiciliation Scheme Meeting** means the BLY Shareholders' meeting or meetings ordered by the Court to be convened under section 411(1) in relation to this Re-domiciliation Scheme.

**Re-domiciliation Scheme Record Date** means 7.00 pm (Sydney time) on the day which is two Business Days after the Re-domiciliation Scheme becomes Effective or any other date (after the Re-domiciliation Scheme becomes Effective) agreed by BLY and the New BLY Parent to be the record date to determine entitlements to receive Re-domiciliation Scheme Consideration under the Re-domiciliation Scheme.

**Re-domiciliation Scheme Resolution** means the resolution to be put to BLY Shareholders at the Re-domiciliation Scheme Meeting to approve the Re-domiciliation Scheme.

**Re-domiciliation Second Court Date** means the first day in which the Court hears an application for an order under section 411(4)(b) of the Corporations Act approving this Re-

domiciliation Scheme or, if the application is adjourned or subject to appeal for any reason, the first day on which the adjourned or appealed application is heard.

**Registered Address** means, in relation to a BLY Shareholder, the address of the shareholder shown in the BLY Share Register.

**Requisite Majorities** means approval of the Re-domiciliation Scheme Resolution by:

- (a) greater than 50% in number of BLY Shareholders present and voting at the Re-domiciliation Scheme Meeting (in person, by proxy, by attorney or by a corporate representative);
- (b) at least 75% of the total number of votes cast on the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting.

**Restructuring Implementation Deed** means the restructuring implementation deed between BLY, New BLY Parent, the Secured Scheme Administrators and the Unsecured Scheme Administrator (amongst others) substantially in the form set out in Schedule 2 of the Unsecured Creditors' Scheme and Schedule 2 the Secured Creditors' Scheme, respectively.

**Sale Agent** means the person appointed by BLY to sell the Sale Securities as contemplated by clause 3.3.

**Sale Securities** has the meaning given in clause 3.3.

**Scheme Share** means each BLY Share on issue as at the Re-domiciliation Scheme Record Date.

**Scheme Shareholder** means each BLY Shareholder at the Re-domiciliation Scheme Record Date, taking into account registration of all registrable transfers and transmission applications in accordance with clause 4.1.

**Scheme Transfer**, in relation to Scheme Shares, means a proper instrument of transfer of the Scheme Shares.

**Secured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Creditors' Scheme Companies and the Secured Scheme Creditors being the compromise or arrangement proposed by the Creditors' Scheme Companies and approved by the Court in 2021.

**Secured Money** has the meaning given to that term in the Secured Creditors' Schemes.

**Secured Scheme Administrator** means FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Secured Creditors' Scheme, subject to section 411(7) of the Corporations Act.

**Secured Scheme Creditors** means, as at the Creditors' Schemes Effective Date, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Secured Debt;
- (b) the Term Loan A, each TLB Purchaser with TLB Secured Debt; and
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Secured Debt; and

- (ii) the SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co.

**SSN Indenture** means the indenture dated 27 September 2013, between, among others, the BLY Issuer, as issuer, BLY, as parent, BLA, BLI, Votaint, BCM and BLY US, as guarantors, amongst others, and U.S. Bank National Association, as trustee and collateral agent, in respect of the 12.00% / 10.00% secured notes, as amended by the first supplemental indenture dated 31 August 2017, the second supplemental indenture dated 18 September 2017, the third supplemental indenture dated 31 December 2018, the fourth supplemental indenture dated 17 July 2019, the fifth supplemental indenture dated 24 June 2020, and the sixth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SSN Noteholders** means each "Holder" or "Securityholder" as those terms are defined in the SSN Indenture.

**SSN Notes Registered Holder** means the "Holder" or "Securityholder" as those terms are defined in the SSN Indenture, being DTC.

**SSN Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owed to the SSN Noteholders under the SSN Indenture which is secured pursuant to the terms of the SSN Indenture.

**SSN Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owed to the SSN Noteholders under the SSN Indenture which is unsecured pursuant to the terms of the Finance Documents.

**Standard Tax Conditions** means the "'Standard' tax conditions" set out in Part D of the Foreign Investment Review Board Guidance note 12 (Tax Conditions) dated 18 December 2020.

**SUN Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owed to the SUN Noteholders under the Finance Documents.

**SUN Indenture** means the indenture dated 28 March 2011 between the BLY Issuer, as issuer, BLY, as guarantor, and Delaware Trust Company as trustee, amongst others, as amended by the first supplemental indenture dated 14 June 2013, the second supplemental indenture dated 27 September 2013, the third supplemental indenture dated 2 April 2017, the fourth supplemental indenture dated 23 August 2017, the fifth supplemental indenture dated 18 September 2017, the sixth supplemental indenture dated 31 December 2018, the seventh supplemental indenture dated 17 July 2019, the eighth supplemental indenture dated 15 June 2020, and the ninth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SUN Noteholders** means each "Holder" as those terms are defined in the SUN Indenture.

**SUN Notes Registered Holder** means the "Holder" or "Securityholder" as that term is defined in the SUN Indenture, being DTC.

**Term Loan A** means the Term Loan A Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votaint and BLY US, as guarantors, the TLA Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan A Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan A Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan A Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**Term Loan B** means the Term Loan B Securities Agreement dated 31 December 2018 between, amongst others, BCM as issuer, BLY, BLA, BLI, BLY Issuer, Votaint and BLY US, as guarantors, the TLB Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan B Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**TLA Purchasers** means the "Purchasers" as that term is defined in the Term Loan A.

**TLA Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owed to the TLA Purchasers under the Term Loan A which is secured pursuant to the terms of the Finance Document.

**TLA Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owed to the TLA Purchasers under the Term Loan A which is unsecured pursuant to the terms of the Finance Documents.

**TLB Purchasers** means the "Purchasers" as that term is defined in the Term Loan B.

**TLB Secured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owed to the TLB Purchasers under the Term Loan B which is secured pursuant to the terms of the Finance Documents.

**TLB Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owed to the TLB Purchasers under the Term Loan B which is unsecured pursuant to the terms of the Finance Documents.

**Total Sale Proceeds** means the total proceeds received from the sale of the Sale Securities by the Sale Agent in accordance with clause 3.3(c) after the deduction of any applicable fees, brokerage, taxes and charges the Sale Agent reasonably incurred in connection with the sale of the Sale Securities.

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between Creditors' Scheme Companies and the Unsecured Scheme Creditors (amongst others), being the compromise or arrangement proposed by the Creditors' Scheme Companies and approved by the Court in 2021.

**Unsecured Scheme Administrators** means Christopher Hill of FTI Consulting, or any other person who accepts the appointment to the role of scheme administrator of the Unsecured Creditors' Scheme, subject to section 411(7) of the Corporations Act.

**Unsecured Scheme Creditors** means as at the Creditors' Schemes Effective Date, in respect of:

- (a) the Term Loan A, each TLA Purchaser with TLA Unsecured Debt;
- (b) the Term Loan B, each TLB Purchaser with TLB Unsecured Debt;
- (c) the SSN Indenture:
  - (i) each SSN Noteholder with SSN Unsecured Debt; and
  - (ii) the SSN Notes Registered Holder, and the SSN Notes Registered Holder's nominee, Cede & Co;
- (d) the SUN Indenture:

- (i) each SUN Noteholder with SUN Debt; and
- (ii) SUN Notes Registered Holder, and the SUN Notes Registered Holder's nominee, Cede & Co.

**Votrant** means Votrant No. 1609 Pty Limited ACN 119 244 272.

## 1.2 Rules for interpreting this document

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The words **associate, controller, entity, officer, related body corporate, relevant interest, security interest, subsidiary** and **voting power** have the same meanings as given by the Corporations Act.
- (g) A reference to:
  - (i) \$ or AUD or A\$ is to the lawful currency of Australia; and
  - (ii) US\$ or USD is to the lawful currency of the United States of America.
- (h) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
- (i) Terms defined in the GST Law have the same meaning in this document unless the context otherwise requires.

- (j) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.
- (k) A reference to time in this document is a reference to time in Sydney, New South Wales.

## 2. **CONDITIONS PRECEDENT**

### 2.1 **Conditions precedent to the Re-domiciliation Scheme**

This Re-domiciliation Scheme is conditional upon, and will have no force or effect until, the satisfaction or waiver (in accordance with clause 2.2) of each of the following conditions precedent:

- (a) **(Re-domiciliation Scheme Deed Poll)** before 8:00am on the Re-domiciliation Second Court Date, New BLY Parent has executed the Re-domiciliation Scheme Deed Poll;
- (b) **(Assumption Deed)**; before 8:00am on the Re-domiciliation Second Court Date, New BLY Parent has executed the Assumption Deed Poll;
- (c) **(independent expert)** the Re-domiciliation Independent Expert has concluded in the Re-domiciliation Independent Expert's Report that the Re-domiciliation Scheme is in the best interests of BLY Shareholders;
- (d) **(orders convening Re-domiciliation Scheme Meeting)** the Court makes orders convening the Re-domiciliation Scheme Meeting under section 411(1) of the Corporations Act;
- (e) **(BLY Shareholder approval)** the Re-Domiciliation Scheme Resolution is approved by the Requisite Majorities at the Re-domiciliation Scheme Meeting convened in accordance with the orders made under section 411(1) of the Corporations Act;
- (f) **(Court approval of Creditors' Scheme)** the Court makes orders under section 411(4)(b) of the Corporations Act approving each of the Creditors' Schemes;
- (g) **(Creditors' Scheme order(s) lodged with ASIC)** an office copy of the Court order(s) approving each of the Creditors' Schemes under section 411(4)(b) of the Corporations Act is lodged with ASIC;
- (h) **(Completion of implementation of Creditors' Schemes)** Step 1 (*Issue of Shares and New Warrants*) to Step 8 (*Confirmation of Scheme Restructuring Effective Time*) (inclusive) of clause 8 to the Restructuring Implementation Deed have been completed in accordance with the Restructuring Implementation Deed;
- (i) **(FIRB approval – New BLY Parent)** before 8:00am on the Re-domiciliation Second Court Date, either:
  - (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to New BLY Parent acquiring all BLY Shares pursuant to this Re-domiciliation Scheme (**Proposed New BLY Parent Re-domiciliation Acquisition**) either without conditions or subject only to the Standard Tax Conditions or any other condition which is acceptable to New BLY Parent acting reasonably; or

- (ii) following notice of the Proposed New BLY Parent Re-domiciliation Acquisition having been given by New BLY Parent to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired;
- (j) **(FIRB Approval – CBP)** before 8:00am on the Re-domiciliation Second Court Date, either:
  - (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any CBP Member (or any of their respective related bodies corporate) directly or indirectly acquiring an interest in New BLY Parent Shares pursuant to this Re-domiciliation Scheme (**Proposed CBP Re-domiciliation Acquisition**) either without conditions or subject only to the Standard Tax Conditions or any other condition which is acceptable to CBP acting reasonably; or
  - (ii) following notice of the Proposed CBP Re-domiciliation Acquisition having been given by CBP to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired;
- (k) **(FIRB Approval – AHG)** before 8:00am on the Re-domiciliation Second Court Date, either:
  - (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing stating or stating to the effect that, in terms of Australia's foreign investment policy, the Australian government does not object to any AHG Member (or any of their respective related bodies corporate) directly or indirectly acquiring an interest in New BLY Parent Shares pursuant to this Re-domiciliation Scheme (**Proposed AHG Re-domiciliation Acquisition**) either without conditions or subject only to the Standard Tax Conditions or any other condition which is acceptable to that AHG Member acting reasonably; or
  - (i) following notice of the Proposed AHG Re-domiciliation Acquisition having been given by AHG to the Treasurer under FATA, the Treasurer has ceased to be empowered to make an order under Part 3 of FATA because the applicable time limit on making orders and decisions under FATA has expired;
- (l) **(Authorisations)** as at 8:00am on the Re-domiciliation Second Court Date, all other Authorisations, which BLY and New BLY Parent agree in writing are necessary for Re-domiciliation Implementation, have been obtained;
- (m) **(no restraint adversely affecting Implementation)** as at 8:00am on the Re-domiciliation Second Court Date, no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the acquisition of all the BLY Shares by New BLY Parent or otherwise preventing Re-domiciliation Implementation is in effect;
- (n) **(ASX listing and quotation)** as at 8:00am on the Re-domiciliation Second Court Date ASX has approved:
  - (i) New BLY Parent for admission to the official list of ASX; and



- (ii) the New BLY Parent Shares (represented by New BLY Parent CDIs) for official quotation on ASX,

which approval may be conditional on this Re-domiciliation Scheme becoming Effective and other such conditions as acceptable to the boards of BLY and New BLY Parent;

- (o) **(Authorised Nominee)** before 8:00am on the Re-domiciliation Second Court Date New BLY Parent has appointed the Authorised Nominee and the Authorised Nominee has agreed to the allotment to it of New BLY Parent Shares under this Re-domiciliation Scheme; and
- (p) **(Sale Agent)** before 8:00am on the Re-domiciliation Second Court Date New BLY Parent has appointed the Sale Agent and the Sale Agent has agreed to sell the Sale Securities as contemplated by clause 3.3;
- (q) **(Court approval of Re-domiciliation Scheme)** the Court makes orders under section 411(4)(b) of the Corporations Act approving this Re-domiciliation Scheme; and
- (r) **(Re-domiciliation Scheme order lodged with ASIC)** an office copy of the Court order approving this Re-domiciliation Scheme under section 411(4)(b) of the Corporations Act is lodged with ASIC.

## 2.2 **Benefit and waiver of Conditions**

Each of the Conditions is for the benefit of both BLY and New BLY Parent and a breach or non-satisfaction of a Condition can only be waived with the written consent of both parties. The Conditions in clauses 2.1(d) to 2.1(h) (inclusive) are not capable of waiver.

## 2.3 **Certificates**

- (a) On the Re-domiciliation Second Court Date, each of BLY and New BLY Parent must provide to the Court a certificate signed by a duly authorised representative confirming that the conditions precedent in clause 2.1, other than the conditions precedent in clauses 2.1(f), 2.1(q) and 2.1(r), have been satisfied or (if applicable) waived.
- (b) The certificates referred to in clause 2.3(a) constitute conclusive evidence that the conditions precedent in clause 2.1, other than the conditions precedent in clauses 2.1(f), 2.1(q) and 2.1(r), have been satisfied or (if applicable) waived.

## 2.4 **Re-domiciliation Scheme Effective Date**

This Re-domiciliation Scheme takes effect on the Re-domiciliation Scheme Effective Date.

## 2.5 **End Date**

This Re-domiciliation Scheme will lapse and be of no effect if the Re-domiciliation Scheme Effective Date has not occurred on or before the End Date.

# 3. **THE SCHEME**

## 3.1 **Implementation steps**

On the Re-domiciliation Scheme Implementation Date:

- (a) subject to the provision of the Re-domiciliation Scheme Consideration in accordance with this Re-domiciliation Scheme and New BLY Parent having provided BLY with

written confirmation of that having occurred, all of the Scheme Shares, together with all rights and entitlements attaching to those shares as at the Re-domiciliation Scheme Implementation Date, will be transferred to New BLY Parent without the need for any further act by any Scheme Shareholder (other than acts performed by BLY or its directors and officers as attorney and agent for the Scheme Shareholders under this Re-domiciliation Scheme) by :

- (i) BLY delivering to New BLY Parent for execution a duly completed Scheme Transfer to transfer the Scheme Shares to New BLY Parent, duly executed by BLY (or any of its directors and officers) as the attorney and agent of each Scheme Shareholder as transferor under clauses 5.2 and 5.3;
- (ii) New BLY Parent duly completing and executing the Scheme Transfer as transferee, attending to stamping of the Scheme Transfer (if required) and delivering it to BLY for registration; and
- (iii) BLY, upon receipt of the Scheme Transfer under subparagraph (ii):
  - (A) attending to registration of the Scheme Transfer; and
  - (B) entering or procuring the entry of the name and address of New BLY Parent in the BLY Share Register as the holder of all the Scheme Shares; and
- (b) New BLY Parent will provide to each Scheme Shareholder the Re-domiciliation Scheme Consideration for each BLY Share held by the Scheme Shareholder, in accordance with and subject to the terms of this Re-domiciliation Scheme.

### 3.2 **Provision of Re-domiciliation Scheme Consideration**

The obligation of New BLY Parent to provide the Re-domiciliation Scheme Consideration under clause 3.1(b) will be discharged by New BLY Parent issuing to the Authorised Nominee one New BLY Parent Share for each Scheme Share and:

- (a) in the case of Scheme Shareholders who are not Ineligible Foreign Shareholders, issuing or causing the issue to each such Scheme Shareholder of one New BLY Parent CDI for each Scheme Share to be transferred to New BLY Parent by or on behalf of that Scheme Shareholder; or
- (b) in the case of Ineligible Foreign Shareholders, issuing or causing the issue to the Sale Agent of one New BLY Parent CDI for each Scheme Share to be transferred to New BLY Parent by or on behalf of Ineligible Foreign Shareholders in accordance with clause 3.3.

### 3.3 **Ineligible Foreign Shareholders**

- (a) Ineligible Foreign Shareholders are not entitled to be issued, and New BLY Parent has no obligation to issue to Ineligible Foreign Shareholders, New BLY Parent CDIs as Re-domiciliation Scheme Consideration under clause 3.1(b). Instead, the New BLY Parent CDIs that, but for this clause 3.3, would be issued to the Ineligible Foreign Shareholders (**Sale Securities**) will be issued to a person nominated by BLY (the **Sale Agent**).
- (b) Where the Sale Agent is issued Re-domiciliation Scheme Consideration under clause 3.3(a), BLY and New BLY Parent will cause the Sale Agent to as soon as is reasonably

practicable (but, in any case within one month after the Re-domiciliation Scheme Implementation Date):

- (i) sell all such Sale Securities (on ASX or off-market) in the manner, and on the terms, the Sale Agent thinks fit (and at the risk of the Ineligible Foreign Shareholders); and
  - (ii) remit to BLY the Total Sale Proceeds.
- (c) As soon as reasonably practicable (but, in any case, within 10 Business Days) after receipt by BLY from the Sale Agent of the Total Sale Proceeds referred to in clause (b) above, BLY must remit to each Ineligible Foreign Shareholder the amount 'A' calculated in accordance with the following formula (rounded down to the nearest whole cent):

$$A = \left( \frac{B}{C} \right) \times D$$

where:

A = the proportion of the proceeds to which that Ineligible Foreign Shareholder is to be remitted;

B = the number of Sale Securities to which that Ineligible Foreign Shareholder would have been entitled if they were not an Ineligible Foreign Shareholder;

C = the total number of Sale Securities issued to and sold by the Sale Agent; and

D = the Total Sale Proceeds.

- (d) The remittance by BLY to each Ineligible Foreign Shareholder of the sale proceeds contemplated by clause (c)3.3(c) is in full and final satisfaction of that Ineligible Foreign Shareholder's rights and entitlements to the Re-domiciliation Scheme Consideration.
- (e) Each Ineligible Foreign Shareholder appoints BLY, and each director and officer of BLY, as its agent to receive on its behalf any financial services guide or other notice that may be given under the Corporations Act by the Sale Agent to each Ineligible Foreign Shareholder for or in connection with its appointment or the sales.

### 3.4 **Registration and confirmations**

New BLY Parent will:

- (a) procure the despatch to the Authorised Nominee of a certificate in the name of the Authorised Nominee representing the New BLY Parent Shares issued to the Authorised Nominee under clause 3.2;
- (b) cause the Authorised Nominee's name to be entered into the register of New BLY Parent as the holder of the New BLY Parent Shares issued to the Authorised Nominee under clause 3.2;
- (c) register, or cause to be registered, the Scheme Shareholders (other than the Ineligible Foreign Shareholders) and the Sale Agent (in respect of Ineligible Foreign Shareholders) as the holders of the New BLY Parent CDIs to which they become entitled under this Re-domiciliation Scheme; and

- (d) procure the despatch to each Scheme Shareholder (other than the Ineligible Foreign Shareholders) and the Sale Agent (in respect of Ineligible Foreign Shareholders) of a holding statement in the name of that person with the number of New BLY Parent CDIs issued to that person. In the case of Scheme Shareholders that are joint holders, such confirmations will be sent to the holder whose name appears first in the Share Register on the Re-domiciliation Scheme Record Date.

### **3.5 New BLY Parent beneficially entitled to Scheme Shares**

New BLY Parent will be beneficially entitled to the Scheme Shares transferred to it under this Re-domiciliation Scheme pending registration by BLY of the name and address of New BLY Parent in the BLY Share Register as the holder of the Scheme Shares.

### **3.6 Class A 7% Warrants, the Class B 7% Warrants, the New Warrants, the BLY Options and the Long Term Incentive Plan**

New BLY Parent will, pursuant to the Assumption Deed Poll, assume BLY's obligations with respect to the Class A 7% Warrants, the Class B 7% Warrants, the New Warrants, the BLY Options and the Long Term Incentive Plan, subject to, and in accordance with, the Assumption Deed Poll.

## **4. DEALINGS IN BLY SHARES**

### **4.1 What BLY Share dealings are recognised?**

To establish the persons who are Scheme Shareholders, dealings in BLY Shares will be recognised only if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the BLY Share Register as the holder of the BLY Shares as at the Re-domiciliation Scheme Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the BLY Share Registry at or before the Re-domiciliation Scheme Record Date.

### **4.2 BLY to register transfer and transmission applications**

BLY will register registrable transfers and transmission applications of the kind referred to in clause 4.1(b) by, or as soon as practicable after, the Re-domiciliation Scheme Record Date.

### **4.3 Transfers received after Re-domiciliation Scheme Record Date not recognised**

Subject to this Re-domiciliation Scheme becoming Effective, each Scheme Shareholder (and any person claiming through any Scheme Shareholder) must not dispose of or transfer, or purport or agree to dispose of or transfer, any Scheme Share or any interest in any Scheme Share after the Re-domiciliation Scheme Record Date. Any such disposal or transfer, or purported or agreed disposal or transfer, will be void and of no legal effect, and BLY will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of Scheme Shares received after the Re-domiciliation Scheme Record Date.

### **4.4 BLY to maintain BLY Share Register to determine entitlements**

In order to determine entitlements to the Re-domiciliation Scheme Consideration, BLY will maintain, or procure the maintenance of, the BLY Share Register in accordance with this clause 0 until the Re-domiciliation Scheme Consideration has been provided to Scheme

Shareholders and the BLY Share Register in this form will solely determine entitlements to the Re-domiciliation Scheme Consideration.

**4.5 Holding statements no effect from Re-domiciliation Scheme Record Date**

From the Re-domiciliation Scheme Record Date, all holding statements for Scheme Shares (other than holding statements in favour of New BLY Parent) will cease to have effect as documents of title (or evidence thereof), and each entry on the BLY Share Register at the Re-domiciliation Scheme Record Date (other than those entries in respect of New BLY Parent) will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Re-domiciliation Scheme Consideration.

**4.6 BLY to provide contact information for Scheme Shareholders**

As soon as practicable after the Re-domiciliation Scheme Record Date and in any event before the Re-domiciliation Scheme Implementation Date, BLY will give to New BLY Parent or procure that New BLY Parent be given details of the name, Registered Address and the number of BLY Shares held by each Scheme Shareholder, as shown in the BLY Share Register at the Re-domiciliation Scheme Record Date, in whatever form New BLY Parent reasonably requires.

**4.7 Suspension of trading**

It is expected that the suspension of trading in BLY Shares on the stock market conducted by ASX will occur from the close of trading on the Re-domiciliation Scheme Effective Date.

**4.8 BLY to apply for termination of quotation of BLY Shares**

On a date after the Re-domiciliation Scheme Implementation Date to be determined by New BLY Parent, BLY will apply:

- (a) for termination of the official quotation by ASX of BLY Shares; and
- (b) to have itself removed from the official list of ASX.

**5. GENERAL PROVISIONS**

**5.1 BLY giving effect to the Scheme**

BLY must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that is necessary or desirable to give full effect to this Re-domiciliation Scheme and the transactions contemplated by it. Without limiting BLY's power under this Re-domiciliation Scheme, BLY has power to do all things that it considers necessary or desirable to give effect to this Re-domiciliation Scheme.

**5.2 Scheme Shareholders' agreements and consents**

- (a) Each Scheme Shareholder, excluding any Ineligible Foreign Shareholder, irrevocably agrees for all purposes:
  - (i) to become a shareholder of New BLY Parent (without the need for any further act on its part); and
  - (ii) to be bound by the constitution of New BLY Parent.
- (b) Each Scheme Shareholder irrevocably:

- (i) agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to New BLY Parent, in accordance with this Re-domiciliation Scheme; and
- (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from, and in accordance with, this Re-domiciliation Scheme;
- (iii) acknowledges that this Re-domiciliation Scheme binds BLY and all Scheme Shareholders (including those who did not attend the Re-domiciliation Scheme Meeting and those who did not vote, or voted against this Re-domiciliation Scheme, at the Re-domiciliation Scheme Meeting);
- (iv) consents to BLY doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, expedient or incidental to implementation and to give full effect to this Re-domiciliation Scheme and the transactions contemplated by it; and
- (v) acknowledges that BLY, as agent of each Scheme Shareholder, may sub-delegate its functions under this document to any of its directors and officers, jointly and severally,

in each case, without the need for any further act by the Scheme Shareholder.

### 5.3 **Appointment of BLY as attorney of Scheme Shareholders**

Each Scheme Shareholder, without the need for any further act, irrevocably appoints BLY and each of its directors and officers, jointly and severally, on and from the Re-domiciliation Scheme Effective Date, as the Scheme Shareholder's attorney and agent to:

- (a) execute any document or do any other act necessary, expedient or incidental to give full effect to this Re-domiciliation Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or execution and delivery of any Re-domiciliation Scheme Transfer) under clause 3; and
- (b) enforce the Re-domiciliation Scheme Deed Poll against New BLY Parent,

and BLY accepts such appointment. BLY may, as agent and attorney of each Scheme Shareholder, sub-delegate any of its functions, authorities or powers under this clause to all or any of its directors and officers (jointly, severally, or jointly and severally).

### 5.4 **Appointment of New BLY Parent as attorney in respect of Scheme Shares**

- (a) Subject to the provision of the Re-domiciliation Scheme Consideration for the Scheme Shares to each Scheme Shareholder or to the Sale Agent (as applicable, and in accordance with clause 3), on and from the Re-domiciliation Scheme Implementation Date until New BLY Parent is registered as the holder of all Scheme Shares in the BLY Share Register, each Scheme Shareholder:
  - (i) irrevocably appoints New BLY Parent as its attorney and agent (and irrevocably appoints New BLY Parent as its agent and attorney to appoint the chairman of the board of directors of New BLY Parent as its sole proxy and, where applicable, corporate representative) to:
    - (A) attend meetings of BLY Shareholders;
    - (B) exercise the votes attaching to the BLY Shares registered in the name of the Scheme Shareholder;

- (C) sign any BLY Shareholders' resolution (whether in person, by proxy, attorney or by corporate representative);
- (ii) must take all other action in the capacity of a registered holder of Scheme Shares as New BLY Parent reasonably directs;
- (iii) undertakes not to attend or vote at any meetings of BLY Shareholders or to sign any resolution of BLY Shareholders (whether in person, by proxy, attorney or corporate representative) other than pursuant to clause 5.4(a); and
- (iv) acknowledges and agrees that in exercising the powers conferred by clause 5.4(a), New BLY Parent and the chairman of the board of directors of New BLY Parent may act in the best interests of New BLY Parent as the intended registered holder of the Scheme Shares.

## 5.5 **Scheme Shareholder warranties**

- (a) To the extent permitted by law, the BLY Shares transferred to the New BLY Parent under this Re-domiciliation Scheme will be transferred (subject to BLY's constitution) free from all security interests (including mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise).
- (b) Each Scheme Shareholder is deemed to have warranted to each of New BLY Parent and BLY on the Re-domiciliation Scheme Implementation Date, and, to the extent enforceable, to have appointed and authorised BLY as its attorney and agent to warrant to New BLY Parent on the Re-domiciliation Scheme Implementation Date, that:
  - (i) all of their Scheme Shares (including any rights and entitlements attaching to those BLY Shares) will, as at the time of the transfer of them to New BLY Parent, be fully paid and (subject to BLY's constitution) free from all:
    - (A) security interests (including mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise); and
    - (B) restrictions on transfer of any kind;
  - (ii) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those BLY Shares) to New BLY Parent under this Re-domiciliation Scheme.
- (c) BLY undertakes that it will provide such warranty to New BLY Parent on behalf of the Scheme Shareholder as at the time of transfer of the Scheme Shares to New BLY Parent.

## 5.6 **Binding effect of Scheme**

This Re-domiciliation Scheme binds BLY and all Scheme Shareholders, including those who do not attend the Re-domiciliation Scheme Meeting, do not vote at that meeting or vote against the Re-domiciliation Scheme Resolution. To the extent of any inconsistency, this Re-domiciliation Scheme overrides the constitution of BLY.

## 5.7 **Alteration or condition to Scheme**

If the Court proposes to approve this Re-domiciliation Scheme subject to any alteration or condition, BLY may, by its counsel or solicitors, but subject to the prior approval of New BLY

Parent (which may not be unreasonably withheld or delayed), consent on behalf of all persons concerned, including each Scheme Shareholder, to those alterations or conditions.

#### **5.8 Re-domiciliation Scheme Deed Poll**

BLY undertakes in favour of each Scheme Shareholder to enforce the Re-domiciliation Scheme Deed Poll against New BLY Parent for and on behalf of each Scheme Shareholder.

#### **5.9 Notices**

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in this Re-domiciliation Scheme is sent by post to BLY, it will be deemed to be received on the date (if any) on which it is actually received at BLY's registered office or BLY Share Registry and on no other date.
- (b) The accidental omission to give notice of the Re-domiciliation Scheme Meeting or the non-receipt of such notice by a BLY Shareholder will not, unless so ordered by the Court, invalidate the Re-domiciliation Scheme Meeting or the proceedings of the Re-domiciliation Scheme Meeting.

#### **5.10 Costs and stamp duty**

- (a) Subject to paragraph (b) below, BLY will pay all the costs of this Re-domiciliation Scheme.
- (b) New BLY Parent will pay all stamp duty and any related fines, penalties and other costs in respect of this Re-domiciliation Scheme (including in connection with the transfer of the Scheme Shares to New BLY Parent) in accordance with the terms of this Re-domiciliation Scheme.

#### **5.11 Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of New South Wales, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New South Wales and of the courts competent to determine appeals from those courts with respect to any proceedings that may be brought at any time arising out of or in connection with the subject matter of this Re-domiciliation Scheme. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in any inconvenient forum.



## **APPENDIX C: RE-DOMICILIATION SCHEME DEED POLL**

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## Re-domiciliation Scheme Deed Poll

Boart Longyear Ltd

Corporation Number: 2854330

In favour of each person registered as a holder of a fully paid ordinary share in Boart Longyear Limited as at the Re-domiciliation Scheme Record Date

Re-domiciliation Scheme Deed Poll relating to proposed Scheme of Arrangement between Boart Longyear Limited and its members

## RE-DOMICILIATION SCHEME DEED POLL

**THIS DEED POLL** is made on

2021

**BY:** Boart Longyear LTD, a limited company incorporated in Ontario, Canada (Corporation Number: 2854330) (**New BLY Parent**)

### **IN FAVOUR AND FOR THE BENEFIT OF:**

each person registered as a holder of a fully paid ordinary share in Boart Longyear Limited ACN 123 052 728 (**BLY**) in the BLY Share Register as at the Re-domiciliation Scheme Record Date (**Scheme Shareholder**)

### **RECITALS**

- (A) New BLY Parent is executing this document to covenant in favour of each Scheme Shareholder to perform the obligations attributed to New BLY Parent under the Re-domiciliation Scheme.

### **NEW BLY PARENT DECLARES AS FOLLOWS**

#### **1. INTERPRETATION**

##### **1.1 Definitions**

Words and expressions that are defined in the Re-domiciliation Scheme (other than words and expressions defined in this document) have the same meaning in this document as given to them in the Re-domiciliation Scheme, unless the context makes it clear that a definition is not intended to apply.

**Re-domiciliation Scheme** means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between BLY and the Scheme Shareholders, set out in this document, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed by BLY and New BLY Parent.

##### **1.2 Rules for interpreting this document**

The rules in clause 1.2 of the Re-domiciliation Scheme apply in interpreting this document, unless the context makes it clear that a rule is not intended to apply.

#### **2. NATURE OF THIS DOCUMENT**

New BLY Parent acknowledges that:

- (a) this document is a deed poll and may be relied on and enforced by any Scheme Shareholder in accordance with its terms, even though the Scheme Shareholders are not parties to it; and
- (b) under the Re-domiciliation Scheme, each Scheme Shareholder irrevocably appoints BLY and each of its directors and officers, jointly and severally, as its agent and attorney to enforce this document against New BLY Parent.

#### **3. CONDITIONS PRECEDENT AND TERMINATION**

##### **3.1 Conditions precedent**

New BLY Parent's obligations under this document are subject to the Re-domiciliation Scheme becoming Effective.

### 3.2 Termination

- (a) If the Re-domiciliation Scheme does not become Effective on or before the End Date, New BLY Parent's obligations under this document will automatically terminate and the terms of this document will be of no further force or effect, unless New BLY Parent and BLY otherwise agree in writing.
- (b) If this document is terminated pursuant to clause 3.2(a) then, in addition, and without prejudice to any other rights, powers or remedies available to it:
  - (i) New BLY Parent is released from its obligations under this document; and
  - (ii) each Scheme Shareholder retains any rights it has against New BLY Parent in respect of any breach of this document that occurred before this document was terminated.

### 4. NEW BLY PARENT COVENANT TO COMPLY WITH RE-DOMICILIATION SCHEME OBLIGATIONS

Subject to clause 3, in consideration of the transfer of each Scheme Share to New BLY Parent in accordance with the Re-domiciliation Scheme, New BLY Parent covenants in favour of each Scheme Shareholder that it will perform all obligations attributed to it under the Re-domiciliation Scheme as if it were a party to the Re-domiciliation Scheme, including all obligations attributed to it relating to the provision of the Re-domiciliation Scheme Consideration, in each case, subject to and in accordance with the terms of the Re-domiciliation Scheme.

### 5. REPRESENTATIONS AND WARRANTIES

New BLY Parent represents and warrants in favour of each Scheme Shareholder that:

- (a) **(status)** it is a validly existing company under the laws of the Province of British Columbia;
- (b) **(power)** it has full legal capacity and power to execute this document and to carry out the transactions that this document contemplates;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it to execute this document and it has taken, or will take, all corporate action that is necessary to authorise it to carry out of the transactions that this document contemplates;
- (d) **(documents effective)** this document constitutes legal, valid and binding obligations on it, enforceable against it in accordance with its terms;
- (e) **(no adverse regulatory action)** no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this document and, to the knowledge of New BLY Parent, no such regulatory action has been threatened or is proposed to be taken against New BLY Parent; and
- (f) **(New BLY Parent Share)** each New BLY Parent Share will, upon issue:
  - (i) be fully paid up; and
  - (ii) be free from any security interest (other than as provided for under the constitution of New BLY Parent); and

- (iii) rank equally in all respects with all New BLY Parent Shares then on issue.

## 6. **CONTINUING OBLIGATIONS**

This document is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) New BLY Parent having fully performed its obligations under this document; and
- (b) the termination of this document pursuant to clause 3.

## 7. **NOTICES**

### 7.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) left at the addressee's address; or
  - (ii) sent to the addressee by mail, fax or electronic form (such as email).

### 7.2 **When a notice is given**

A notice, consent or other communication that complies with clause 0 is regarded as given and received:

- (a) if it is delivered:
  - (i) if delivered by 5:00pm on a Business Day – when it has been left at the addressee's address; or
  - (ii) if it is delivered after 5:00pm on a Business Day, or on a day that is not a Business Day – on the next Business Day;
- (b) if it is sent by mail, three Business Days after it is posted; and
- (c) if it is sent in electronic form:
  - (i) if it is transmitted by 5:00pm on a Business Day – when sent; or
  - (ii) if it is transmitted after 5:00pm on a Business Day, or on a day that is not a Business Day – on the next Business Day,

provided that no notice of failure of transmission or other error message is received by the sender.

### 7.3 **Address for notices**

New BLY Parent's mail address and fax number are those set out below, or as New BLY Parent otherwise notifies:

**New BLY Parent**

Address: 333 Bay Street, Suite 2400, Toronto, Ontario M5H 2T6,  
Canada  
Email address: rossamos@rogers.com and [anikolic@faskens.com](mailto:anikolic@faskens.com)  
Attention: Boart Longyear Ltd

## 8. **GENERAL**

### 8.1 **Stamp duty**

New BLY Parent must bear and be responsible for any and all stamp duty (including any related fines or penalties) payable on or in respect of this document, or any transaction contemplated by it (including any transfer of Scheme Shares pursuant to the Re-domiciliation Scheme), and New BLY Parent indemnifies each Scheme Shareholder on demand against any liability for any and all such stamp duty.

### 8.2 **Amendment**

A provision of this document may not be amended or varied unless:

- (a) before the Re-domiciliation Second Court Date, the amendment or variation is agreed to in writing by BLY (on behalf of each Scheme Shareholder, but without the need for BLY to refer the amendment or variation to any Scheme Shareholder) and, if required, it is approved by the Court; or
- (b) on or after the Re-domiciliation Second Court Date, the amendment or variation is agreed to in writing by BLY (on behalf of each Scheme Shareholder but without the need for BLY to refer the amendment or variation to any Scheme Shareholder) and is approved by the Court,

and New BLY Parent executes a further deed poll in favour of each Scheme Shareholder giving effect to that amendment or variation.

### 8.3 **Assignment**

The rights and obligations of New BLY Parent and of each Scheme Shareholder under this document are personal and, except with the prior written consent of BLY and New BLY Parent cannot be assigned, encumbered, charged or otherwise dealt with.

### 8.4 **Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

### 8.5 **Operation of this document**

- (a) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document

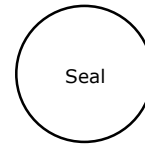
enforceable, unless this would materially change the intended effect of this document.

#### 8.6 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of New South Wales within the Commonwealth of Australia.
- (b) New BLY Parent submits to the non-exclusive jurisdiction of the courts of that State, and courts of appeal from them in respect of any proceedings arising out of or in connection with the subject matter of this document.
- (c) New BLY Parent irrevocably waives any right it has to object to any legal process being brought in the courts of New South Wales including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR LTD** in the presence  
of:



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Signature of witness

---

Signature of authorised signatory

---

Name of witness

---

Name of authorised signatory



## **APPENDIX D: ASSUMPTION DEED POLL**

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## Assumption Deed Poll

Boart Longyear Ltd

Corporation Number: 2854330

2021

## ASSUMPTION DEED POLL

**THIS DEED POLL** is made on

2021

**BY:** Boart Longyear LTD, a limited company incorporated in Ontario, Canada (Corporation Number: 2854330) (**New BLY Parent**)

### FOR THE BENEFIT OF:

- (A) each holder of the New Warrants (**New Warrant Holder**);
- (B) each holder of Class A 7% Warrants (**Class A 7% Warrant Holder**);
- (C) each holder of Class B 7% Warrants (**Class B 7% Warrant Holder**);
- (D) each holder of Ordinary Warrants (**Ordinary Warrant Holder**); a
- (E) each holder of a BLY Option (**Option Holder**); and
- (F) each eligible participant to the Long Term Incentive Plan (**Participant**).

### RECITALS

- (A) If the Re-domiciliation Scheme becomes Effective, and subject to the terms of this Deed Poll, the New BLY Parent covenants in favour of:
  - (1) the New Warrant Holder to perform the obligations of BLY under the New Warrant Deed;
  - (2) the Class A 7% Warrant Holders to perform the obligations of BLY under the Class A 7% Warrant Deed Poll;
  - (3) the Class B 7% Warrant Holders to perform the obligations of BLY under the Class B 7% Warrant Deed Poll;
  - (4) the Option Holders to perform the obligations of BLY under the BLY Options; and
  - (5) the Participants to perform the obligations of BLY under the Long Term Incentive Plan.

### NEW BLY PARENT DECLARES AS FOLLOWS

#### 1. INTERPRETATION

##### 1.1 Definitions

The following definitions apply in this document.

**2014 Options** means the options granted to eligible participants to purchase fully paid share of BLY in accordance with the 2014 Option Plan.

**2014 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2014 Options.

**2015 Options** means the options granted to eligible participants to purchase fully paid Shares of BLY granted in accordance with the 2015 Option Plan.

**2015 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2015 Options.

**2016 Options** means the options granted to eligible participants to purchase fully paid shares of BLY in accordance with the 2016 Option Plan.

**2016 Option Plan** means the option plan established by BLY entitled "Boart Longyear Limited Option Plan" governing the 2016 Options.

**Account Holder** means a person recorded directly in the records of Cede & Co. and DTC as holding an interest in the SSN Indenture or SUN Indenture (as applicable) in an account held with DTC.

**ASX Settlement** means ASX Settlement Pty Limited (ABN 49 008 504 532).

**ASX Settlement Operating Rules** means the settlement operating rules of ASX Settlement.

**Authorised Nominee** means CHESS Depository Nominees Pty Limited ACN 071 346 503, Australian Financial Licence number 254514), an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.

**Beneficiary** means each of the New Warrant Holders, Class A Warrant Holder, the Class B Warrant Holder, the Ordinary Warrant Holder the Option Holder and each Participant.

**BCM** means BL Capital Management LLC ARBN 649 445 321, a limited liability company formed under the laws of Delaware.

**BLA** means Boart Longyear Australia Pty Ltd ACN 000 401 025.

**BLI** means Boart Longyear Investments Pty Limited ACN 124 070 373.

**BLY** means Boart Longyear Limited ACN 123 052 728.

**BLY Issuer** means Boart Longyear Management Pty Limited ACN 123 283 545.

**BLY Option** means each of the 2014 Options, 2015 Options and the 2016 Options.

**BLY Share Register** means the register of members of BLY maintained by or on behalf of BLY in accordance with section 168(1) of the Corporations Act.

**BLY US** means BLY US Holdings Inc. ARBN 649 445 394, a corporation formed under the laws of the State of Utah.

**Book Entry Interest** means a beneficial interest in the SSN Indenture or SUN Indenture, as the context requires, held by or through an Account Holder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales and Adelaide, South Australia.

**CDI** means a CHESS Depository Interest, being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.

**Class A 7% Warrant** means the unquoted Class A 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which

are subject to the Class A 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Class A 7% Warrant Deed Poll** means the class A 7% warrant deed poll dated 1 September 2017 executed by BLY.

**Class B 7% Warrant** means the unquoted Class B 7% warrants initially issued in September 2017 to all holders of unsecured 1.50% subordinated PIK notes due 2022, which are subject to the Class B 7% Warrant Deed Poll dated 1 September 2017 in favour of the warrant holders.

**Class B 7% Warrant Deed Poll** means the class B 7% warrant deed poll dated 1 September 2017 executed by BLY.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Creditor Scheme Companies** means BLY, BLY Issuer, BLA, BLI, Votaint, BCM and BLY US.

**Deeds Poll** means the New Warrant Deed Poll, Ordinary Warrant Deed Poll, Class A 7% Warrant Deed Poll and Class B 7% Warrant Deed Poll.

**Effective** means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Re-domiciliation Scheme.

**End Date** means 31 December 2021.

**GST Law** means the same as "GST law" means in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Long Term Incentive Plan** means Boart Longyear's 2020 Long Term Incentive Plan effective 30 July 2020.

**New BLY Parent CDI** means a CDI representing one (1) New BLY Parent Share.

**New BLY Parent Share** means a fully paid common share in the capital of New BLY Parent.

**New Warrants** means the warrants issued by BLY on the terms set out in the New Warrant Deed Poll.

**New Warrant Deed Poll** means the new warrant deed poll to be entered into by BLY in connection with the Unsecured Creditors' Scheme.

**Ordinary Warrant** means quoted ordinary warrants trading on ASX initially issued in September 2017 to all eligible Shareholders, which are subject to the Ordinary Warrant Deed Poll.

**Ordinary Warrant Deed Poll** means the ordinary warrant deed poll dated 31 August 2017 executed by BLY.

**Re-domiciliation Scheme** means a members' scheme of arrangement in accordance with Part 5.1 of the Corporations Act between BLY and Shareholders pursuant to which BLY will become a wholly owned subsidiary of the New BLY Parent by the transfer of all Shares to the New BLY Parent in exchange for the issue of New BLY Parent CDIs.

**Shares** means fully paid ordinary shares in the capital of BLY.

**Shareholder** means each person who is registered in the BLY Share Register as a holder of Shares.

**SSN Indenture** means the indenture dated 27 September 2013, between, among others, the BLY Issuer, as issuer, BLY, as parent, BLA, BLI, Votraint, BCM and BLY US, as guarantors, amongst others, and U.S. Bank National Association, as trustee and collateral agent, in respect of the 12.00% / 10.00% secured notes, as amended by the first supplemental indenture dated 31 August 2017, the second supplemental indenture dated 18 September 2017, the third supplemental indenture dated 31 December 2018, the fourth supplemental indenture dated 17 July 2019, the fifth supplemental indenture dated 24 June 2020, and the sixth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SSN Noteholders** means each person with a Book Entry Interest in the SSN Indenture.

**SSN Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SSN Noteholders under the SSN Indenture which is unsecured pursuant to the terms of the applicable Finance Documents.

**SUN Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the SUN Noteholders under the applicable Finance Documents.

**SUN Indenture** means the indenture dated 28 March 2011 between the BLY Issuer, as issuer, BLY, as guarantor, and Delaware Trust Company as trustee, amongst others, as amended by the first supplemental indenture dated 14 June 2013, the second supplemental indenture dated 27 September 2013, the third supplemental indenture dated 2 April 2017, the fourth supplemental indenture dated 23 August 2017, the fifth supplemental indenture dated 18 September 2017, the sixth supplemental indenture dated 31 December 2018, the seventh supplemental indenture dated 17 July 2019, the eighth supplemental indenture dated 15 June 2020, and the ninth supplemental indenture dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**SUN Noteholders** means each person with a Book Entry Interest in the SUN Indenture.

**Term Loan A** means the Term Loan A Securities Agreement dated 31 December 2018 between, amongst others, the Creditor Scheme Companies, the TLA Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan A Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan A Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**Term Loan B** means the Term Loan B Securities Agreement dated 31 December 2018 between, amongst others, the Creditor Scheme Companies, the TLB Purchasers, and Wilmington Trust, National Association, as administrative agent and collateral agent, pursuant to which term loan securities were issued, as amended by the First Amendment to Term Loan B Securities Agreement dated 17 July 2019, the Second Amendment to Term Loan B Securities Agreement dated 24 June 2020 and the Third Amendment to Term Loan B Securities Agreement dated as of 1 June 2021, as amended, varied, or amended and restated from time to time.

**TLA Purchasers** means the "Purchasers" as that term is defined in the Term Loan A.

**TLA Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLA Purchasers under the Term Loan A which is unsecured pursuant to the terms of the applicable Finance Documents.

**TLB Purchasers** means the "Purchasers" as that term is defined in the Term Loan B.

**TLB Unsecured Debt** means the aggregate outstanding amount, including all accrued and unpaid interest, owing to the TLB Purchasers under the Term Loan B which is unsecured pursuant to the terms of the applicable Finance Documents.

**Unsecured Creditors' Scheme** means the compromise or arrangement under Part 5.1 of the Corporations Act between the Creditor Scheme Companies and the Unsecured Scheme Creditors and the Subordinate Claim Holders (as defined therein), being the compromise or arrangement proposed by the Creditors' Scheme Companies and approved by the Court in 2021.

**Unsecured Scheme Creditors** means:

- (a) the TLA Purchasers in respect of the TLA Unsecured Debt;
- (b) the TLB Purchasers in respect of the TLB Unsecured Debt;
- (c) the SSN Noteholders in respect of the SSN Unsecured Debt; and
- (d) the SUN Noteholders in respect of the SUN Debt.

**Votrant** means Votrant No. 1609 Pty Limited ACN 119 244 272.

## 1.2 **Rules for interpreting this document**

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

- (f) The words associate, controller, entity, officer, related body corporate, relevant interest, security interest, subsidiary and voting power have the same meanings as given by the Corporations Act.
- (g) A reference to:
  - (i) \$ or AUD or A\$ is to the lawful currency of Australia; and
  - (ii) US\$ or USD is to the lawful currency of the United States of America.
- (h) The expression this document includes the agreement, arrangement, understanding or transaction recorded in this document.
- (i) Terms defined in the GST Law have the same meaning in this document unless the context otherwise requires.
- (j) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.
- (k) A reference to time in this document is a reference to time in Sydney, New South Wales.

## 2. **NATURE OF THIS DOCUMENT**

New BLY Parent acknowledges that this document is a deed poll and may be relied on and enforced by each Beneficiary in accordance with its terms even though the Beneficiaries are not parties to it.

## 3. **CONDITIONS PRECEDENT AND TERMINATION**

### 3.1 **Conditions precedent**

New BLY Parent's obligations under this document are subject to the Re-domiciliation Scheme becoming Effective.

### 3.2 **End Date**

The obligations of New BLY Parent under this document will lapse and be of no effect if the Re-domiciliation Scheme has not become Effective on or before the End Date.

## 4. **NEW BLY PARENT COVENANT TO ASSUME OBLIGATIONS**

Subject to clause 3, New BLY Parent covenants in favour of:

- (a) the New Warrant Holders to perform the obligations of BLY under the New Warrant Deed Poll;
- (b) the Class A 7% Warrant Holders to perform the obligations of BLY under the Class A 7% Warrant Deed Poll;
- (c) the Class B 7% Warrant Holders to perform the obligations of BLY under the Class B 7% Warrant Deed Poll;
- (d) the Ordinary Warrant Holders to perform the obligations of BLY under the Ordinary Warrant Deed Poll;
- (e) the Option Holders to perform the obligations of BLY under the BLY Options; and



- (f) the Participants to perform the obligations of BLY under the Long Term Incentive Plan,

provided that the requirement to issue Shares under the Deeds Poll, BLY Options and the Long Term Incentive Plan shall be satisfied by the issue of New BLY Parent Shares in the form of New BLY Parent CDIs.

## 5. REPRESENTATIONS AND WARRANTIES

New BLY Parent represents and warrants in favour of each Beneficiary that:

- (a) **(status)** it is a validly existing company under the laws of the Province of British Columbia; and
- (b) **(power)** it has full legal capacity and power to execute this document and to carry out the actions that this document contemplates with respect to that Beneficiary; and
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its execution of this document and its carrying out of the actions that this document contemplates with respect to that Beneficiary; and
- (d) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms; and
- (e) **(no adverse regulatory action)** no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations to that Beneficiary under this document and, to the knowledge of New BLY Parent, no such regulatory action has been threatened or is proposed to be taken against New BLY Parent; and
- (f) **(New BLY Parent Share)** each New BLY Parent Share in the form of New BLY Parent CDIs issued to that Beneficiary in performance by New BLY Parent of its obligations under this document will, upon issue:
  - (i) be fully and non-assessable; and
  - (ii) be free from any security interest (other than as provided for under the constitution of New BLY Parent); and
  - (iii) rank equally in all respects with all New BLY Parent Shares in the form of New BLY Parent CDIs then on issue and outstanding.

## 6. CONTINUING OBLIGATIONS

This document is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of New BLY Parent having fully performed its obligations under this document or termination of this document pursuant to clause 3.

## 7. NOTICES

### 7.1 How to give a notice and when a notice is given

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail, fax or email/electronic form such as email.
- (b) A notice, consent or other communication that complies with this clause is regarded as given and received:

- (i) if it is delivered, when it has been left at the addressee's address;
- (ii) if it is sent by mail, three Business Days after it is posted; and
  - (A) if it is sent in electronic form
  - (B) if it is transmitted by 5.00 pm on a Business Day – on that Business Day; or
  - (C) if it is transmitted after 5.00 pm on the Business Day, or on a day that is not a Business Day – on the next Business Day.

## 7.2 **Address for notices**

New BLY Parent's mail address and fax number are those set out below, or as New BLY Parent otherwise notifies:

### **New BLY Parent**

Address: 333 Bay Street, Suite 2400, Toronto, Ontario M5H 2T6, Canada

Email address: [rossamos@rogers.com](mailto:rossamos@rogers.com) and [anikolic@fasken.com](mailto:anikolic@fasken.com)

Attention: Boart Longyear Ltd

## 8. **GENERAL**

### 8.1 **Costs and stamp duty**

New BLY Parent must bear and be responsible for:

- (a) its own costs arising out of the negotiation, preparation and execution of this document; and
- (b) any and all stamp duty (including any related fines or penalties) payable on or in respect of this document, or any transaction contemplated by it (including any transfer of Shares pursuant to the Re-domiciliation Scheme), and New BLY Parent indemnifies each Shareholder on demand against any liability for any and all such stamp duty.

### 8.2 **Assignment**

The rights and obligations of New BLY Parent and of each Shareholder under this document are personal and, except with the prior written consent of BLY and New BLY Parent cannot be assigned, encumbered, charged or otherwise dealt with.

### 8.3 **Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

### 8.4 **Operation of this document**

- (a) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document

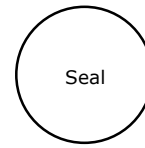
enforceable, unless this would materially change the intended effect of this document.

#### 8.5 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the Province of British Columbia.
- (b) New BLY Parent submits to the non-exclusive jurisdiction of the courts of the Province of British Columbia, and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this document. New BLY Parent irrevocably waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

**EXECUTED** as a deed poll.

**SIGNED, SEALED AND DELIVERED** by  
**BOART LONGYEAR LTD** in the presence  
of:



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Signature of witness

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Signature of authorised signatory

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Name of witness

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Name of authorised signatory

## APPENDIX E: EXPLANATION OF CDI ARRANGEMENTS

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### 1. **What are CDIs?**

As New BLY Parent intends to be listed on ASX, it will need to comply with ASX rules that require all trading settlement to take place on CHESS (ASX's electronic transfer and settlement system). New BLY Parent Shares cannot be directly held under the CHESS system or traded on ASX directly as regulations do not permit CHESS to be used for electronic transferring and holding of legal title to securities in companies incorporated under the Ontario Business Corporations Act (such as New BLY Parent). CDIs have been created to facilitate electronic settlement and transfer of title in Australia for companies in this situation. CDIs are units of beneficial ownership in foreign securities, where legal title to the securities is held by an Australian depository entity for the purpose of enabling transactions in the securities of foreign companies on ASX. New BLY Parent intends to appoint the Authorised Nominee, an approved general participant of ASX Settlement and a wholly-owned subsidiary of ASX, as the Australian depository entity to hold legal title to New BLY Parent Shares for the benefit of New BLY Parent CDI Holders. The Authorised Nominee will be the registered holder of those New BLY Parent Shares held for the benefit of New BLY Parent CDI Holders.

If New BLY Parents listing application is approved by ASX, New BLY Parent CDIs will be traded on ASX using CHESS (ASX's electronic transfer and settlement system), but New BLY Parent Shares- although quoted- cannot be traded on ASX.

Each New BLY Parent CDI Holder will be deemed to acknowledge and agree for the benefit of New BLY Parent that they are bound by the Articles and By-Laws in respect of any New BLY Parent CDIs issued to them. See Section 8 for a summary of the Articles and By-Laws.

### 2. **Ratio of New BLY Parent CDIs to New BLY Parent Shares**

Each New BLY Parent CDI will represent one underlying New BLY Parent Share.

### 3. **Holding Statements for New BLY Parent CDI Holders**

If a New BLY Parent CDI Holder is sponsored by a participant in CHESS, the holder can hold their New BLY Parent CDIs on the CHESS sub-register. Otherwise, New BLY Parent CDIs will be held on the issuer-sponsored sub-register.

Each New BLY Parent CDI Holder will receive a holding statement shortly following implementation of the Re-domiciliation with the reference number of their holding.

### 4. **What rights do I have as a New BLY Parent CDI Holder?**

Section 8.3 contains a summary of the principal rights attaching to New BLY Parent Shares.

As noted above, New BLY Parent CDI Holders will not have legal title in the underlying New BLY Parent Shares to which the New BLY Parent CDIs relate, as legal title to the New BLY Parent Shares will be held by the Authorised Nominee. New BLY Parent CDI Holders will, however, have beneficial ownership of the underlying New BLY Parent Shares.

The following provides an overview of the differences between holding New BLY Parent CDIs as opposed to New BLY Parent Shares, including the rights and entitlements of New BLY Parent CDI Holders.

#### (a) Dividends and Distributions

Under the ASX Settlement Operating Rules, New BLY Parent is generally required to treat New BLY Parent CDI Holders, in respect of the distribution of dividends and

other entitlements, as if they were the holders of the underlying New BLY Parent Shares.

Importantly, New BLY Parent CDI Holders are entitled to receive all the direct economic benefits and entitlements in relation to the New BLY Parent Shares held by the Authorised Nominee.

If a cash dividend or any other cash distribution is declared in a currency other than Australian dollars, New BLY Parent currently intends to convert that dividend or other cash distribution to which New BLY Parent CDI Holders are entitled to Australian dollars and distribute it to the relevant New BLY Parent CDI Holders in accordance with the New BLY Parent CDI Holder's entitlement.

Due to the need to convert dividends from Canadian dollars to Australian dollars in the above mentioned circumstances, New BLY Parent CDI Holders may potentially be advantaged or disadvantaged by exchange rate fluctuations, depending on whether the Australian dollar weakens or strengthens against the Canadian dollar during the period between the resolution to pay a dividend and conversion in Australian dollars.

(b) Corporate Actions

New BLY Parent is generally required to treat New BLY Parent CDI Holders, in respect of corporate actions, as if they were the holders of the underlying New BLY Parent Shares.

(c) Takeovers

If a takeover bid is made in respect of any New BLY Parent Shares of which the Authorised Nominee is the registered holder, the Authorised Nominee is prohibited from accepting the offer made under the takeover bid except to the extent that acceptance is authorised by the relevant New BLY Parent CDI Holders in respect of the New BLY Parent Shares represented by such holding of New BLY Parent CDIs, in accordance with the ASX Settlement Operating Rules.

The Authorised Nominee must accept a takeover offer in respect of New BLY Parent Shares represented by such holding of New BLY Parent CDIs if a New BLY Parent CDI Holder instructs it to do so and must notify the entity making the takeover bid of the acceptance.

(d) Rights on liquidation and winding up

In the event of New BLY Parent's liquidation, dissolution or winding up, a New BLY Parent CDI Holder will be entitled to the same economic benefit in relation to their New BLY Parent CDIs (through the Authorised Nominee) as holders of New BLY Parent Shares.

(e) Other rights

As New BLY Parent Shareholders will not be registered on the New BLY Parent Share Register as the legal owners of New BLY Parent Shares, any other right conferred on New BLY Parent CDI Holders may be exercised by means of them instructing the Authorised Nominee.

(f) Communications

New BLY Parent CDI Holders will receive all notices and company announcements (such as annual reports) that New BLY Parent Shareholders are entitled to receive from New BLY Parent.

(g) Voting

As noted in paragraph (f), New BLY Parent CDI Holders will be entitled to receive notice of any meeting of New BLY Shareholders.

In accordance with Canadian law and the ASX Settlement Operating Rules, a New BLY Parent CDI Holder will not be entitled to attend or vote personally as a New BLY Parent Shareholder at a meeting of New BLY Parent. Instead, in order to vote at a meeting of New BLY Parent, a New BLY Parent CDI Holder may instruct the Authorised Nominee, as legal owner of the New BLY Parent Shares, to:

- vote New BLY Parent Shares represented by their New BLY Parent CDIs in a particular manner. The instruction form must be completed and returned to the Registry prior to the record date fixed for the relevant meeting (**CDI Voting Instruction Receipt Time**), which is notified to New BLY Parent CDI Holder in the voting instructions included in a notice of meeting; or
- appoint the New BLY Parent CDI Holder or a third party nominated for that purpose by the New BLY Parent CDI Holder as the Authorised Nominee's proxy so that the proxy so appointed may attend meetings and exercise the votes attached to New BLY Parent Shares represented by their New BLY Parent CDIs. The instruction form must be completed and returned to the Registry prior to the CDI Voting Instructions Receipt Time.

Alternatively, a New BLY Parent CDI Holder can convert their New BLY Parent CDIs into a holding of New BLY Parent Shares and vote those New BLY Parent Shares at a meeting of New BLY Parent. Such conversion must be undertaken prior to the record date fixed by the New BLY Parent Board for determining the entitlement of members to attend and vote at the meeting. However, if the New BLY Parent Shareholder later wishes to sell their investment on ASX, it would be first necessary to convert those New BLY Parent Shares back to New BLY Parent CDIs. Further details on the conversion process are set out in Section 6 below.

## 5. Trading of New BLY Parent CDIs

New BLY Parent CDI Holders who wish to trade New BLY Parent CDIs will be transferring beneficial title to New BLY Parent Shares rather than legal title. The transfer will be settled electronically by delivery of the relevant New BLY Parent CDI holding through CHESSE. Trading in New BLY Parent CDIs is not substantially different to trading in other CHESSE approved securities (such as Shares).

On 30 September 2021, subject to the Re-domiciliation Scheme becoming Effective, New BLY Parent CDIs will commence trading initially on a deferred settlement basis and, after the Re-domiciliation Scheme Implementation Date, will commence trading on a normal settlement basis on 6 October 2021.

It is the responsibility of each Shareholder (who is not an Ineligible Foreign Shareholder) to determine their entitlement to New BLY Parent CDIs before trading in those securities to avoid the risk of selling New BLY Parent CDIs they do not or will not own. Any sale of New BLY Parent CDIs prior to receipt of confirmation of entitlement is done at the seller's own risk.

There is no certainty as to the price of New BLY Parent CDIs after the Re-domiciliation is implemented.

6. **Conversion of New BLY Parent CDIs into New BLY Parent Shares**

(a) **Converting New BLY Parent CDIs to New BLY Parent Shares**

If New BLY Parent CDI Holders wish to convert their New BLY Parent CDIs into New BLY Parent Shares they may do so by instructing the Registry:

- directly, in the case of New BLY Parent CDIs on the issuer sponsored sub-register operated by New BLY Parent; or
- indirectly, through their controlling participant (usually a broker) in the case of CDIs which are sponsored on the CHESS sub-register.

New BLY Parent will then arrange for the transfer of New BLY Parent Shares from the Authorised Nominee to the former New BLY Parent CDI holder and cause New BLY Parent Shares to be registered in the name of the holder on the Register, and trading on ASX will no longer be possible.

It is expected that this process will be completed in a relatively short time period, however, no guarantee can be given about the time for this conversion to take place.

(b) **Converting New BLY Parent Shares to New BLY Parent CDIs**

If New BLY Parent Shareholders wish to convert their New BLY Parent Shares into New BLY Parent CDIs, they may do so by contacting the Registry. In this instance, underlying New BLY Parent Shares will be transferred to the Authorised Nominee and a holding statement for the New BLY Parent CDIs will be issued to the relevant security holder. No trading in the New BLY Parent CDIs should take place on ASX until this transfer process is complete.

(c) **Further information**

ASX Guidance Note 5 CHESS Depositary Interests (CDIs) (available here: [https://www.asx.com.au/documents/rules/gn05\\_chess\\_depositary\\_interests.pdf](https://www.asx.com.au/documents/rules/gn05_chess_depositary_interests.pdf)) and the Authorised Nominee's Understanding CHESS Depositary Interests (available here: [https://www.asx.com.au/documents/settlement/CHESS\\_Depositary\\_Interests.pdf](https://www.asx.com.au/documents/settlement/CHESS_Depositary_Interests.pdf)) both provide information on the differences between holding CDIs and the underlying securities.

You can also contact your broker or the Registry at the details provided below:

**Registry**

Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia



## **APPENDIX F: NOTICE OF RE-DOMICILIATION SCHEME MEETING**

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### **Boart Longyear Limited (ABN 49 123 052 718)**

Notice is given that, by order of the Supreme Court of New South Wales made on 29 July 2021, pursuant to section 411(1) of the Corporations Act, a meeting of shareholders of Boart Longyear Limited (**BLY** or the **Company**) will be held at Ashurst, Level 11, 5 Martin Place Sydney NSW 2000 at 10:30am (Sydney time) on 8 September 2021 (**Re-domiciliation Scheme Meeting**). Shareholders who are unable to, or do not wish to, attend the Re-domiciliation Scheme Meeting in person may attend and participate online through an online platform by accessing the following link: <https://agmlive.link/BLYSM21>.

More detailed instructions on how to participate in the Re-domiciliation Scheme Meeting via the online platform are set out in the explanatory memorandum that accompanies and forms part of this Notice of Re-domiciliation Scheme Meeting.

Capitalised terms in this Notice of Re-domiciliation Scheme Meeting that are not otherwise defined have the same meaning as is given to those terms in the enclosed Explanatory Memorandum.

To enable you to make an informed voting decision, important information about the Re-domiciliation Scheme is set out in the enclosed Explanatory Memorandum.

### **Re-domiciliation Scheme Meeting format**

As a result of the potential health risks and the government's restrictions in response to the COVID-19 pandemic from time to time, BLY encourages Shareholders to attend the Re-domiciliation Scheme Meeting online or lodge a directed proxy form in advance of the Re-domiciliation Scheme Meeting, rather than planning on attending the meeting in person. If you wish to appoint a proxy, please follow the steps on the proxy form and lodge it by 10:30 am (Sydney time) on 6 September 2021.

Shareholders who are unable to, or do not wish to, attend the Re-domiciliation Scheme Meeting in person will have the opportunity to participate in the meeting online. Further details on how to participate are set out in the explanatory memorandum that accompanying this Notice of Re-domiciliation Scheme Meeting.

### **BUSINESS OF THE MEETING**

The purpose of the Re-domiciliation Scheme Meeting to be held pursuant to this notice is to consider and, if thought fit, to agree (with or without any modification thought fit by the Court and approved in writing by BLY and New BLY Parent) to a scheme of arrangement proposed to be made between Boart Longyear Limited and the Shareholders.

### **Resolution – Approval of the Re-domiciliation Scheme**

*"That, pursuant to, and in accordance with, section 411 of the Corporations Act 2001 (Cth), the scheme of arrangement proposed between the Company and the holders of its ordinary shares, the terms of which are described in the explanatory memorandum ("the Scheme"), of which the notice convening this meeting forms part, is approved (with or without alterations or conditions as approved by the Court to which the Company and New BLY Parent agree), and the Board of Directors of the Company is authorised to agree to any such alterations or conditions, and, subject to approval of the Scheme by the Court, to implement the Scheme with any such alterations or conditions."*

**Important note:**

Unless otherwise indicated, the chairman of the meeting will be Jason Ireland of McGrath Nicol (**Chairman**). The Chairman intends to vote all available proxies in favour of the resolution.

By order of the Court



Nora Pincus

**Company Secretary**

## **NOTES**

### **Explanatory Memorandum**

The Explanatory Memorandum enclosed with this Notice of Re-domiciliation Scheme Meeting forms part of this Notice of Re-domiciliation Scheme Meeting. You should read the Explanatory Memorandum and the accompanying appendices in its entirety before making a decision as to how to vote on the Re-domiciliation Scheme Resolution.

The purpose of the Explanatory Memorandum is to explain the terms of the Re-domiciliation and the manner in which the Re-domiciliation will be considered and implemented (if approved), to set out certain information required by law and to provide all other information (other than information previously disclosed to Shareholders) which is known to BLY, and which is material to the decision of Shareholders whether or not to vote in favour of the Re-domiciliation Scheme Resolution.

### **Entitlement to Attend and Vote**

In accordance with Regulation 7.11.37 of the Corporations Regulations, the BLY Board has determined that persons who are registered holders of Shares as at 7:00pm on 6 September 2021 will be entitled to attend and vote at the Re-domiciliation Scheme Meeting as a Shareholder. Accordingly, transactions registered after that time will be disregarded for determining which Shareholders are entitled to attend and vote at the Re-domiciliation Scheme Meeting.

### **Approval of the Re-domiciliation Scheme Resolution**

The Re-domiciliation Scheme Resolution must be approved by:

- (a) a majority in number (more than 50%) of those Shareholders present and voting at the Re-domiciliation Scheme Meeting in person, by proxy, by attorney or (in the case of a corporate Shareholder) by a corporate representative; and
- (b) at least 75% of the total number of votes cast on the Re-domiciliation Scheme Resolution at the Re-domiciliation Scheme Meeting by Shareholder.

### **Attending and participating in the Re-domiciliation Scheme Meeting**

As a result of the potential health risks and the government's restrictions in response to the COVID-19 pandemic from time to time, BLY encourages Shareholders to attend the Re-domiciliation Scheme Meeting online or lodge a proxy in advance of the Re-domiciliation Scheme Meeting, rather than attending the meeting in person.

For the health and safety of all attendees, BLY will be observing social distancing and any other government requirements that apply at the time of the Re-domiciliation Scheme Meeting. BLY will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the Re-domiciliation Scheme Meeting will be held or conducted, information will be provided on BLY's website at <https://www.boartlongyear.com> and lodged with ASX.

### **Attending online**

Shareholders and their proxies, attorneys or corporate representatives who are unable to attend the Re-domiciliation Scheme Meeting physically will be able to participate online from their computer or mobile device by:

- (a) entering the following URL into their browser: <https://agmlive.link/BLYSM21>; and
- (b) following the steps set out in the Virtual meeting Online Guide at Appendix G.

Participating in the Re-domiciliation Scheme Meeting via the online platform will allow Shareholders, their proxies, attorneys or corporate representatives to listen to the Re-domiciliation Scheme

Meeting live, view slides, ask questions during the Re-domiciliation Scheme Meeting and vote directly through the online platform in real time any time from commencement of the Re-domiciliation Scheme Meeting to the closure of voting as announced by the Chair during the meeting.

To participate and vote online, Shareholders (or their attorney or corporate representative, as applicable) will need the following information:

- (a) your full name;
- (b) mobile number;
- (c) email address;
- (d) company name (if applicable); and
- (e) if you are an individual or joint securityholder:
  - (i) your securityholder number; and
  - (ii) postcode; or
- (f) if you are an appointed proxy, the proxy number issued to you by the Registry.

Further information about the online platform can be found in the Virtual Meeting Online Guide at Appendix G.

Even if you plan to attend the Re-domiciliation Scheme Meeting online, we encourage you to submit a directed proxy vote as early as possible by completing and returning the proxy form Shareholders will receive either electronically or in hard copy, or lodging your proxy form online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

Registration will open 30 minutes prior to the start of the Re-domiciliation Scheme Meeting. We recommend logging on to the online platform at least 15 minutes prior to the scheduled start time for the Re-domiciliation Scheme Meeting. If you experience technical difficulties, please call 1800 990 363.

### **Voting by Proxy**

A Shareholder entitled to attend and vote at the Re-domiciliation Scheme Meeting may appoint an individual or a body corporate as a proxy. If a body corporate is appointed as a proxy, that body corporate must ensure that it appoints a corporate representative in accordance with section 250D of the Corporations Act to exercise its powers as proxy at the Re-domiciliation Scheme Meeting.

A proxy need not be a Shareholder.

A Shareholder may appoint up to two proxies and specify the proportion or number of votes each proxy may exercise. If the Shareholder does not specify the proportion or number of votes to be exercised, each proxy may exercise half of the Shareholder's votes.

Details for completion and lodgement of proxies are on the reverse side of the **Proxy Form**. To be effective, the proxy must be received at the Registry no later than 10:30am on 6 September 2021. Proxies must be received before that time by one of the following methods:

- |          |   |
|----------|---|
| Online   | At <a href="http://www.linkmarketservices.com.au">www.linkmarketservices.com.au</a> |
| By post: | Boart Longyear Limited<br>c/ - Link Market Services Limited<br>Locked Bag A14       |

Sydney South NSW 1235  
Australia

Facsimile: In Australia (02) 9287 0309  
From outside Australia +61 2 9287 0309

By delivery: Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia

### **Voting by Attorney**

If voting by attorney, the power of attorney appointing the attorney must be duly signed by you and specify the name of each of the Shareholder, the Company and the attorney, and also specify the meetings at which the appointment may be used.

The power of attorney, or a certified copy of the power of attorney, must be received by the Registry by 10:30am (Sydney time) on 6 September 2021 (or, if the meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- (a) by post in the provided reply-paid envelope to the Registry at the following address:

Boart Longyear Limited  
c/ - Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia

- (b) by delivery to the following address:

Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia

- (c) by fax to the Registry on:

In Australia (02) 9287 0309  
  
From outside Australia +61 2 9287 0309

Please note that the power of attorney or a certified copy of the power of attorney cannot be lodged online or by a mobile device.

If attending:

- in **person**, attorneys of eligible Shareholders will be admitted to the Re-domiciliation Scheme Meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, (as previously provided to the Registry in accordance with the requirements set out above), their name and address, and the name of their appointors;
- **online**, by logging into the virtual meeting platform at <https://agmlive.link/BLYSM21> and register to view the meeting by entering your name and contact details, to register as a shareholder and vote, click the "get a Voting Card" option on the screen. You will be required

to enter your SRN or HIN and postcode or country to proceed. Once you have your voting card, it may be submitted at any time during the meeting.

For further information, please refer to the Virtual Meeting Guide at Annexure G to the Explanatory Memorandum.

Your appointment of an attorney does not preclude you from attending in person and voting at the meeting.

- **Voting by Corporate Representative**

A body corporate that is a Shareholder who is eligible to vote on the Re-domiciliation Scheme Resolution, or that has been appointed as a proxy by a Shareholder eligible to vote on the Re-domiciliation Scheme Resolution, is entitled to appoint any person to act as its representative at the Re-domiciliation Scheme Meeting. The appointment of the representative must comply with the requirements under section 250D of the Corporations Act meaning that BLY will require a certificate of appointment of body corporate representative to be executed by you in accordance with the Corporations Act.. An appointment form may be obtained from the Registry by calling +61 1800 781 633 (within and outside Australia) Monday to Friday between 9:00am to 5:00pm (AEST). The certificate of appointment may set out restrictions on the representative's powers.

If the corporate representative will be attending the Re-domiciliation Scheme Meeting in person, the corporate representative must bring a copy of the appointment form with it to the Re-domiciliation Scheme Meeting.

Except where the corporate representative is attending the Re-domiciliation Scheme Meeting in person, the appointment form must be received by the Registry before 10:30 am (Sydney time) on 6 September 2021 (or, if the Re-domiciliation Scheme Meeting is adjourned or postponed, no later than 48 hours before the resumption of the meeting in relation to the resumed part of the meeting) in any of the following ways:

- (a) by post in the provided reply-paid envelope to the Registry at the following address:

Boart Longyear Limited  
c/ - Link Market Services Limited  
Locked Bag A14  
Sydney South NSW 1235  
Australia

- (b) by delivery to the following address:

Link Market Services Limited  
Level 12, 680 George Street  
Sydney NSW 2000  
Australia

- (c) by fax to the Registry on:

In Australia (02) 9287 0309

From outside Australia +61 2 9287 0309

Please note that an appointment form for appointing body corporate representative cannot be lodged online or by a mobile device.

If an appointment form is completed by an individual or corporation under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney

or other authority, must accompany the completed appointment form unless the power of attorney or other authority has previously been noted by the Registry.

If attending:

- **in person**, corporate representatives of eligible Shareholders will be admitted to the Re-domiciliation Scheme Meeting and given a voting card on providing at the point of entry to the meeting, written evidence of their appointment, their name and address and the name of their appointors; or
- **online**, by logging into the virtual meeting platform at <https://agmlive.link/BLYSM21> and register to view the meeting by entering your name and contact details, to register as a shareholder and vote, click the "get a Voting Card" option on the screen. You will be required to enter your SRN or HIN and postcode or country to proceed. Once you have your voting card, it may be submitted at any time during the meeting.

For further information, please refer to the Virtual Meeting Online Guide at Annexure G.

### **Attending physically**

If you or your proxies, attorneys or corporate representative(s) plan to attend the Re-domiciliation Scheme Meeting in person, please arrive at the venue at least 30 minutes before the scheduled time for commencement of the meeting, so that your shareholding can be checked against the BLY Share Register, any power of attorney or certificate of appointment of body corporate representative verified, and your attendance noted.

For the health and safety of all attendees, BLY will be observing social distancing and any other government requirements that apply at the time of the Re-domiciliation Scheme Meeting. BLY will be monitoring the COVID-19 situation closely and if it becomes necessary or appropriate to change the way the Re-domiciliation Scheme Meeting will be held or conducted, information will be provided on BLY's website at <https://www.boartlongyear.com> and lodged with ASX.

### **How to ask questions**

Shareholders who would like to ask questions at the Re-domiciliation Scheme Meeting are encouraged to do so in writing by submitting your question to the Registry by 5.00 pm on Wednesday, 1 September 2021. You can also submit your questions in advance of the Re-domiciliation Scheme Meeting online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) by 10.30 am on Monday, 6 September 2021.

Alternatively, Shareholders can submit questions when attending the Re-domiciliation Scheme Meeting either in person or, if attending online, via the online platform. More information regarding how to participate in the Re-domiciliation Scheme Meeting online (including how to ask questions online during the meeting) is available in the Virtual Meeting Online Guide which is set out in Appendix G.

Due to time constraints, BLY cannot guarantee that all questions asked prior to or at the Re-domiciliation Scheme Meeting will be answered

### **Technical difficulties**

Technical difficulties may arise during the course of the Re-domiciliation Scheme Meeting. The Chairman has discretion as to whether and how the Re-domiciliation Scheme Meeting should proceed in the event that a technical difficulty arises. In exercising their discretion, the Chairman will have regard to the number of Shareholders impacted and the extent to which participation in the business of the Re-domiciliation Scheme Meeting is affected. In these circumstances, where the Chairman considers it appropriate, the Chairman may continue to hold the Re-domiciliation Scheme Meeting and transact business, including conducting a poll and voting in accordance with valid proxy

instructions. For this reason, Shareholders are encouraged to lodge a proxy by 10:30am (Sydney time) on 6 September 2021 even if they plan to attend the Re-domiciliation Scheme Meeting online.

**Further information**

If you have any additional questions in relation to this Explanatory Memorandum or the Re-domiciliation, please call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) on Business Days from 9.00am to 5.00pm (Sydney time) Monday to Friday (excluding public holidays).

Alternatively, you should consult your financial, legal, taxation or other independent and appropriately licensed and authorised professional adviser.



## **APPENDIX G: VIRTUAL MEETING ONLINE GUIDE**

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# Virtual Meeting Online Guide

## Before you begin

Ensure your browser is compatible.  
Check your current browser by going to the website: **[whatismybrowser.com](http://whatismybrowser.com)**

---

Supported browsers are:

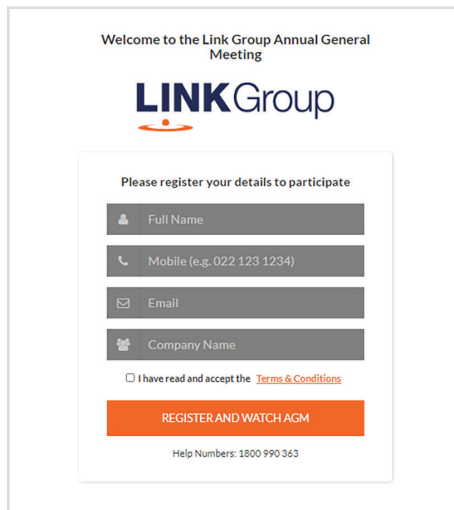
- Chrome – Version 44 & 45 and after
- Firefox – 40.0.2 and after
- Safari – OS X v10.9 & OS X v10.10 and after
- Internet Explorer 9 and up

**To attend and vote you must have your securityholder number and postcode.**

Appointed Proxy: Your proxy number will be provided by Link before the meeting.

**Please make sure you have this information before proceeding.**

# Virtual Meeting Online Guide



Welcome to the Link Group Annual General Meeting

**LINK**Group

Please register your details to participate

Full Name

Mobile (e.g. 022 123 1234)

Email

Company Name

☐ I have read and accept the [Terms & Conditions](#)

**REGISTER AND WATCH AGM**

Help Numbers: 1800 990 363

## Step 1

Open your web browser and go to

- (1) Extraordinary General Meeting  
<https://agmlive.link/BLYEGM21> and
- (2) Scheme Meeting  
<https://agmlive.link/BLYSM21>

## Step 2

Log in to the portal using your full name, mobile number, email address, and company name (if applicable).

Please read and accept the terms and conditions before clicking on the blue **'Register and Watch Meeting'** button.

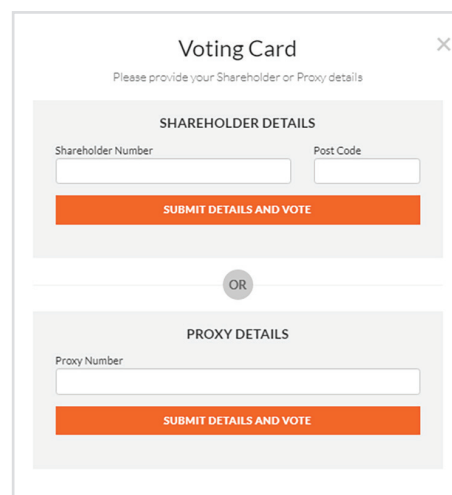
- On the left – a live audio webcast of the Meeting
- On the right – the presentation slides that will be addressed during the Meeting
- At the bottom – buttons for 'Get a Voting Card', 'Ask a Question' and a list of company documents to download

**Note:** If you close your browser, your session will expire and you will need to re-register. If using the same email address, you can request a link to be emailed to you to log back in.

## 1. Get a Voting Card

To register to vote – click on the 'Get a Voting Card' button.

This will bring up a box which looks like this.



**Voting Card**

Please provide your Shareholder or Proxy details

**SHAREHOLDER DETAILS**

Shareholder Number  Post Code

**SUBMIT DETAILS AND VOTE**

OR

**PROXY DETAILS**

Proxy Number

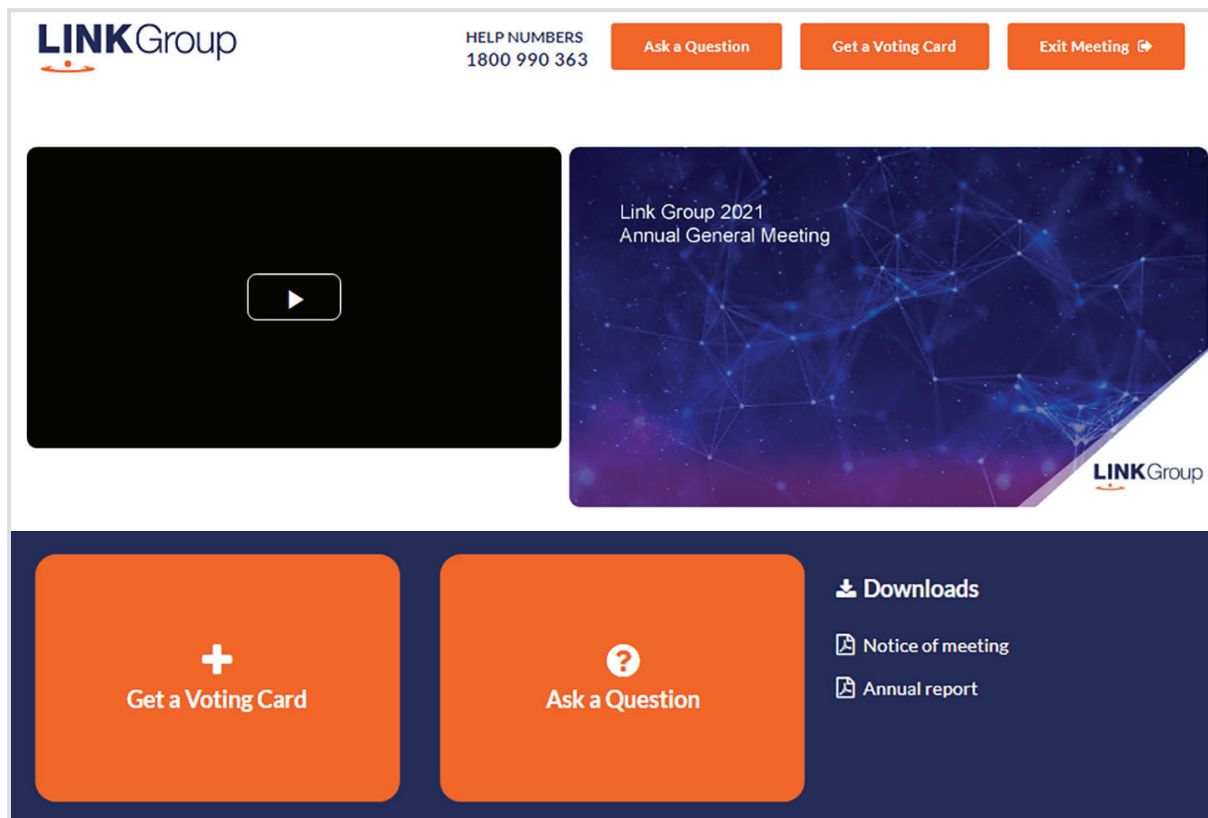
**SUBMIT DETAILS AND VOTE**

If you are an individual or joint securityholder you will need to register and provide validation by entering your securityholder number and postcode.

If you are an appointed Proxy, please enter the Proxy Number issued by Link in the PROXY DETAILS section. Then click the **'SUBMIT DETAILS AND VOTE'** button.

Once you have registered, your voting card will appear with all of the resolutions to be voted on by securityholders at the Meeting (as set out in the Notice of Meeting). You may need to use the scroll bar on the right hand side of the voting card to view all resolutions.

Securityholders and proxies can either submit a Full Vote or Partial Vote.



ABC COMPANY PTY LTD
X123456789

### Voting Card

Please complete your vote by selecting the required voting instruction (For, Against or Abstain) for each resolution. If you would like complete a partial vote, please specify the number of votes for each resolution in the Partial Vote section. Proxy holder votes will only be applied to discretionary (undirected) votes. Directed votes will be applied as per the Unitholder's voting instructions.

Full Vote
Partial Vote

<b>Resolution 2B</b> RE-ELECTION OF MR. ABC AS A DIRECTOR	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain
<b>Resolution 2C</b> RE-ELECTION OF MS. XYZ AS A DIRECTOR	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain
<b>Resolution 3</b> INCREASE TO DIRECTORS' MAXIMUM FEE POOL LIMIT	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain
<b>Resolution 4</b> ADOPTION OF REMUNERATION REPORT	<input checked="" type="radio"/> For <input type="radio"/> Against <input type="radio"/> Abstain

SUBMIT VOTE

## Full Votes

To submit a full vote on a resolution ensure you are in the **'Full Vote'** tab. Place your vote by clicking on the **'For'**, **'Against'**, or **'Abstain'** voting buttons.

## Partial Votes

To submit a partial vote on a resolution ensure you are in the **'Partial Vote'** tab. You can enter the number of votes (for any or all) resolution/s. The total amount of votes that you are entitled to vote for will be listed under each resolution. When you enter the number of votes it will automatically tally how many votes you have left.

**Note:** If you are submitting a partial vote and do not use all of your entitled votes, the un-voted portion will be submitted as No Instruction and therefore will not be counted.

Once you have finished voting on the resolutions scroll down to the bottom of the box and click on the **'Submit Vote'** or **'Submit Partial Vote'** button.

**Note:** You can close your voting card without submitting your vote at any time while voting remains open. Any votes you have already made will be saved for the next time you open up the voting card. The voting card will appear on the bottom left corner of the webpage. The message **'Not yet submitted'** will appear at the bottom of the page.

You can edit your voting card at any point while voting is open by clicking on **'Edit Card'**. This will reopen the voting card with any previous votes made.

At the conclusion of the Meeting a red bar with a countdown timer will appear at the top of the Webcast and Slide windows advising the remaining voting time. Please make any changes and submit your voting cards.

Once voting has been closed all submitted voting cards cannot be changed.

# Virtual Meeting Online Guide *continued*

## 2. How to ask a question

**Note:** Only securityholders are eligible to ask questions.

If you have yet to obtain a voting card, you will be prompted to enter your security holder number or proxy details before you can ask a question. To ask a question, click on the 'Ask a Question' button either at the top or bottom of the webpage.

The '**Ask a Question**' box will then pop up with two sections for completion.

### Ask a Question

We welcome any questions that you may have and will endeavour to answer all questions during the AGM. To submit a question, please select what the question pertains to and type your question in the provided area. If you have multiple questions please submit each individually.

**Regarding** General Business

**Question**

Type your question here...

**Submit Question**

In the '**Regarding**' section click on the drop down arrow and select the category/resolution for your question.

Click in the '**Question**' section and type your question and click on 'Submit'.

A '**View Questions**' box will appear where you can view your questions at any point. Only you can see the questions you have asked.

If your question has been answered and you would like to exercise your right of reply, you can submit another question.

Note that not all questions are guaranteed to be answered during the Meeting, but we will do our best to address your concerns.

### View Questions

Your submitted questions can be viewed below. We will endeavour to answer all questions during the AGM.

When will the next AGM be held?

Asked regarding General Business

Asked at: 7:18AM Updated: 7:18AM

**OPEN COMMENTS**

**SUBMIT ANOTHER QUESTION**

## 3. Downloads

View relevant documentation in the Downloads section.

## 4. Voting closing

Voting will end 5 minutes after the close of the Meeting.

At the conclusion of the Meeting a red bar with a countdown timer will appear at the top of the Webcast and Slide screens advising the remaining voting time. If you have not submitted your vote, you should do so now.

## Contact us

### Australia

T 1300 554 474

E [info@linkmarketservices.com.au](mailto:info@linkmarketservices.com.au)

### New Zealand

T +64 9 375 5998

E [enquiries@linkmarketservices.co.nz](mailto:enquiries@linkmarketservices.co.nz)



**Boart Longyear Limited**  
**ABN 49 123 052 728**

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South Australia 5950, Australia  
Tel: +61 8 8375 8375 • Fax: +61 8 8375 8498  
[www.boartlongyear.com](http://www.boartlongyear.com)

**ASX ANNOUNCEMENT (ASX:BLY)**

**Appendix D – SPP Offer Booklet**





## **Boart Longyear Limited**

ABN 49 123 052 728

## **Share Purchase Plan Offer Booklet**

*This SPP Offer Booklet contains important information. You should read this document in full and along with the Notice of EGM and seek advice from your financial or other professional adviser before making any investment decision. This document does not provide financial advice and has been prepared without taking into account your investment objectives, financial situation or particular needs.*

*These materials do not constitute an offer to sell, or the solicitation of an offer to buy, any securities in the United States or to, or for the account or benefit of, any person in the United States. This SPP Offer Booklet may not be distributed or released in the United States. The offer and sale of shares in the SPP have not been, and will not be, registered under the Securities Act or the securities laws of any state or other jurisdiction of the United States and may not be offered or sold in the United States or to, or for the account or benefit of, any person in the United States unless registered or offered and sold in a transaction exempt from, or not subject to, the registration requirements of the Securities Act and applicable state securities laws.*

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## CHAIRMAN'S LETTER

29 July 2021

Dear Shareholder,

On behalf of Boart Longyear Limited (**BLY** or the **Company**), I am pleased to offer you an opportunity to participate in the Share Purchase Plan (**SPP**) described in this offer booklet (**SPP Offer Booklet**). The issue of fully paid ordinary shares in the Company (**BLY Shares**) pursuant to the SPP is subject to:

- shareholders approving the issue of the BLY Shares under the SPP (**SPP Shares**) at the Company's extraordinary general meeting to be held on 8 September 2021 (**Extraordinary General Meeting**) as part of the set of approvals being sought in connection with the proposed recapitalisation of BLY announced on 13 May 2021 (the **Recapitalisation**); and
- both the Secured Creditors' Scheme and the Unsecured Creditors' Scheme (as defined and described in more detail in the notice convening the Extraordinary General Meeting and explanatory statement (**Notice of EGM**) and enclosed with this SPP Offer Booklet) becoming effective under section 411(10) of the *Corporations Act 2001* (Cth) (**Corporations Act**).

Further details of the Recapitalisation and the Secured Creditors' Scheme and the Unsecured Creditors' Scheme (together, **Creditors' Schemes**) are included in the Notice of EGM.

In connection with the Recapitalisation, the Company proposes to carry out a 20:1 share consolidation (**Share Consolidation**). The Share Consolidation will be effected prior to the issue of any SPP Shares.

Subject to satisfaction of the conditions above, the SPP will enable eligible existing holders of BLY Shares (each a **BLY Shareholder**) the opportunity to subscribe for up to A\$30,000 worth of SPP Shares without incurring brokerage or other transaction costs. The SPP Shares will be issued at a price of A\$2.48 each (calculated on a post Share Consolidation basis) (**SPP Offer Price**). The SPP Offer Price is the same price as the implied issue price of BLY Shares to be issued to BLY's creditors pursuant to the Creditors' Schemes and the same as the issue price of BLY Shares proposed to be issued by the Company under the Creditor Share Purchase Option (as defined and described further in the Notice of EGM). The total amount to be raised by the Company under the SPP is capped at US\$2.5 million. The eligibility criteria for participating in the SPP are set out in this SPP Offer Booklet.

The Company has included the SPP as a component of the Recapitalisation to enable BLY Shareholders to increase their shareholding in recognition of the dilution of their existing equity holding in the Company as a result of the Recapitalisation. The Company notes that the other transactions contemplated by the Recapitalisation will be significantly dilutive to you and other BLY Shareholders, including due to the significant number of new BLY Shares which will be issued to creditors under the Creditors' Schemes. In addition, a significant number of warrants will be issued to creditors under the Unsecured Creditors' Scheme, which, if exercised in the future, would lead to the further issue of new BLY Shares. Participation in the SPP may allow certain eligible BLY Shareholders whose shareholding would otherwise be diluted to unmarketable levels the opportunity to increase their shareholding to levels which may be more liquid.

Nevertheless, your participation in the SPP is entirely voluntary, and you are encouraged to seek independent financial, legal and taxation advice to assist your decision about whether to participate.

Additional information about the Recapitalisation transactions and the impact of the Recapitalisation on the Company's capital structure and BLY Shareholders can be found in the Notice of EGM enclosed with this SPP Offer Booklet and in the Company's disclosures to ASX, including the Company's announcement on 13 May 2021 regarding the Recapitalisation.

The Share Consolidation will be effected prior to the issue of any SPP Shares. This means that the number of BLY Shares to be issued to you and the SPP Offer Price is calculated on a post Share Consolidation basis.

Eligible SPP Shareholders may apply for one of four different parcels of SPP Shares set out in the following table:

<b>Number of SPP Shares (post Share Consolidation)</b>	<b>Application Amount at A\$2.48 per SPP Share</b>
1008	A\$2,500
4,032	A\$10,000
8,064	A\$20,000
12,096	A\$30,000

If the total value of applications received under the SPP exceeds US\$2.5 million, the Company will scale back the number of SPP Shares that will be allotted and you may be allocated fewer SPP Shares than the number for which you applied. If a Scale-back occurs, the balance of your application monies (in excess of the amount payable for the SPP Shares allotted to you) will be refunded to you, without interest.

SPP Shares will be issued to successful applicants under the SPP on the same day as the issue of BLY Shares under the Creditors' Schemes.

Proceeds received by the Company under the SPP will be applied to pay down the outstanding balance under the Existing PNC ABL.

On behalf of the Board of the Company, I thank you for your ongoing support of the Company and invite you to consider this opportunity to increase your investment in BLY. Please read this SPP Offer Booklet and the information in the Notice of EGM carefully and consult your financial, taxation or other adviser accordingly.

Yours sincerely,



**Kevin McArthur**  
**Chair**

## A. Introduction

This SPP Offer Booklet is issued by BLY and explains the terms and conditions of the SPP.

The offer of SPP Shares is made in accordance with ASIC relief instrument 21-0666, which grants BLY relief from the requirement to issue a prospectus or other disclosure document for the offer of the SPP Shares. This SPP Offer Booklet does not constitute a prospectus or other disclosure document and has not been lodged with ASIC.

In New Zealand, the offer of SPP Shares is made in reliance on the Financial Markets Conduct Act 2013 (New Zealand) and the Financial Markets Conduct (Incidental Offers) Exemption Notice 2016 (New Zealand).

Capitalised terms in this SPP Offer Booklet are defined in the Glossary.

## B. Indicative timetable

EVENT	DATE
<b>SPP Record Date</b> <i>Eligibility to participate in the SPP is determined.</i>	7:00pm (Sydney time) Wednesday, 28 July 2021
<b>SPP Opening Date</b>	Thursday, 29 July 2021
<b>Despatch Date</b> <i>Despatch of the SPP Offer Booklet and SPP Application Form</i>	Thursday, 5 August 2021
<b>SPP Closing Date</b>	7:00pm (Sydney time) Monday, 6 September 2021
<b>Announcement of results of SPP</b>  <i>Note: issue of SPP Shares remains conditional on the Creditors' Schemes becoming effective under section 411(10) of the Corporations Act</i>	Wednesday, 8 September 2021
<b>Creditors' Schemes become effective</b>	Friday, 17 September 2021
<b>BLY Share Register updated for Share Consolidation</b>	Wednesday, 22 September 2021
<b>SPP Share Issue Date</b>	The same date as the implementation date of the Creditors' Schemes, which is currently expected to be Thursday, 23 September 2021
<b>Despatch of holding statements</b>	Thursday, 23 September 2021
<b>Note: This timetable is indicative only. BLY may change or terminate the SPP at any time by notice to ASX and reserves the right to amend this indicative timetable (as required by ASX or otherwise).</b>	

## C. Frequently asked questions

This section answers frequently asked questions in relation to the SPP. You should read it in conjunction with the terms and conditions of the SPP.

QUESTION	ANSWER
<b>What is the Share Purchase Plan or SPP?</b>	The SPP gives Eligible SPP Shareholders an opportunity to subscribe for up to A\$30,000 worth of SPP Shares without incurring brokerage or other transaction costs.
<b>Why is the Company proposing to issue the SPP Shares?</b>	<p>Under the Recapitalisation, the Company's debt and interest costs are reduced, debt maturities are extended and the Company's liquidity is improved. In return (amongst other things), the Company has agreed to issue Shares to the creditors under the Creditors' Schemes, significantly diluting the equity of existing Non-Associated Shareholders.</p> <p>The Share Purchase Plan will give Eligible SPP Shareholders the opportunity to maintain a more meaningful equity interest in the Company following completion of the Recapitalisation.</p> <p>Any proceeds raised by the Company under the SPP will be used, as described further in the Notice of EGM, to pay down the outstanding balance under the Existing PNC ABL.</p>
<b>How much is the Company seeking to raise?</b>	<p>There is no fixed or minimum amount that BLY is seeking to raise under the SPP.</p> <p>If the total value of applications received is more than US\$2.5 million, BLY will scale back the number of SPP Shares. This means you may be allocated fewer SPP Shares than the number for which you applied, in which case you will receive a proportionate refund of your application monies (without interest).</p>
<b>Who is eligible to participate in the SPP?</b>	A BLY Shareholder who meets the eligibility criteria to be an "Eligible SPP Shareholder", as defined in the Glossary, may participate in the SPP. The laws of some countries prohibit, or make impracticable, participation in the SPP, so BLY Shareholders who are not residents in Australia or New Zealand will be unable to participate in the SPP.
<b>Do I have to participate in the SPP?</b>	<p>No. Participation is voluntary.</p> <p>If you do not wish to participate in the SPP, you do not need to do anything, and the offer under the SPP will lapse on the SPP Closing Date.</p>
<b>Is the SPP underwritten?</b>	<p>No. The SPP is not underwritten.</p> <p>To the extent that the Share Purchase Plan is undersubscribed, (i.e. where Eligible SPP Shareholders do not subscribe for an aggregate amount of SPP Shares that equals or exceeds the full value of the US\$2.5 million aggregate cap), the remaining SPP Shares will be withdrawn from the SPP and offered to Scheme Creditors under, and in accordance with the terms of, the Creditor Share Purchase Option (as defined and described further in the Notice of EGM).</p>
<b>What are the conditions to the issue of the SPP Shares?</b>	<p>The issue of the SPP Shares is conditional on:</p> <ul style="list-style-type: none"> <li>shareholders approving the issue of the SPP Shares at the Extraordinary General Meeting as part of the set of approvals being sought in connection with the Recapitalisation; and</li> <li>both the Secured Creditors' Scheme and the Unsecured Creditors' Scheme becoming effective under section 411(10) of the Corporations Act.</li> </ul>
<b>Can my offer under the SPP be transferred to a third party?</b>	No. The offer is non-renounceable and cannot be transferred.

QUESTION	ANSWER										
<b>What is the impact of the Share Consolidation on my entitlement to participate in the SPP?</b>	<p>The Share Consolidation will apply equally to all BLY Shareholders, such that individual shareholdings will be reduced in the same ratio as the total number of BLY Shares (subject to rounding). This means that the Share Consolidation itself will have no effect on the percentage interest of each BLY Shareholder.</p> <p>The Share Consolidation will be implemented before the SPP Share Issue Date. This means that the number of SPP Shares you are issued will be calculated on a post-Share Consolidation basis. The SPP Offer Price is also calculated on a post Share Consolidation basis.</p>										
<b>How much can I invest under the SPP?</b>	<p>You can apply for one of four different parcels of SPP Shares set out in the following table:</p> <table> <tr> <th>Number of SPP Shares (post Share Consolidation)</th><th>Application Amount at A\$2.48 per SPP Share</th></tr> <tr> <td>1,008</td><td>A\$2,500</td></tr> <tr> <td>4,032</td><td>A\$10,000</td></tr> <tr> <td>8,064</td><td>A\$20,000</td></tr> <tr> <td>12,096</td><td>A\$30,000</td></tr> </table>	Number of SPP Shares (post Share Consolidation)	Application Amount at A\$2.48 per SPP Share	1,008	A\$2,500	4,032	A\$10,000	8,064	A\$20,000	12,096	A\$30,000
Number of SPP Shares (post Share Consolidation)	Application Amount at A\$2.48 per SPP Share										
1,008	A\$2,500										
4,032	A\$10,000										
8,064	A\$20,000										
12,096	A\$30,000										
<b>What is the SPP Offer Price?</b>	<p>The SPP Offer Price is A\$2.48 per SPP Share.</p> <p>The following table shows the pricing for the transactions contemplated in connection with the Recapitalisation and the Re-domiciliation:</p> <table> <tr> <th>Shareholder transactions</th><th>Pricing (on a post-share consolidation basis)</th></tr> <tr> <td>Issue of SPP shares under the SPP</td><td>A\$2.48 per share</td></tr> <tr> <td>Buy back of existing shares under Selective Buy-Back</td><td>A\$2.48 per share</td></tr> <tr> <th>Scheme Creditor Transactions</th><th>Pricing (on a post-Share Consolidation basis)</th></tr> <tr> <td>Issue of new shares under Creditor Share Purchase Option</td><td>A\$2.48 per share</td></tr> </table> <p>The market price of BLY Shares may change between the date of the offer under the SPP and the date when SPP Shares are issued to an applicant under the SPP. This will not affect the SPP Offer Price payable by Eligible SPP Shareholders to subscribe for BLY Shares under the SPP, which will remain A\$2.48 per BLY Share (calculated on a post Share Consolidation basis).</p> <p>BLY Shareholders should seek advice from their financial or other professional adviser before making an investment decision in the offer under the SPP.</p>	Shareholder transactions	Pricing (on a post-share consolidation basis)	Issue of SPP shares under the SPP	A\$2.48 per share	Buy back of existing shares under Selective Buy-Back	A\$2.48 per share	Scheme Creditor Transactions	Pricing (on a post-Share Consolidation basis)	Issue of new shares under Creditor Share Purchase Option	A\$2.48 per share
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Scheme Creditor Transactions	Pricing (on a post-Share Consolidation basis)										
Issue of new shares under Creditor Share Purchase Option	A\$2.48 per share										
<b>To what extent will I be diluted under the Recapitalisation?</b>	<p>The percentage of BLY Shares held by Non-Associated Shareholders will be reduced to approximately 1.5% under the Recapitalisation (prior to any additional dilution created by the issue of the New Warrants, any shares to be issued under the SPP, Creditor Share Purchase Option and/or any management incentive plan). This is primarily due to the equity being issued under the Recapitalisation, including to the creditors under the Creditors' Schemes.</p> <p>Further information about the dilutive effect of the Recapitalisation can be found in the Notice of EGM and the Company's disclosures to ASX, including</p>										

QUESTION	ANSWER
	<p>the Company's announcement on 13 May 2021 regarding the Recapitalisation.</p> <p>If you elect not to participate in the SPP, then you will be further diluted to the extent other Eligible SPP Shareholders elect to participate in the SPP.</p>
<b>What happens to my SPP Shares if the Re-domiciliation is approved?</b>	<p>The Company is seeking the approval of BLY Shareholders to re-domicile to Canada by way of a scheme of arrangement to be entered into between the Company and its shareholders (the <b>Re-domiciliation</b>).</p> <p>Further details of the proposed Re-domiciliation are set out in the Notice of EGM and the Explanatory Memorandum provided to BLY Shareholders in connection with the Re-domiciliation.</p> <p>If the Re-domiciliation Scheme is approved by the requisite majorities of BLY Shareholders, the Re-domiciliation will occur after the issue of SPP Shares. This means that any SPP Shares you are issued and which are held by you on the Re-domiciliation Scheme Record Date (which is expected to occur shortly following the SPP Share Issue Date), will be exchanged for a CDI in Boart Longyear Ltd. (Ontario Corporation No. 002854330) (<b>New BLY Parent</b>), (<b>New BLY Parent CDI</b>). Each New BLY Parent CDI will represent a beneficial interest in one common share in New BLY Parent (<b>New BLY Parent Share</b>). Subject to the admission of New BLY Parent to the Official List of ASX and quotation by ASX of the New BLY Parent Shares (represented by New BLY Parent CDIs), any New BLY Parent CDIs you are issued will be able to be traded on ASX.</p>
<b>Where can I find further information about the risks which may affect the Company?</b>	<p>There are a number of risks, of a general and specific nature, which may affect the financial performance of the Company, its investment returns and the value of BLY Shares (including any SPP Shares you successfully apply for under the SPP). Many of those risks have previously been disclosed by the Company to ASX in accordance with its continuous disclosure obligations.</p> <p>Other risks, including those associated with the Recapitalisation, are set out in the Notice of EGM. These include (amongst others) the risk that, even after completion of the Recapitalisation, the Company's liquidity position could be insufficient to sustain operations. In such circumstances, the Company may have to identify additional sources of liquidity to meet its requirements. A description of advantages and risks of the Recapitalisation is contained in section 6 in the Notice of EGM which was provided to Eligible SPP Shareholders together with this SPP Offer Booklet.</p> <p>You are encouraged to carefully consider the Company's disclosures to ASX, including the Company's audited annual financial statements for the financial year ended 31 December 2020, which can be obtained from BLY's website at <a href="https://www.boartlongyear.com/company/investors/annual-reports/">https://www.boartlongyear.com/company/investors/annual-reports/</a>.</p>
<b>Risks arising from any Re-domiciliation</b>	<p>Where the Re-domiciliation Scheme is approved and any SPP Shares you are issued are exchanged for New BLY Parent CDIs, New BLY Parent and holders of New BLY Parent CDIs will be subject to the existing risks that BLY is currently exposed to (see question above). In addition to those existing risks, there are other risks associated with the Re-domiciliation as well as additional risks associated with an investment in New BLY Parent. A description of some of those risks is set out in section 5.4 of the Explanatory Memorandum provided to BLY Shareholders in connection with the Re-domiciliation on or about the same date as this SPP Offer Booklet. Those additional risks to New BLY Parent include:</p> <ul style="list-style-type: none"> <li>• <b>(Re-domiciliation may fail to realise anticipated advantages)</b> the Re-domiciliation may fail to realise all of the anticipated advantages for New BLY Parent and the BLY Group, either in a timely manner or at all.</li> </ul>

QUESTION	ANSWER
	<ul style="list-style-type: none"> <li>• <b>(Loss of demand and liquidity)</b> as a result of the Re-domiciliation, the Company will re-domicile to Canada and will become a subsidiary of New BLY Parent. The re-domicile may lead to a potential loss of demand for New BLY Parent CDIs from Australian investors. There may be a potential reduction in liquidity of New BLY Parent Shares when traded on ASX in the form of CDIs.</li> <li>• <b>(Changes to tax environment)</b> the main Australian tax implication of the Re-domiciliation on the Company relates to its ability to recoup prior year tax losses. The Company and its Australian subsidiaries have carried forward tax losses as at 31 December 2020. If available, these losses will continue to be used to offset against assessable income derived by the Company going forward. The Re-domiciliation Scheme, or transfers of BLY Shares following the implementation of the Re-domiciliation, may cause the Company to fail the continuity of ownership test (<b>COT</b>) such that BLY must satisfy the similar business test (<b>SBT</b>) or the same business test (together known as the "continuity of business test" or <b>CBT</b>) going forward in order to recoup any Company carried forward tax losses that are not otherwise limited. Although the Company believes it will satisfy the CBT it can't be guaranteed with certainty. The Company will continue to monitor these tests going forward. While BLY has not identified any other specific tax risks associated with the Re-domiciliation, there may be unexpected tax risks associated with the change in jurisdiction from Australia to a North American jurisdiction.</li> </ul> <p>For further information about the risks associated with the Re-domiciliation, please refer to the Explanatory Memorandum provided to BLY Shareholders in connection with the Re-domiciliation (and in particular section 5).</p>
<p><b>How do I apply for SPP Shares?</b></p>	<p>Enclosed with this SPP Offer Booklet is an SPP Application Form, which gives certain BLY Shareholders the option to participate in the SPP.</p> <p>BLY Shareholders are encouraged to read the SPP Application Form carefully and in full, and ensure that they correctly complete the SPP Application Form if they wish to participate in the SPP.</p> <p>If you wish to participate in the SPP, you need to do either of the following:</p> <p><b>Option 1: Online application</b></p> <p>Please complete the SPP Application Form available at <a href="https://events.miraqle.com/bly-spp">https://events.miraqle.com/bly-spp</a>.</p> <p><b>Option 2: Pay by cheque</b></p> <p>Please complete the enclosed SPP Application Form (and request a Custodian Certificate if you are applying as a Custodian), marking that you wish to participate in the SPP and the parcel of SPP Shares you wish to apply for, and return it with your cheque drawn in Australian currency on an Australian financial institution to 'BLY – Share Purchase Plan Account' and crossed "Non Negotiable" to:</p> <p><b>Mailing Address</b>  Boart Longyear Limited  c/ - Link Market Services Limited  GPO Box 3560  Sydney South NSW 1235  Australia</p>



QUESTION	ANSWER
	<p>Your completed SPP Application Form and cheque must be received by the Share Registry prior to the close of the offer at 7:00pm (Sydney time) on 6 September 2021. BLY Shareholders in New Zealand will need to affix the appropriate postage to the business reply envelope.</p> <p><b>Option 3: Pay via BPAY®</b></p> <p>To pay via BPAY® you will need to:</p> <ul style="list-style-type: none"> <li>(a) be an account holder with an Australian financial institution;</li> <li>(b) use the personalised reference number shown on your SPP Application Form, which is required to identify your holding; and</li> <li>(c) ensure that your payment is received by the Share Registry before 7:00pm (Sydney time) 6 September 2021.</li> </ul> <p>If paying via BPAY®, you will not need to complete and submit the SPP Application Form but you will be taken to have made the statements and certifications on the SPP Application Form in respect of participation in the SPP, and to have submitted an application for the corresponding parcel of SPP Shares to which the amount paid relates.</p>
<b>Do I need to complete the SPP Application Form and the SBB Tender Form?</b>	<p>No. You should complete <u>either</u> the SPP Application Form or the SBB Tender Form but not both.</p> <p>Participation in the SPP means you are electing to subscribe for additional BLY Shares. Participation in the Selective Buy-Back means that you are offering to sell your BLY Shares. Therefore, you should choose to participate in <u>either</u> the SPP or the Selective Buy-Back but not both.</p> <p>If you wish to participate in the SPP, you do not need to complete the SBB Tender Form.</p>
<b>What are the rights attached to SPP Shares issued under the SPP?</b>	<p>SPP Shares will rank equally with other BLY Shares on issue as at the SPP Share Issue Date.</p>
<b>What do I do if I am a Custodian?</b>	<p>The SPP is being extended to Eligible SPP Shareholders who are Custodians or nominees and who wish to apply for SPP Shares on behalf of certain Eligible SPP Beneficiaries.</p> <p>The SPP is being offered to Custodians and nominees as the registered BLY Shareholder. Custodians and nominees are not required to participate on behalf of their Eligible SPP Beneficiaries. Custodians and nominees may choose whether or not to extend the SPP to their Eligible SPP Beneficiaries.</p> <p>If you wish to apply as a Custodian or nominee under the SPP to receive SPP Shares for one or more Eligible SPP Beneficiaries, you must complete and submit an additional '<b>Custodian Certificate</b>' that contains further certifications and details (as required under the terms of <i>ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547</i>) before your application will be accepted. Applications by Custodians or nominees that are not accompanied by a duly completed Custodian Certificate will be rejected. By applying as a Custodian on behalf of Eligible SPP Beneficiaries to purchase SPP Shares, you certify (amongst other things) that each Eligible SPP Beneficiary has not exceeded the \$30,000 limit.</p> <p>To request a Custodian Certificate or for further information about the custodian application process, please contact the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside</p>



QUESTION	ANSWER
	<p>Australia) between 9.00am (AEST) to 5.00pm (AEST), Monday to Friday (excluding public holidays).</p> <p>A Custodian will be ineligible to participate in the SPP if their participation would be in breach of <i>ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547</i>.</p> <p>Notwithstanding the foregoing, Custodians and nominees may not participate in the SPP on behalf of, and may not distribute this SPP Offer Booklet or any documents relating to this SPP to, any person in the United States. In the event that a Custodian or nominee is acting for the account or benefit of a person in the United States, it is not permitted to participate in respect of that person.</p>
<b>Will I receive notification of any SPP Shares issued to me?</b>	<p>Yes.</p> <p>The Share Registry will send you an Issuer Holding Statement or CHES Notice on or about 23 September 2021, which will include details of the number of SPP Shares issued to you under the SPP.</p>
<b>Will the SPP Shares be able to be traded on ASX?</b>	<p>Yes. When the SPP Shares are issued they will be able to be traded on ASX (subject to ASX granting quotation of SPP Shares).</p>
<b>Where can I get more information on the SPP?</b>	<p>If you have any questions please contact the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) between 9.00am (AEST) to 5.00pm (AEST), Monday to Friday (excluding public holidays).</p>
<b>What do I do if I receive more than one SPP Application Form?</b>	<p>If you receive more than one copy of this SPP Offer Booklet, or if you hold BLY Shares in more than one capacity (for example, if you are both a sole and joint holder of BLY Shares or if you have more than one holding in a separate account), the maximum amount you can invest under all capacities is A\$30,000.</p> <p>By applying to subscribe for SPP Shares, you certify that you have not exceeded this limit of A\$30,000. However, if you are a BLY Shareholder that is expressly recorded in the BLY Share Register as holding BLY Shares as Custodian or nominee for one or more named persons eligible to participate in the SPP (each an Eligible SPP Beneficiary), then each Eligible SPP Beneficiary is taken to be an Eligible SPP Shareholder for the purposes of the SPP and each such Eligible SPP Beneficiary may make an application through you as trustee or nominee to participate in the SPP up to the A\$30,000 limit (see the FAQ "What do I do if I am a Custodian?" above).</p>

#### D. Terms and conditions of the SPP

Please read these terms and conditions relating to the offer under the SPP carefully, as you will be bound by them in participating in the SPP.

The "frequently asked questions" section of this SPP Offer Booklet forms part of the terms and conditions of the SPP. In the event of a conflict between these terms and the frequently asked questions, these terms and conditions will prevail.

##### 1. Offer

- (a) The offer under the SPP opens on the SPP Opening Date (Thursday, 29 July 2021) and closes at the SPP Closing Date (7:00pm (Sydney time) on Monday, 6 September 2021).

- (b) If you choose not to participate in the SPP, your right to participate lapses at the SPP Closing Date of the offer under the SPP, being 7:00pm (Sydney time) on Monday, 6 September 2021.
- (c) The offer under the SPP is non-renounceable and non-transferable and, therefore, Eligible SPP Shareholders cannot transfer their right to purchase SPP Shares under the offer to a third party.
- (d) The offer under the SPP to each Eligible SPP Shareholder (whether as a Custodian or on its own account) is made on the same terms and conditions.

**2. Eligible SPP Shareholders**

- (a) You will be eligible to participate in the offer under the SPP if you are an Eligible SPP Shareholder as defined in the Glossary.
- (b) No offer under the SPP is made to BLY Shareholders who are not Eligible SPP Shareholders.

**3. Joint holders and Custodians and nominees**

- (a) If two or more persons are registered on the BLY Share Register as jointly holding BLY Shares, they are taken to be a single registered holder of BLY Shares for the purposes of determining whether they are an Eligible SPP Shareholder and a certification given by any of them is taken to be a certification given by all of them.
- (b) Subject to these terms and conditions, Eligible SPP Shareholders who are Custodians or nominees may participate in the SPP Offer on behalf of each Eligible SPP Beneficiary on whose behalf the Custodian or nominee is holding BLY Shares. Due to legal restrictions, Custodians and nominees may not distribute this SPP Offer Booklet to any person in, and may not participate in the SPP on behalf of any beneficial BLY Shareholder in the United States. In the event that a Custodian or nominee is acting for the account or benefit of a person in the United States, it is not permitted to participate in respect of that person.

**4. Applications for SPP Shares**

- (a) Eligible SPP Shareholders may subscribe for one of four parcels of SPP Shares, being:
  - (i) A\$2,500;
  - (ii) A\$10,000;
  - (iii) A\$20,000; or
  - (iv) A\$30,000,worth of SPP Shares.
- (b) No brokerage or other transaction costs will apply to the acquisition of SPP Shares.
- (c) Eligible SPP Shareholders who wish to apply for SPP Shares must either:
  - (i) complete the SPP Application Form online at <https://events.miraqle.com/bly-spp>; or
  - (ii) complete the enclosed SPP Application Form (marking that you wish to apply to participate in the SPP) and forward it with a cheque drawn on an Australian financial institution in Australian dollars to 'BLY – Share Purchase Plan

Account' and crossed 'Not Negotiable' in the enclosed business reply envelope so that it is received prior to the SPP Closing Date (7:00pm (Sydney time) on 6 September 2021). New Zealand BLY Shareholders will need to affix the appropriate postage (and should contemplate possible longer mailing times); or

- (iii) make a payment via BPAY® in accordance with the instructions on the SPP Application Form so that it is received by the SPP Closing Date (7:00pm (Sydney time) on 6 September 2021).
- (d) SPP Application Forms to participate in the SPP, cheques or BPAY® received after the SPP Closing Date (7:00pm (Sydney time) on Monday, 6 September 2021) will not be accepted.
- (e) If you wish to subscribe for SPP Shares as a Custodian or nominee for one or more Eligible SPP Beneficiaries, you must also complete and submit an additional Custodian Certificate that contains further certifications and details (required under the terms of *ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547*) before your application will be accepted. Applications by Custodians or nominees that are not accompanied by a duly completed Custodian Certificate will be rejected. To request a Custodian Certificate or for further information about the custodian application process, please contact the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) between 9.00am (AEST) to 5.00pm (AEST), Monday to Friday (excluding public holidays).
- (f) BLY (and its officers and agents) may accept or reject any application for SPP Shares at its discretion, including, without limit, if:
  - (i) your application does not comply with these terms and conditions;
  - (ii) it appears you are not an Eligible SPP Shareholder;
  - (iii) your SPP Application Form, cheque or BPAY® payment is not received by the Share Registry by the closing time;
  - (iv) if paying by cheque, your SPP Application Form is incomplete or incorrectly completed or is otherwise determined by BLY to be invalid;
  - (v) your cheque is dishonoured or has been incorrectly completed;
  - (vi) it appears that you are applying to purchase more than A\$30,000 of SPP Shares in aggregate (including as a result of BLY Shares you hold directly, jointly or through a custodian or nominee arrangement); or
  - (vii) payment of the application monies is not submitted in Australian currency or, if payment is made by cheque, the cheque is not drawn on an Australian branch of a financial institution.

**5. SPP Offer Price**

The SPP Offer Price is A\$2.48 per SPP Share.

**6. Number of Shares to be allotted and Scale-back**

- (a) On the SPP Application Form, Eligible SPP Shareholders who mark that they wish to subscribe in the SPP may subscribe for A\$2,500, A\$10,000, A\$20,000 or A\$30,000 worth of SPP Shares. If you make a payment (whether by cheque or BPAY®) for an amount that is not equal to A\$2,500, A\$10,000, A\$20,000 or A\$30,000, BLY may

round down the dollar amount of SPP Shares you are applying for to the next lowest parcel at its sole discretion.

- (b) If the total value of applications received is more than US\$2.5 million, BLY will Scale-back the number of SPP Shares that you will be allocated.
- (c) If there is a Scale-back, you will not receive the full number of SPP Shares for which you have applied. If a Scale-back produces a fractional number when applied to the number of SPP Shares, your allocation will be rounded down to the nearest whole number of SPP Shares.
- (d) In the event of a Scale-back, each application will be scaled back based on the number of SPP Shares for which the Eligible SPP Shareholder has applied and allocation principles determined by the Company. The difference between the value of the SPP Shares allotted (calculated at the SPP Offer Price) and the application monies received will be refunded to you by BLY, without interest, following allotment of the SPP Shares. Amounts will be refunded by direct credit to your nominated bank account for the payment of dividends or by cheque mailed to your address as shown on the BLY Share Register.

**7. Issue**

- (a) Subject to the satisfaction of certain conditions, SPP Shares will be issued on the SPP Share Issue Date.
- (b) SPP Shares will rank equally with other BLY Shares on issue as at the SPP Share Issue Date.
- (c) BLY will apply to ASX for the quotation of SPP Shares issued under the SPP. It is anticipated SPP Shares issued under the SPP will be quoted on the ASX shortly after the SPP Share Issue Date.
- (d) The Share Registry will send you a holding statement, confirming the allotment of SPP Shares on the SPP Share Issue Date.

**8. Acknowledgements**

- (a) By:
  - (i) completing an online application form;
  - (ii) returning an SPP Application Form marking that you wish to participate in the SPP and paying with a cheque; or
  - (iii) by paying via BPAY®,you:
  - (iv) are deemed to have accepted the offer made under the SPP and you irrevocably and unconditionally agree to the terms and conditions of the SPP and the terms and conditions of the SPP Application Form and agree not to do any act or thing that would be contrary to the spirit, intention or purpose of the SPP;
  - (v) agree to these terms and conditions;
  - (vi) warrant that all details and statements in your application are true and complete and not misleading;

- (vii) agree that your application will be irrevocable and unconditional (that is, it cannot be withdrawn);
- (viii) warrant that you are an Eligible SPP Shareholder;
- (ix) represent, acknowledge and agree that:
  - (A) you, and each person for whose account or benefit you are acting, are not in the United States and you are not subscribing for, or purchasing, the SPP Shares in an 'offshore transaction' (as defined in Rule 902(h) under the Securities Act) in compliance with Regulation S under the Securities Act;
  - (B) the SPP Shares have not been, and will not be, registered under the Securities Act or the securities laws of any state or other jurisdiction of the United States and, accordingly, the SPP Shares may not be offered, sold or otherwise transferred except in a transaction exempt from, or not subject to, the registration requirements of the Securities Act, and any other applicable securities laws;
  - (C) you are not engaged in the business of distributing securities and you have not, and will not, send this SPP Offer Booklet or any materials relating to the SPP to any person in the United States;
  - (D) if in the future you decide to sell or otherwise transfer the SPP Shares, you will only do so in regular transactions on the ASX, where neither you nor any person acting on your behalf know, or has reason to know, that the sale has been pre-arranged with, or that the purchaser is, a person in the United States; and
  - (E) if you are acting as a trustee, nominee or Custodian, each beneficial holder on whose behalf you are participating is resident of Australia or New Zealand and is not in the United States nor acting for the account or benefit of a person in the United States, and you have not sent this SPP Offer Booklet, or any materials relating to the SPP to any person in the United States;
- (b) if you are applying on your own behalf (and not as a Custodian or nominee), acknowledge and agree that:
  - (i) you are not applying for SPP Shares with an application price of more than A\$30,000 (including by instructing a Custodian or nominee to apply for SPP Shares on your behalf);
  - (ii) the total of the application price for the following does not exceed A\$30,000 for:
    - (A) the SPP Shares the subject of the application;
    - (B) any other BLY Shares issued to you under the SPP or any similar arrangement in the 12 months before the application;
    - (C) any other SPP Shares which you have instructed a Custodian to apply for on your behalf under the SPP; and
    - (D) any other BLY Shares issued to a Custodian in the 12 months before the application as a result of an instruction given by you to the Custodian or nominee to apply for BLY Shares on your behalf under an arrangement similar to the SPP;

- (c) if you are a Custodian or nominee and are applying on behalf of a Eligible SPP Beneficiary on whose behalf you hold BLY Shares, acknowledge and agree that:
  - (i) you are a Custodian (as that term is defined *ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547*) or a nominee;
  - (ii) you held BLY Shares on behalf of one or more Eligible SPP Beneficiaries at the SPP Record Date, who have subsequently instructed you to apply for SPP Shares on their behalf under the SPP, and each of these Eligible SPP Beneficiaries has been given a copy of this SPP Offer Booklet;
  - (iii) you are not applying for SPP Shares on behalf of any participating Eligible SPP Beneficiary with an application price of more than A\$30,000; and
  - (iv) the information in the Custodian Certificate submitted with your SPP Application Form is true, correct and not misleading;
- (d) accept the risk associated with any refund that may be dispatched to you by direct credit or cheque to your address shown on the BLY Share Register;
- (e) are responsible for any dishonour fees and other costs that BLY may incur in presenting a cheque for payment which is dishonoured;
- (f) agree to be bound by the Constitution as it may be amended from time to time in the future;
- (g) acknowledge that none of BLY, its advisers or agents has provided you with any financial product or investment advice or taxation advice in relation to the SPP, or has any obligation to provide such advice;
- (h) authorise BLY (and its officers and agents) to do anything on your behalf necessary for SPP Shares to be issued to you in accordance with these terms and conditions; and
- (i) authorise BLY (and its officers and agents) to correct minor or easily rectified errors in, or omissions from, your SPP Application Form and to complete the SPP Application Form by the insertion of any missing minor detail.

9. **Scale-back**

- (a) The Company may scale back or decrease the number of SPP Shares allotted to a participating Eligible SPP Shareholder under the SPP (**Scale-back**).
- (b) If there is a Scale-back you may receive less than the parcel of SPP Shares for which you have applied.
- (c) If a Scale-back produces a fractional number of SPP Shares when applied to your parcel, the number of SPP Shares you will be issued will be rounded down to the nearest whole number of SPP Shares.
- (d) If there is a Scale back, the difference between the application monies received from you, and the number of SPP Shares allocated to you multiplied by the SPP Offer Price, will be refunded to you (without interest) unless the amount to be refunded is less than \$2, in which case it will be donated to a charity or charities nominated by the Company.

10. **Dispute resolution**

- (a) BLY may settle, in any manner it deems, any matters, anomalies, or disputes that may arise in connection with the operation of the SPP, whether generally or in relation to any participant or any application of SPP Shares, and its decision shall be conclusive and binding on all participants and other persons to whom the determination relates.
- (b) The powers of BLY under these terms and conditions may be exercised by its Directors or any delegate or representative of the Directors.

11. **Variation and termination**

- (a) BLY reserves the right at any time to:
  - (i) amend or vary these terms and conditions;
  - (ii) waive strict compliance with any provision of these terms and conditions;
  - (iii) withdraw the SPP or suspend or terminate the SPP;
  - (iv) vary the timetable for the SPP, including the SPP Closing Date; and
  - (v) not accept an application and not issue SPP Shares, or issue SPP Shares to a value less than that applied for under the SPP by an Eligible SPP Shareholder (including a Custodian applying on behalf of its beneficiaries).
- (b) In the event that the SPP is withdrawn or terminated, all application monies will be refunded. No interest will be paid on any money returned to you.

12. **Privacy Policy**

- (a) Chapter 2C of the Corporations Act requires information about you as a securityholder (including your name, address and details of the securities you hold) to be included in the public register of the entity in which you hold securities. This information must continue to be included in the public register if you cease to be a securityholder. The *Privacy Amendment (Private Sector) Act 2000* does not alter these statutory obligations.
- (b) BLY and the Share Registry may collect personal information to process your application and implement the SPP, and to administer your securityholding. The personal information contained in the BLY Share Register is also used to facilitate payment and corporate communications (including financial results, annual reports and other information to be communicated to BLY Shareholders) and to ensure compliance with legal and regulatory requirements, including Australian taxation laws and the Corporations Act.
- (c) Your personal information may be disclosed to joint investors, the Share Registry, to securities brokers, to third party service providers, technology providers and professional advisers, to related entities of BLY and each of their agents and contractors, and to ASX and other regulatory authorities and, in any case, where disclosure is required or allowed by law (which may include disclosures to the Australian Taxation Office and other government or regulatory bodies or where you have consented to the disclosure). In some cases, the types of organisations referred to above to whom we will disclose your personal information may be located overseas.
- (d) BLY's privacy policy is available on its website at <http://www.boartlongyear.com/company/legal/>.

13. **Underwriting**

The SPP is not underwritten. As set out above, to the extent that the Share Purchase Plan is undersubscribed, (i.e. where Eligible SPP Shareholders do not subscribe for an aggregate amount of SPP Shares that equals or exceeds the full value of the US\$2.5 million aggregate cap), the remaining SPP Shares will be withdrawn from the SPP and offered to Scheme Creditors under, and in accordance with the terms of, the Creditor Share Purchase Option (as defined and described further in the Notice of EGM).

14. **Governing Law**

These terms and conditions are governed by the laws in force in New South Wales. Any dispute arising out of, or in connection with, these terms and conditions, or the SPP, will be determined by the courts of New South Wales. By accepting the SPP, you agree to submit to the non-exclusive jurisdiction of the courts in New South Wales. Other terms and conditions, rights and obligations of SPP Shares are contained in the Constitution of BLY. The terms and conditions of the SPP disclosed herein prevail to the extent of any inconsistency with the SPP Application Form.



## Glossary

TERM	DEFINITION
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>Associate</b>	has the meaning given in section 12 of the Corporations Act as if BLY was the designated body.
<b>ASX</b>	ASX Limited (ABN 98 008 624 691), or the securities exchange operated by it, as the context requires.
<b>ASX Settlement Operating Rules</b>	the settlement operating rules of ASX Settlement Pty Limited (ABN 49 008 504 532).
<b>Beneficiary</b>	a person on whose behalf a Custodian is holding BLY Shares.
<b>BLY or the Company</b>	Boart Longyear Limited (ACN 123 052 728).
<b>BLY Share</b>	a fully paid ordinary share in the capital of BLY.
<b>BLY Share Register</b>	the register of members of BLY maintained by or on behalf of BLY in accordance with section 168(1) of the Corporations Act.
<b>BLY Shareholder</b>	a person entered in the BLY Share Register as the holder of a BLY Share.
<b>CDI</b>	a CHESS Depository Interest, being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.
<b>Constitution</b>	means the constitution of BLY, as amended from time to time.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Creditor Share Purchase Option</b>	has the meaning given to that term in the Notice of EGM.
<b>Creditors' Schemes</b>	means both the Secured Creditors' Scheme and Unsecured Creditors' Scheme.
<b>Custodian</b>	a custodian as defined in paragraph 4 of <i>ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547</i> .
<b>Custodian Certificate</b>	a certificate complying with paragraph 8(3) of <i>ASIC Corporations (Share and Interest Purchase Plans) Instrument 2019/547</i> .
<b>Director</b>	a director of the Company from time to time.
<b>Eligible SPP Beneficiary</b>	a Beneficiary with a registered address in either Australia or New Zealand, provided that such Beneficiary is not in the United States or acting for the account or benefit of a person in the United States.
<b>Eligible SPP Shareholder</b>	A person who:

TERM	DEFINITION
	<ul style="list-style-type: none"> <li>a) is registered as a BLY Shareholder on the BLY Share Register on the SPP Record Date with a registered address in Australia or New Zealand;</li> <li>b) is not in the United States and not acting for the account or benefit of a person in the United States; and</li> <li>c) is eligible under all applicable securities laws to receive an offer under and participate in the SPP</li> </ul>
<b>Existing PNC ABL</b>	has the meaning given in the Notice of EGM.
<b>Explanatory Memorandum</b>	the explanatory memorandum provided to BLY Shareholders in connection with the Re-domiciliation on or about the date of this SPP Offer Booklet.
<b>Extraordinary General Meeting</b>	the extraordinary general meeting of BLY Shareholders convened by the Notice of EGM to consider, amongst other things, the Recapitalisation and associated transactions.
<b>New BLY Parent</b>	Boart Longyear Ltd. (Ontario Corporation No. 002854330), a company incorporated in Ontario, Canada and which will, subject to implementation of the Re-domiciliation Scheme, become the parent company of the BLY Group.
<b>New BLY Parent CDI</b>	a CDI in the New BLY Parent.
<b>New BLY Parent Share</b>	a common share in New BLY Parent.
<b>New Warrants</b>	warrants to be issued by the Company to the holders of Unsecured Notes under the Unsecured Creditors' Scheme on the terms further set out in the Notice of EGM.
<b>Non-Associated Shareholder</b>	<p>a BLY Shareholder who is not any of the following:</p> <ul style="list-style-type: none"> <li>a) a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder (as each such term is defined in the Notice of EGM); or</li> <li>b) an Associate of any of the persons referred to in paragraph (a) above.</li> </ul>
<b>Notice of EGM</b>	the notice convening the Extraordinary General Meeting and explanatory statement dated 29 July 2021.
<b>Recapitalisation</b>	the proposed recapitalisation of BLY announced by BLY on 13 May 2021, as further described in the Notice of EGM.
<b>Re-domiciliation</b>	the proposed re-domiciliation of BLY to Canada to be effected by way of the Re-domiciliation Scheme.
<b>Re-domiciliation Scheme</b>	A members' scheme of arrangement in accordance with Part 5.1 of the Corporations Act between BLY and BLY Shareholders pursuant to which BLY will become a wholly owned subsidiary of the New BLY Parent by the transfer of all BLY Shares to the New BLY Parent by BLY Shareholders in exchange for New BLY Parent CDIs.
<b>SBB Tender Form</b>	the form to be completed in connection with the Selective Buy-Back under which a BLY Shareholder can offer to sell its BLY Shares

TERM	DEFINITION
	to BLY on the terms and conditions set out in the Selective Buy-Back Offer booklet.
<b>Scale-back</b>	BLY's right to scale back or decrease the number of SPP Shares allotted to a participating Eligible SPP Shareholder under the SPP, in the manner described in this SPP Offer Booklet.
<b>Scheme Creditors</b>	has the meaning given in the Notice of EGM.
<b>Secured Creditors' Scheme</b>	has the meaning given to that term in the Notice of EGM.
<b>Securities Act</b>	the United States Securities Act of 1933, 15 U.S.C. § § 77a-77aa, as now in effect or hereafter amended, and the rules and regulations promulgated thereunder.
<b>Selective Buy-Back</b>	the selective buy-back pursuant to which eligible BLY Shareholders who hold small parcels of BLY Shares valued at less than A\$3,000 will have the opportunity to tender their BLY Shares for sale to BLY.
<b>Share Consolidation</b>	the proposed consolidation of BLY Shares under which every 20 BLY Shares will be converted into 1 BLY Share, pursuant to the resolution to be passed at the Extraordinary General Meeting.
<b>Share Registry</b>	Link Market Services Limited (ABN 54 083 214 537).
<b>SPP Application Form</b>	the personalised form enclosed with this SPP Offer Booklet which can be used by an Eligible SPP Shareholder to subscribe for SPP Shares under the SPP.
<b>SPP Closing Date</b>	7:00pm (Sydney time) on Monday, 6 September 2021 (or such other date as the Directors determine).
<b>SPP Offer Booklet</b>	this offer booklet dated Thursday, 29 July 2021.
<b>SPP Offer Price</b>	A\$2.48 per SPP Share.
<b>SPP Opening Date</b>	Thursday, 29 July 2021.
<b>SPP Record Date</b>	7:00pm (Sydney time) on Wednesday, 28 July 2021.
<b>SPP Share</b>	a new BLY Share issued under the SPP.
<b>SPP Share Issue Date</b>	the implementation date of the Creditors' Schemes, which will be announced by BLY to the ASX.
<b>Unsecured Creditors' Scheme</b>	has the meaning given to that term in the Notice of EGM.



**Boart Longyear Limited**  
**ABN 49 123 052 728**

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**ASX ANNOUNCEMENT (ASX:BLY)**

**Appendix E – SBB Booklet**



## **Boart Longyear Limited**

ABN 49 123 052 728

## **Selective Buy-Back Booklet**

*THIS IS AN IMPORTANT DOCUMENT*

*The Selective Buy-Back is not available to persons located or resident in, and this document is not to be distributed in or into, the United States or Canada.*

*This SBB Booklet contains important information. You should read this document in full and along with the Notice of Extraordinary General Meeting and seek advice from your financial or other professional adviser before making any investment decision. This document does not provide financial advice and has been prepared without taking into account your investment objectives, financial situation or particular needs.*

## Important Dates

DATE	EVENT
<b>7:00pm (Sydney time) on Wednesday, 28 July 2021</b>	SBB Record Date. The date for determination of BLY Shareholders who are entitled to participate in the Selective Buy-Back, being the Eligible SBB Shareholders.
<b>Thursday, 29 July 2021</b>	Announcement of Selective Buy-Back and publication of the Buy-Back Documents together with the Notice of Extraordinary General Meeting. Opening Date for the Selective Buy-Back.
<b>Thursday, 5 August 2021</b>	Despatch of the Buy-Back Documents to BLY Shareholders together with the Notice of Extraordinary General Meeting.
<b>Tuesday, 31 August 2021</b>	Creditors' Scheme Meetings to approve the Secured Creditors' Scheme and Unsecured Creditors' Scheme.
<b>7:00pm (Sydney time) on Monday, 6 September 2021</b>	SBB Closing Date. SBB Tender Period closes at 7:00pm (Sydney time). SBB Tender Forms must be completed and returned to the Share Registry by this time.
<b>Wednesday, 8 September 2021</b>	Extraordinary General Meeting of BLY Shareholders to approve the Recapitalisation and the Selective Buy-Back. Re-domiciliation Scheme Meeting to approve the Re-domiciliation Scheme.
<b>Thursday, 16 September 2021</b>	Second Court Date for the Creditors' Schemes.
<b>Wednesday, 22 September 2021</b>	BLY Share Register updated for Share Consolidation.
<b>Thursday, 23 September 2021</b>	Implementation date for the Recapitalisation.  Buy-Back Date. The date on which the Selective Buy-Back will complete (if the conditions to the Selective Buy-Back are satisfied). Date of disposal of BLY Shares acquired under the Selective Buy-Back.  The date on which the Buy-Back Price is to be paid to successful participants.

\* While BLY does not anticipate any changes to these dates and times, it reserves the right to vary them without notifying you. Any change in date or time will take effect from the time it is authorised by BLY and will be publicly announced on ASX as soon as practicable following that authorisation. Any such change will be taken to amend this SBB Booklet (and the other Buy-Back Documents) accordingly. BLY may, in its absolute discretion, also decide not to proceed with the Selective Buy-Back.

This SBB Booklet is dated 29 July 2021 and is current as at that date (except where otherwise indicated).

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### About this SBB Booklet

This SBB Booklet contains important information about the Selective Buy-Back and is provided to assist you in making an informed decision about whether to participate. This SBB Booklet does not provide financial product advice and has been prepared without taking into account your particular circumstances. You should carefully consider the appropriateness of the Selective Buy-Back for you, having regard to your own objectives, financial situation and needs. If you have any questions about the action you should take, please consult your financial, taxation or other professional advisor immediately.

Section 5 of this SBB Booklet defines the capitalised words used in this SBB Booklet and sets out rules for interpretation.

### Notice to foreign BLY Shareholders

If you are an Excluded Foreign Person, you will not be able to participate in the Selective Buy-Back. Any person located in the United States, any US Person and any resident of Canada is not entitled to participate, directly or indirectly, in the Selective Buy-Back. Only Eligible SBB Shareholders may participate.

The distribution of this SBB Booklet in some jurisdictions might be restricted by law and does not constitute an invitation to participate in any place where, or to any person to whom, it would be unlawful to do so. Persons who come into possession of this SBB Booklet should seek advice on, and observe any restrictions on, distributing it. Copies of the Buy-Back Documents are not being mailed or otherwise distributed to the United States or Canada. Any person receiving any of the Buy-Back Documents must not distribute or send them into the United States or Canada, or make them available to any Excluded Foreign Person, including any person located in the United States, any US Person or any resident of Canada.

## Chairman's Letter

29 July 2021

Dear Shareholder

As announced by Boart Longyear Limited (**BLY**) on 13 May 2021, BLY entered into the Restructuring Support Agreement with an overwhelming majority of BLY's lenders, including affiliates of Ares, Ascribe, CBP, Corre, FPA and Nut Tree, under which the parties have agreed, subject to the satisfaction of certain conditions, to pursue and implement a recapitalisation transaction as summarised below (the **Recapitalisation**). The Recapitalisation will convert approximately US\$795 million of the BLY Group's debt and accrued interest costs into 98.5% of BLY's post-Recapitalisation ordinary shares. If approved and implemented, the Recapitalisation will significantly reduce BLY's debt, strengthen the balance sheet of the BLY Group, lower interest expenses and enhance liquidity to support BLY's operations and growth.

The Recapitalisation will be implemented pursuant to the Secured Creditors' Scheme and the Unsecured Creditors' Scheme (together, the **Creditors' Schemes**), and is subject to a number of conditions, including creditor and Court approval of the Creditors' Schemes as well as Non-Associated Shareholders of BLY approving resolutions required to give effect to the Recapitalisation.

In connection with the Recapitalisation, BLY also proposes to:

- (a) undertake a 20 for 1 share consolidation to reduce the number of BLY Shares on issue which will be effected prior to the issue of any new BLY Shares under the Creditors' Schemes, Share Purchase Plan and Creditor Share Purchase Option (as defined below) (**Share Consolidation**);
- (b) offer eligible BLY Shareholders the opportunity to subscribe for up to AU\$30,000 of new BLY Shares at a price of A\$2.48 per BLY Share (calculated on a post-Share Consolidation basis) under a share purchase plan, to raise up to a maximum of US\$2.5 million (**Share Purchase Plan**);
- (c) offer, first to SUN Noteholders, and then to TLA Purchasers, TLB Purchasers and SSN Noteholders in each case who are Scheme Creditors, the opportunity to purchase new BLY Shares at a price of A\$2.48 per BLY Share (calculated on a post-Share Consolidation basis), up to an aggregate cap of US\$2.5 million plus any shortfall under the Share Purchase Plan (the **Creditor Share Purchase Option**); and
- (d) refinance the Working Capital Facilities pursuant to the Exit Financing Facility.

Pursuant to the Restructuring Support Agreement, BLY has also agreed to pursue a re-domiciliation to Canada (**Re-domiciliation**). Canada was chosen after a review of the benefits and disadvantages as against remaining incorporated in Australia and re-domiciling to the United States. The Re-domiciliation will be effected by way of a scheme of arrangement between BLY and the BLY Shareholders (**Re-domiciliation Scheme**). Subject to satisfaction of all conditions to the Re-domiciliation including approval by BLY Shareholders at a meeting to be held on the same date as the Extraordinary General Meeting, and Court approval, it is proposed that the Re-domiciliation will be implemented shortly after implementation of the Recapitalisation. The Re-domiciliation is also subject to the Court approving the Creditors' Schemes and the Creditors' Schemes becoming effective.

Further details of the Recapitalisation and the Re-domiciliation are contained in the Notice of Extraordinary General Meeting and notice of meeting and explanatory statement for the Re-domiciliation Scheme provided together with this SBB Booklet.



In addition, in conjunction with the Re-domiciliation and conditional on BLY Shareholders approving the Re-domiciliation Scheme to effect the Re-domiciliation, BLY proposes that Eligible SBB Shareholders who hold small parcels of BLY Shares valued at less than A\$3,000 will have the opportunity to offer to sell their BLY Shares to BLY under a selective buy-back (**Selective Buy-Back**). The purchase of any BLY Shares under the Selective Buy-Back will occur after the Share Consolidation has been effected. Consequently, the number of BLY Shares held by an Eligible SBB Shareholder which will be bought back will be equal to the number of BLY Shares held by the Eligible SBB Shareholder at the SBB Record Date as reduced by the Share Consolidation (subject to BLY's absolute discretion to determine whether to accept (in whole or in part) or reject an offer to sell BLY Shares received by BLY from Eligible SBB Shareholders). The Buy-Back Price is A\$2.48 per BLY Share (calculated on a post-Share Consolidation basis). The following table shows the pricing for the transactions contemplated in connection with the Recapitalisation and the Re-domiciliation:

Shareholder transactions	Pricing (on a post-Share Consolidation basis)
Issue of new shares under the Share Purchase Plan	A\$2.48 per share
Buy back of existing shares under Selective Buy-Back	A\$2.48 per share
Scheme Creditor Transactions	Pricing (on a post-Share Consolidation basis)
Issue of new shares under Creditor Share Purchase Option	A\$2.48 per share

On behalf of BLY, I am pleased to offer Eligible SBB Shareholders the opportunity to participate in the Selective Buy-Back described in this SBB Booklet. The purchase of BLY Shares by BLY under the Selective Buy-Back is conditional on:

- (a) BLY Shareholders approving the Selective Buy-Back at the Extraordinary General Meeting;
- (b) BLY Shareholders approving the Re-domiciliation Scheme to effect Re-domiciliation; and
- (c) the Creditors' Schemes becoming effective under section 411(10) of the Corporations Act.

The Selective Buy-Back is intended to give Eligible SBB Shareholders, who hold small parcels of BLY Shares, the opportunity to exercise a cash-out option in lieu of retaining their existing BLY Shares. BLY recognises that existing BLY Shareholders will be significantly diluted following implementation of the Creditors' Schemes and may not wish to hold CDIs in the redomiciled Canadian company. The Selective Buy-Back will provide Eligible SBB Shareholders with the opportunity to sell their BLY Shares without incurring brokerage fees and other expenses.

The Selective Buy-Back will be conducted through a tender process in which Eligible SBB Shareholders can offer to sell their BLY Shares back to BLY at the Buy-Back Price. BLY may, in its absolute discretion, determine whether to accept (in whole or in part) or reject an offer to sell BLY Shares received by BLY from Eligible SBB Shareholders. The maximum amount that BLY will spend to buy-back BLY Shares under the Selective Buy-back will be US\$500,000. You do not need to take any action if you do not wish to participate in the Selective Buy-Back.

Any BLY Shares bought back by BLY under the Selective Buy-Back will be acquired by BLY on the same date as the implementation date of the Creditors' Schemes, which will be announced by BLY to the ASX. Details on how Eligible SBB Shareholders can participate and offer their BLY Shares for sale to BLY as part of the Selective Buy-Back are set out in this SBB Booklet. In particular, the process is summarised in Section 1 and the important dates are listed on page 2, including the SBB Tender Period (which closes 7:00pm on 6 September, being the SBB Closing Date).

Eligible SBB Shareholders may tender their BLY Shares at the Buy-Back Price of \$2.48 per BLY Share. The Selective Buy-Back will have different tax implications for each Eligible SBB Shareholder. A general summary of the Australian income tax implications of participating in the Selective Buy-Back is set out in Section 2 of this SBB Booklet. Eligible SBB Shareholders should obtain independent taxation or other professional advice specific to their circumstances before deciding to participate in the Selective Buy-Back.

If, after reading this SBB Booklet, you have any questions about how to participate or how the Selective Buy-Back operates, please call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) between 9.00am (AEST) to 5.00pm (AEST), Monday to Friday (excluding public holidays).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kevin McArthur', with a stylized flourish at the end.

**Kevin McArthur**  
**Chair**

## Introduction

This SBB Booklet is issued by BLY and explains the features of the Selective Buy-Back.

Capitalised terms in this SBB Booklet are defined in Section 5.1 (*Definitions*).

## Eligibility to participate

Only BLY Shareholders who are Eligible SBB Shareholders are eligible to participate in the Selective Buy-Back.

You will be an Eligible SBB Shareholder if you are:

- (a) the registered holder of BLY Shares as at the SBB Record Date which have an aggregate value equal to less than A\$3,000 (calculated by reference to the closing price of BLY Shares on ASX on the SBB Record Date);
- (b) a Non-Associated Shareholder; and
- (c) not a Excluded Foreign Person.

If you are not an Eligible SBB Shareholder, you will not be able to participate in the Selective Buy-Back.

The distribution of this SBB Booklet in some jurisdictions might be restricted by law and does not constitute an invitation to participate in any place where, or to any person to whom, it would be unlawful to do so. Persons who come into possession of this SBB Booklet should seek advice on, and observe any restrictions on, distributing it.

Any person who is located in the United States, who is a US Person or a resident in Canada is not entitled to participate, directly or indirectly, in the Selective Buy-Back. Copies of the Buy-Back Documents are not being mailed or otherwise distributed or sent to addresses in the United States or Canada.

Any person receiving any of the Buy-Back Documents must not distribute or send them into the United States or Canada, or make them available to any Excluded Foreign Person, any US Person (including to any legal or beneficial owner of BLY Shares that is a US Person) or any person who is located in the United States or Canada.

- (a) BLY will not accept SBB Tender Forms containing Tenders from BLY Shareholders who are not Eligible SBB Shareholders;
- (b) from any person who does not represent that they are not (and they are not acting on behalf of or for the account of a person who is) located in the United States or Canada or a US Person; or
- (c) that appear to BLY or its agents to have been sent from the United States or Canada.

## Notice to foreign BLY Shareholders

If you are an Excluded Foreign Person, you will not be able to participate in the Selective Buy-Back. In particular, any person located in the United States, any US Person and any resident of Canada is not entitled to participate, directly or indirectly, in the Selective Buy-Back.

The distribution of this SBB Booklet in some jurisdictions might be restricted by law and does not constitute an invitation to participate in any place where, or to any person to whom, it would be unlawful to do so. Persons who come into possession of this SBB Booklet should seek advice on, and observe any restrictions on, distributing it. Any person receiving any of the Buy-Back Documents must not distribute or send them into the United States or Canada, or make them available to any Excluded Foreign Person, including any person located in the United States, any US Person or any resident of Canada.

## Key features of the Selective Buy-Back

<b>Maximum size</b>	The maximum amount that BLY will spend to buy-back BLY Shares under the Selective Buy-Back will be US\$500,000.																	
<b>Buy-Back Price</b>	<p>The Buy-Back Price is A\$2.48 per BLY Share (calculated on a post Share Consolidation basis).</p> <p>The following table shows the pricing for the transactions contemplated in connection with the Recapitalisation and the Re-domiciliation:</p> <table><tr><th colspan="2">Shareholder transactions</th><th>Pricing (on a post-Share Consolidation basis)</th></tr><tr><td colspan="2">Issue of new shares under the Share Purchase Plan</td><td>A\$2.48 per share</td></tr><tr><td colspan="2">Buy back of existing shares under Selective Buy-Back</td><td>A\$2.48 per share</td></tr></table> <table><tr><th>Scheme Transactions</th><th>Creditor</th><th>Pricing (on a post-Share Consolidation basis)</th></tr><tr><td colspan="2">Issue of new shares under Creditor Share Purchase Option</td><td>A\$2.48 per share</td></tr></table> <p>The purchase of any BLY Shares under the Selective Buy-Back will occur after the Share Consolidation has been effected. Consequently, the number of BLY Shares held by an Eligible SBB Shareholder which will be bought back will be the number of BLY Shares held by the Eligible SBB Shareholder at the SSB Record Date as reduced for the Share Consolidation (subject to BLY's absolute discretion to determine whether to accept (in whole or in part) or reject an offer to sell BLY Shares received by BLY from Eligible SBB Shareholders).</p>			Shareholder transactions		Pricing (on a post-Share Consolidation basis)	Issue of new shares under the Share Purchase Plan		A\$2.48 per share	Buy back of existing shares under Selective Buy-Back		A\$2.48 per share	Scheme Transactions	Creditor	Pricing (on a post-Share Consolidation basis)	Issue of new shares under Creditor Share Purchase Option		A\$2.48 per share
Shareholder transactions		Pricing (on a post-Share Consolidation basis)																
Issue of new shares under the Share Purchase Plan		A\$2.48 per share																
Buy back of existing shares under Selective Buy-Back		A\$2.48 per share																
Scheme Transactions	Creditor	Pricing (on a post-Share Consolidation basis)																
Issue of new shares under Creditor Share Purchase Option		A\$2.48 per share																
<b>Minimum offer by Eligible SBB Shareholders</b>	If you are an Eligible SBB Shareholder who submits an SBB Tender Form, you must tender all of the BLY Shares you hold as at the SBB Record Date.																	

## How do I participate?

It is important that you read this SBB Booklet in full before deciding to participate. If you have any questions about whether participation is in your interest, you should seek financial, taxation or other professional advice. If, after reading this SBB Booklet, you have any questions about how to participate or how the Selective Buy-Back operates, please call the Shareholder Information Line on 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) between 9.00am (AEST) to 5.00pm (AEST), Monday to Friday (excluding public holidays).

If you are an Eligible SBB Shareholder and you choose to participate you can do so by:

- (1) Completing the online SBB Tender Form, electing to Tender your BLY Shares, via <https://events.miraqle.com/bly-sbb> by no later than 7:00pm on the SBB Closing Date (Monday, 6 September 2021); or
- (2) If you are an Issuer Sponsored Holder, please complete the personalised paper SBB Tender Form containing a Tender and returning it to the Share Registry (by post or by email) no later than 7:00pm on the SBB Closing Date (Monday, 6 September) 2021); or

- (3) If you are a sponsored CHESSE Holder, please **DO NOT** send your SBB Tender Form to the Registry. Instead, you should send your SBB Tender Form to your controlling CHESSE participant. Please refer to the instructions on the back of the SBB Tender Form for more information. If you need to instruct your controlling CHESSE participant, please ensure you do so in sufficient time for them to process your instructions no later than 7:00pm on the SBB Closing Date (Monday, 6 September 2021).

For detailed instructions on how to participate, see Section 1.5 of this SBB Booklet.

### **If you DO NOT choose to participate**

If you do not wish to participate in the Selective Buy-Back, including where you have chosen to participate in the Share Purchase Plan and completed an SPP Application Form, you do not need to take any action.

## **1. BUY-BACK AND TENDER PROCESS**

This SBB Booklet sets out the terms of the Selective Buy-Back and other information to assist you in deciding whether to participate in the Selective Buy-Back.

This SBB Booklet does not constitute or give rise to a legally binding offer capable of your acceptance. If you submit a Tender, you make a formal offer to sell your BLY Shares to BLY on the terms and conditions set out in the Buy-Back Documents. BLY may determine, in its absolute discretion, whether to accept (in whole or in part) your Tender. If BLY determines to purchase some or all of your tendered BLY Shares, on the Buy-Back Date, a Buy-Back Contract will be formed in respect of those accepted BLY Shares and those BLY Shares will be sold to BLY on those terms and conditions.

### **1.1 What is the Selective Buy-Back?**

BLY is proposing to undertake the Selective Buy-Back by inviting Eligible SBB Shareholders to offer to sell their BLY Shares to BLY by a tender process. Eligible SBB Shareholders who wish to participate must Tender all of their BLY Shares. The price that BLY will purchase any BLY Shares under the Selective Buy-Back will be the Buy-Back Price.

The purchase of any BLY Shares under the Selective Buy-Back will occur after the Share Consolidation has been effected. Consequently, the number of BLY Shares held by an Eligible SBB Shareholder which will be bought back will be equal to the number of BLY Shares held by the Eligible SBB Shareholder at the SBB Record Date as reduced by the Share Consolidation (subject to BLY's absolute discretion to determine whether to accept (in whole or in part) or reject an offer to sell BLY Shares received by BLY from Eligible SBB Shareholders). The Buy-Back Price is calculated on a post-Share Consolidation basis.

The number of BLY Shares purchased by BLY under the Selective Buy-Back will be determined by BLY in its absolute discretion. However, the maximum amount that BLY will spend to buy-back BLY Shares under the Selective Buy-Back will be US\$500,000.

Any BLY Shares bought back by BLY under the Selective Buy-Back will be acquired by BLY on the same date as the implementation date of the Creditors' Schemes, which will be announced by BLY to the ASX.

Each BLY Share bought back by BLY on the Buy-Back Date will be bought back for the same amount, being the Buy-Back Price.

BLY Shares purchased by you after the SBB Record Date will not confer an entitlement to participate in the Selective Buy-Back.

### **1.2 How will BLY determine which BLY Shares to buy back?**

BLY will determine, in its absolute discretion, whether to accept (in whole or in part) a Tender.

There is no guarantee that all, or some, of your Tender will be accepted. The maximum amount that BLY will spend to buy-back BLY Shares under the Selective Buy-Back will be US\$500,000. However, BLY retains an absolute discretion as to whether to accept any Tenders.

### **1.3 Why is BLY conducting the Selective Buy-Back?**

The Selective Buy-Back is intended to give Eligible SBB Shareholders who hold small parcels of BLY Shares the opportunity to exercise a cash-out option in lieu of retaining their existing BLY Shares, noting that existing BLY Shareholders will be significantly diluted following implementation of the Creditors' Schemes and may not wish to hold CDIs in the redomiciled Canadian company. The Selective Buy-Back is intended to provide Eligible SBB Shareholders

with the opportunity to sell their BLY Shares without incurring brokerage fees and other expenses.

#### 1.4 **Do I have to Tender my BLY Shares?**

No. Participation in the Selective Buy-Back is voluntary. If you do not want to participate in the Selective Buy-Back, you do not need to do anything.

If you do not participate in the Selective Buy-Back, or if you submit a Tender but none of your BLY Shares are bought back, the number of BLY Shares you hold will not change as a result of the Selective Buy-Back (noting that, subject to approval by BLY Shareholders, the number of BLY Shares held by all BLY Shareholders will be reduced by a factor of twenty when the Share Consolidation is implemented).

If you have any questions about whether you should participate in the Selective Buy-Back, please consult your financial, taxation or other professional advisor.

#### 1.5 **If I decide to participate, how do I Tender my BLY Shares?**

You can participate in the Selective Buy-Back by either:

##### **GOING ONLINE**

- (a) Complete the online SBB Tender Form, electing to Tender your BLY Shares, via <https://events.miracle.com/bly-sbb>.
- (b) You will require your Security-holder Reference Number (SRN) or Holder Identification Number (HIN) or Employee Participant ID. You can find these numbers in the top right-hand corner of any shareholder forms or statements previously sent to you.
- (c) If you are a sponsored CHESSE Holder, you are encouraged to lodge your form by 5.00pm on Friday, 3 September 2021 (being the business day prior to the SBB Closing Date). The Share Registry will need to confirm with your controlling CHESSE participant any online submission of your SBB Tender Form before it can be taken as validly submitted and there may not be sufficient time to do so for any online SBB Tender Forms submitted by CHESSE Holders after 5:00pm on Friday, 3 September 2021.

##### **USING A PERSONALISED PAPER SBB TENDER FORM**

- (a) If you received a paper copy of this SBB Booklet, you will have also received a personalised paper SBB Tender Form accompanying this SBB Booklet.
- (b) If you use the personalised paper SBB Tender Form, you need to submit it in accordance with the instructions in Step 3 below.
- (c) If you don't already have it and would like a personalised paper SBB Tender Form, please contact the Shareholder Information Line 1300 540 303 (within Australia) or +61 2 9066 4083 (from outside Australia) between 9.00am (AEST) to 5.00pm (AEST), Monday to Friday (excluding public holidays).
- (d) If you are a sponsored CHESSE Holder, you are encouraged to lodge your form by 5:00pm on Friday, 3 September 2021. The Share Registry will need to confirm with your controlling CHESSE participant any submission of your SBB Tender Form before it can be taken as validly submitted and there may not be sufficient time to do so for any SBB Tender Forms submitted by CHESSE Holders after

5:00pm on Friday, 3 September 2021.

- (e) If you are a sponsored CHESSE Holder, you can also contact your controlling CHESSE participant directly and instruct your controlling CHESSE participant in sufficient time for them to process your instructions no later than 7:00pm on the SBB Closing Date (Monday, 6 September 2021). You should not return your SBB Tender Form to the Share Registry. However, your controlling CHESSE participant may request that you complete and send your personalised paper SBB Tender Form to them.

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### Step 1: Decide if you wish to participate in the Selective Buy-Back

If you wish to participate in the Selective Buy-Back, you must Tender all of your BLY Shares.

If you decide not to participate in the Selective Buy-Back, including where you have chosen to participate in the Share Purchase Plan and completed an SPP Application Form, you do not need to take any action.

**Note:** You should complete either the SBB Tender Form or the SPP Application Form but not both. Participation in the Selective Buy-Back means that you are offering to Tender your BLY Shares. Participation in the Share Purchase Plan means you are electing to subscribe for additional BLY Shares. Therefore, you should choose to participate in either the Selective Buy-Back or the Share Purchase Plan but not both. If you wish to participate in the Selective-Buy Back, you do not need to complete the SPP Application Form.

### Step 2: If completing a paper SBB Tender Form, sign the paper SBB Tender Form and mark that you wish to Tender your BLY Shares

Sign your SBB Tender Form in Box C, mark in Box B that you wish to Tender your BLY Shares, and provide the relevant contact details.

The payment method will be direct credit in Australian or New Zealand dollars to the bank account recorded on your shareholding. If we do not hold bank account details for you, you need to update your instructions online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au).

If you have not recorded a bank account by the closing date of the offer, your payment will be withheld until a bank account has been provided.

### Step 3: Submit your SBB Tender Form

Please ensure you complete the SBB Tender Form correctly and in accordance with the instructions at the top of the form (in particular, that you have marked that you wish to Tender your BLY Shares under the Selective Buy-Back, and not to participate in the Share



Purchase Plan). The simplest way of submitting your SBB Tender Form, to ensure it is received in time by the SBB Closing Date, is to submit the form online via <https://events.miracle.com/bly-sbb>. Please follow the instructions on the SBB Tender Form. You will receive confirmation by email when your SBB Tender Form has been received online.

If you are an Issuer Sponsored Holder, please submit a paper SBB Tender Form, either:

- (a) mail it to the Selective Buy-Back mailing address:

Boart Longyear Limited Share Registry  
C/-Link Market Services Limited  
PO Box 1524  
Sydney South NSW 1234

- (b) or email it to [offers@linkmarketservcies.com](mailto:offers@linkmarketservcies.com).

If you are a sponsored CHESS Holder, you may submit your SBB Tender Form via your controlling CHESS participant by complying with their instructions and ensuring the SBB Tender Form is submitted in time (you will need to allow extra time for this).

You will be sent written confirmation from CHESS of the Tenders made on your holding by your controlling CHESS participant on your behalf. This confirmation is not an acceptance of your offer by BLY.

#### 1.6 **The effect of submitting an SBB Tender Form containing a Tender**

When you submit an SBB Tender Form containing a Tender for BLY Shares, it constitutes an offer by you to sell your BLY Shares to BLY on the terms and conditions set out in the Buy-Back Documents.

Submitting an SBB Tender Form that contains a Tender does not, of itself, constitute a binding contract for the sale of your BLY Shares, and cannot be enforced against BLY. BLY retains the absolute discretion to accept or reject any offer to sell BLY Shares (in whole or in part) and may choose to reject all offers. If BLY accepts your Tender (in whole or in part), on the Buy-Back Date, a binding Buy-Back Contract will be formed between you and BLY for the relevant BLY Shares and you must sell those BLY Shares to BLY on the terms and conditions set out in the Buy-Back Documents, including the terms and conditions set out below.

By submitting an SBB Tender Form containing a Tender, you:

- (a) agree to the terms and conditions set out in the Buy-Back Documents;
- (b) make an offer to sell to BLY on the Buy-Back Date all of your BLY Shares at the Buy-Back Price;
- (c) agree to any scale back announced by BLY;
- (d) agree that BLY's announcement to ASX on the Buy-Back Date of details of results of the Selective Buy-Back and dispatch to you of a statement notifying you of the number of your BLY Shares (if any) that have been bought back by BLY constitutes:
  - (i) effective notice or communication of BLY's acceptance of your Tender in respect of all or some of your BLY Shares offered for sale, as outlined in such statement (in accordance with the terms and conditions set out in the Buy-Back Documents); and/or

- (ii) effective notice or communication of BLY's rejection of your Tender in respect of all or some of your BLY Shares offered for sale, as outlined in such statement (in accordance with the terms and conditions set out in the Buy-Back Documents);
- (e) agree that a Buy-Back Contract is formed for the buy-back of the relevant BLY Shares upon BLY accepting your offer in accordance with the terms and conditions set out in the Buy-Back Documents and posting an announcement on ASX's website of details of results of the Selective Buy-Back on the Buy-Back Date, and that the buy-back of the relevant BLY Shares is taken to occur at that time;
- (f) waive any requirement to receive further notice or communication from BLY of its acceptance or rejection of any Tender submitted by you;
- (g) warrant to BLY that:
  - (i) at all times after you offer your BLY Shares for sale through the Selective Buy-Back, and on the Buy-Back Date, you are the registered holder of the BLY Shares that you have offered for sale and that they are fully paid, free from any mortgage, charge, lien, or other encumbrances (whether legal or equitable) and from any third party rights and otherwise able to be sold freely by you;
  - (ii) you are a person to whom the invitation to participate in the Selective Buy-Back may lawfully be made, who can receive the proceeds of the sale of your BLY Shares, and whose participation in the Selective Buy-Back is permitted under the laws of the jurisdiction in which you are a resident, and that you are an Eligible SBB Shareholder;
  - (iii) you have not distributed or sent any Buy-Back Documents or other document referring to the Selective Buy-Back into the United States or Canada or to any US Person, resident of Canada or a person who is otherwise not an Eligible SBB Shareholder; and
  - (iv) you have not utilised in connection with the Selective Buy-Back, directly or indirectly, mail or any means or instrumentality (including without limitation, facsimile transmission, telephone and internet) of interstate or foreign commerce of, or any facility of a national securities exchange of, the United States;
- (h) authorise BLY (and its officers, agents or contractors) to correct any error in or omission from your SBB Tender Form, and to insert any missing details (but you acknowledge that BLY has no obligation to do so and that incorrect or incomplete forms may be rejected);
- (i) undertake not to sell or offer to sell the BLY Shares the subject of your Tender to any other person until the Buy-Back Date;
- (j) acknowledge and agree that neither BLY nor any other party involved in the Selective Buy-Back has provided you with financial product advice, taxation advice or any securities recommendation, or has any obligation to provide this advice or recommendation, concerning your decision to participate in the Selective Buy-Back or the manner of any such participation;
- (k) authorise BLY to make payment by direct credit to the bank account recorded on your shareholding or provided online at [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au) prior to the SBB Closing Date and acknowledge that payments to this account will satisfy BLY's obligations to pay you for any BLY Shares bought back under the Selective Buy-Back;

- (l) undertake that, if you breach any of these covenants, undertakings, agreements or warranties, you will indemnify BLY for all of its costs arising from the breach; and
- (m) agree that damages are not an adequate remedy for breach of these covenants, undertakings, agreements, representations or warranties.

You will be taken to have submitted an SBB Tender Form when the Share Registry receives a validly submitted SBB Tender Form either online or by mail or, if you have a CHESS Holding, from your controlling CHESS participant through CHESS.

#### 1.7 **Can I trade my BLY Shares after submitting a Tender?**

Once you have tendered BLY Shares into the Selective Buy-Back, you should not:

- (a) sell or offer to sell those BLY Shares;
- (b) convert those BLY Shares from an Issuer Sponsored Holding to a CHESS Holding or vice versa; or
- (c) move those BLY Shares between Issuer Sponsored Holdings or CHESS Holdings (for instance, if you change your controlling participant).

Once you have submitted a Tender, your BLY Shares will be locked and placed in a 'sub-position' in the BLY Share Register. You will not be able to deal with those BLY Shares until they are released from the sub-position on the business day after the Buy-Back Date or otherwise released at the discretion of BLY if the Selective Buy-Back is not proceeded with.

#### 1.8 **Can I withdraw or amend my Tender?**

Submission of a Tender prior to the SBB Closing Date is irrevocable and cannot be withdrawn or amended once submitted.

#### 1.9 **How will I know if my tendered BLY Shares have been bought back?**

On the Buy-Back Date, BLY intends to dispatch to all Eligible SBB Shareholders who have tendered their BLY Shares into the Selective Buy-Back a statement notifying them of the number of their BLY Shares (if any) that have been bought back by BLY.

Eligible SBB Shareholders can also access this information on or after the Buy-Back Date by contacting the Share Registry information line on 1800 781 663 (within Australia) or +61 1800 781 663 (from outside Australia) (from 8:30 am to 5.00 pm (Sydney time)). If you are a CHESS Holder, CHESS will provide you with written confirmation of the successful Tenders made on your holding or Tenders withdrawn by your controlling CHESS participant.

#### 1.10 **How will I receive payment for BLY Shares bought back?**

Proceeds payable to Eligible SBB Shareholders under the Selective Buy-Back will be paid by direct credit in Australian or New Zealand dollars.

If you have a direct credit authority to an Australian or New Zealand bank account recorded in the BLY Share Register at 7:00pm (Sydney time) on the SBB Closing Date, all proceeds payable to you under the Selective Buy-Back (if any) will be credited to your nominated bank account.

Alternatively, if you wish to receive payment for any BLY Shares purchased by BLY under the Selective Buy-Back to an Australian or New Zealand bank account that is different to your current registered direct credit instructions, you may change your current direct credit instructions online via [www.linkmarketservices.com.au](http://www.linkmarketservices.com.au). In order to be effective for the Selective Buy-Back, you must make this change by 7:00pm (Sydney time) on the SBB

Closing Date. You cannot use a United States or Canadian bank account for payments in respect of the Selective Buy-Back.

Please note that if you do alter your nominated bank account details, this will be taken to be your nominated bank account for future dividend payments (if any).

If you do not have a direct credit authority to an Australian or New Zealand bank account recorded in the BLY Share Register as at 7:00pm (Sydney time) on the SBB Closing Date, any proceeds due to you under the Selective Buy-Back (if any) will be withheld until a bank account has been provided.

Payments to bank accounts are expected to occur on or around Thursday, 23 September 2021 and will satisfy BLY's obligation to pay Eligible SBB Shareholders for any BLY Shares that BLY buys back under the Selective Buy-Back.

#### **1.11 BLY Shares held by trustees and nominees**

Trustees or nominees who hold BLY Shares on behalf of or for the account of a person who is located in the United States, a US Person or a resident of Canada must not inform such person of the Selective Buy-Back and must not distribute the Buy-Back Documents into the United States or Canada, or otherwise make them available to any person located in the United States, any US Person or any resident of Canada. It is the responsibility of the trustee or nominee to ensure that, when completing an aggregated SBB Tender Form, it does not include any offers to sell BLY Shares on behalf of such persons.

#### **1.12 Joint BLY Shareholders**

If you hold your BLY Shares jointly with another person (for example, your spouse), you must complete and return the SBB Tender Form in accordance with the instructions for joint holdings on the SBB Tender Form.

Please note that you will have access to an online SBB Tender Form or you will receive a personalised paper SBB Tender Form, on request, for each separate registered holding of BLY Shares you have (for example, if you hold some BLY Shares in your name and some BLY Shares jointly with another person, you will receive two SBB Tender Forms). You may offer BLY Shares for sale through the Selective Buy-Back from any or all of your registered holdings provided that you complete and follow the instructions on each SBB Tender Form for each holding.

#### **1.13 Restrictions under margin lending and other arrangements**

If you hold your BLY Shares under margin lending arrangements or if they are held as security for a loan or as ASX Clear Pty Limited collateral, you should ensure that your participation in the Selective Buy-Back is permitted by those margin lending arrangements, the relevant loan and security documentation, or by ASX Clear Pty Limited, as relevant. Even if you are an Eligible SBB Shareholder as defined in this SBB Booklet, there may be external restrictions on your participation in the Selective Buy-Back. It is your responsibility to comply with any such restrictions and BLY makes no representations in that regard.

#### **1.14 Rights cannot be transferred**

Eligible SBB Shareholders cannot transfer their entitlement to offer BLY Shares for sale through this Selective Buy-Back to any other person.

#### **1.15 What happens if I purchase more BLY Shares?**

BLY Shares purchased by you after the SBB Record Date will not confer an entitlement to participate in the Selective Buy-Back (because they were not held by you on the SBB Record Date).

## 1.16 **Taxation**

General information on the Australian tax implications for Eligible SBB Shareholders participating in the Selective Buy-Back is included in Section 2 of this SBB Booklet. However, BLY is not seeking a class ruling from the ATO in the Australian income tax implications of the Selective Buy-Back and Eligible SBB Shareholders will need to consider their own particular tax circumstances. All Eligible SBB Shareholders should consult their financial, taxation or other professional advisor.

## 1.17 **Can I still vote at the Extraordinary General Meeting if I tender all my BLY Shares into the Selective Buy-Back?**

Eligible SBB Shareholders who complete and return an SBB Tender Form that contains a Tender for their BLY Shares:

- (a) will be able to attend the Extraordinary General Meeting of BLY to be held on Wednesday, 8 September 2021 and vote on all resolutions other than the resolution to approve the Selective Buy-Back; and
- (b) will not be eligible to vote on the resolution at the Extraordinary General Meeting to approve the Selective Buy-Back.

## 1.18 **Can I still vote at the Re-domiciliation Scheme Meeting if I Tender my BLY Shares into the Selective Buy-Back?**

Eligible SBB Shareholders who complete and return an SBB Tender Form that contains a Tender for their BLY Shares will be able to attend the Re-domiciliation Scheme Meeting and vote on the Re-domiciliation Scheme.

## 2. **TAX IMPLICATIONS FOR ELIGIBLE SBB SHAREHOLDERS**

This section of this SBB Booklet is intended only as a general summary of the Australian income tax implications of participating in the Selective Buy-Back. If you decide to participate in the Selective Buy-Back, your particular tax treatment will depend on your own circumstances. It is therefore important that you obtain professional tax advice to take into account your own particular circumstances.

BLY is not seeking a class ruling from the Australian Taxation Office (**ATO**) on behalf of its shareholders in relation to the Selective Buy-Back and it is therefore possible that the ATO will disagree with the summary set out below.

### 2.1 **Australian Tax Implications for Eligible SBB Shareholders**

Unless otherwise specified, information in this section is based on Australian income tax legislation and administrative practice as at the date of this SBB Booklet. These laws, the interpretation of them by the courts, and administrative practice, may change at any time, and sometimes with retrospective effect.

This general summary of the Australian income tax implications of participating in the Selective Buy-Back is limited to Eligible SBB Shareholders who hold their BLY Shares on capital account for Australian income tax purposes. This general summary does not apply to Eligible SBB Shareholders who:

- (a) hold their BLY Shares as revenue assets or trading stock, such as banks, insurance companies and taxpayers carrying on a business of share trading;
- (b) have acquired their BLY Shares for the purposes of resale at a profit;

- (c) are subject to the Taxation of Financial Arrangements rules in Division 230 of the *Income Tax Assessment Act 1997* (Cth) in respect of their BLY Shares;
- (d) are subject to special tax rules, such as entities that are exempt from Australian income tax, partnerships, insurance companies or trusts that are subject to special taxation regimes (such as "attribution managed investment trusts" and trusts that are taxed as companies); or
- (e) acquired their BLY Shares under an arrangement that constitutes an 'employee share scheme' for Australian income tax purposes.

The tax consequences for those Eligible SBB Shareholders may differ significantly from those discussed below.

This summary is not advice and should not be relied on as such. It also does not take account of any individual circumstances of any particular Eligible SBB Shareholder. Taxation is a complex area of law and the taxation consequences for each Eligible SBB Shareholder may differ depending on their own particular circumstances. Accordingly, Eligible SBB Shareholders should seek specific advice applicable to their own particular circumstances from their own financial or tax advisers. Neither BLY, nor any of its officers, nor its taxation adviser, nor any other adviser to BLY, accepts any liability or responsibility in respect of any statement concerning the taxation consequences of the Selective Buy-Back.

#### **(a) Australian resident Eligible SBB Shareholders**

The general summary in this section (a) applies to Eligible SBB Shareholders that are residents of Australia for Australian income tax purposes and meet the criteria set out in section 2.1 above.

##### **2.1.1 Income Tax – Dividend component of Buy-Back Price**

The Selective Buy-Back should constitute an "off-market purchase" for the purposes of Division 16K of Part III of the *Income Tax Assessment Act 1936* (**ITAA 36**).

BLY intends to debit the whole of the Buy-Back Price to its share capital account. Accordingly, and subject to the application of certain anti-avoidance provisions discussed immediately below, no part of the Buy-Back Price should be treated as a dividend for Australian income tax purposes.

Notwithstanding the above, the ITAA 36 contains broad anti-avoidance rules under which the Commissioner of Taxation (**Commissioner**) has the power to determine that a "capital benefit" paid by a company to its shareholders is deemed to be an unfranked dividend for Australian income tax purposes, where certain other conditions are met. A "capital benefit" for these purposes would include the whole of the Buy-Back Price.

BLY does not consider that these anti-avoidance rules should apply to the Selective Buy-Back. However, given the breadth of these rules, it is possible that the ATO will disagree, and as such the Commissioner could make a determination to treat part or all of the Buy-Back Price as an unfranked dividend for Australian income tax purposes.

The remainder of this discussion assumes that the Commissioner will not make any determination to treat a part of the Buy-Back Price as an unfranked dividend for Australian income tax purposes.

##### **2.1.2 Capital Gains Tax – Disposal of Shares**

You will be deemed, for CGT purposes, to have disposed of each BLY Share for the Buy-Back Price of A\$2.48 per BLY Share plus the amount (if any) by which the CGT Value exceeds the Buy-Back Price (**Capital Proceeds**). The date of disposal of your BLY Shares will be

taken, for CGT purposes, to be the date that a binding contract to dispose of your BLY Shares under the Selective Buy-Back is entered into, which is the Buy-Back Date.

What is the CGT Value of the BLY Shares?

If the CGT Value exceeds the Buy-Back Price, your Capital Proceeds for the disposal of your BLY Shares will be deemed to be the CGT Value.

The CGT Value is equal to what would have been the market value of your BLY Shares at the time of the Selective Buy-Back, if the Selective Buy-Back did not occur and was never proposed to occur.

BLY has sought and obtained guidance indicating that there are factors which suggest that the Buy-Back Price is unlikely to be greater than the CGT Value. However, the determination of the CGT Value is a complex matter of valuation, and it is possible that the ATO will disagree, in which case your Capital Proceeds could be higher than the Buy-Back Price. Nevertheless, based on the guidance BLY has received, BLY considers that there are reasonable grounds for concluding that your Capital Proceeds are likely to be the Buy-Back Price.

For completeness, Eligible SBB Shareholders should be aware that the ATO has released Taxation Determination TD 2004/22 (**TD 2004/22**), which sets out the ATO's view in relation to determining the CGT Value for listed company shares. TD 2004/22 provides that this value should be determined as the volume weighted average price of the shares over the last five trading days before the first announcement of the Selective Buy-Back, adjusted for the movement in the S&P/ASX 200 Index from the commencement of trading on the first announcement date to the close of trading on the day the Selective Buy-Back closes.

Under the ATO view, the CGT Value would be determined in accordance with the following formula:

$$\left( \frac{A \times B}{C} \right)$$

where:

A = VWAP of BLY Shares traded on ASX over the last five trading days before the announcement of the Selective Buy-Back on 13 May 2021.

B = closing level of the S&P/ASX 200 Index on the SBB Closing Date (Monday, 6 September 2021).

C = opening level of the S&P/ASX 200 Index on 13 May 2021.

In undertaking the above calculation, account would need to be taken of the Share Consolidation.

Notwithstanding the above, in PS LA 2007/9, the ATO states that it will not apply TD 2004/22 in cases of capital-only off-market share buy-backs conducted at arm's-length. While PS LA 2007/9 is not binding on the ATO, BLY considers that there are reasonable grounds for the Selective Buy-Back being characterised as a capital-only off-market share buy-back conducted at arm's length. As such, Eligible SBB Shareholders should have

reasonable grounds for not using the formula in TD 2004/22 to determine the CGT Value of their BLY Shares.

Will I make a capital gain or a capital loss on sale of BLY Shares through the Selective Buy-Back?

You will make a capital gain on BLY Shares disposed of under the Selective Buy-Back to the extent that the Capital Proceeds exceed your CGT cost base for the BLY Shares. You will make a capital loss if your CGT reduced cost base for the BLY Shares exceeds the Capital Proceeds (calculated as discussed above). No allowance for indexation or non-capital costs is made in determining the CGT reduced cost base of BLY Shares in calculating a capital loss.

You will generally be required to include your net capital gain for an income year in your assessable income for the relevant year of income. Broadly, the net capital gain for an income year is the total of all of the capital gains made during the income year less capital losses made in the income year and available net capital losses made in previous income years. As discussed further below, discount CGT treatment may be available to further reduce the amount included in assessable income.

If a capital loss arises from the Selective Buy-Back it can only be used to offset capital gains. Capital losses that are not used in the income year in which they arise may usually be carried forward and used to offset capital gains made in future income years, subject to satisfying applicable loss utilisation tests. A capital loss cannot be used to offset other income nor carried back to earlier income years.

Notwithstanding the above, if your BLY Shares were acquired, or are taken to have been acquired, before 20 September 1985 for CGT purposes and are not taken to have been acquired on or after that date for CGT purposes, there should be no CGT implications arising on disposal of your Shares.

Will I be eligible for the CGT discount?

Any capital gain arising to Eligible SBB Shareholders who are individuals or trusts (other than trusts that are complying superannuation funds) can generally be reduced by 50% (without any allowance for indexation and after first offsetting any current year or prior year capital losses) if the BLY Shares have been held for at least 12 months between the date the BLY Shares were acquired for CGT purposes and the date of disposal for CGT purposes.

Taxation of trusts and their beneficiaries is a complex area of the taxation law and trustees should seek specific advice in relation to the tax consequences arising to them (and their beneficiaries) of any capital gains of the trust.

If the Eligible SBB Shareholder is a complying superannuation fund, two-thirds of the capital gain (without any allowance for indexation in the cost base of the shares and after offsetting applicable capital losses) will be included in the fund's assessable income if the BLY Shares have been held for at least 12 months between the date the BLY Shares were acquired for CGT purposes and the date of disposal for CGT purposes.

For the purposes of determining the CGT acquisition date of consolidated BLY Shares, the consolidated BLY Shares should have the same CGT date of acquisition as the original BLY Shares to which they relate.

The CGT discount is not available to companies.



#### What will be my CGT cost base?

Generally, the CGT cost base for a BLY Share will be the amount that you paid to acquire the BLY Share, and the market value of any property given to acquire your BLY Shares, together with certain non-deductible incidental costs of acquisition, for example stamp duty and brokerage, and certain non-deductible incidental costs of disposal.

As your BLY Shares will be bought back on a post-consolidation basis, each element of the cost base and reduced cost base of the consolidated BLY Shares, at the time of the Share Consolidation, should be the sum of the corresponding elements of the cost base and reduced cost base of each original BLY Share you held.

#### Can the CGT cost base be indexed?

If you are not a company and you acquired (for CGT purposes) BLY Shares at or before 11:45am (ACT time) on 21 September 1999, you may choose whether to index the cost base to 30 September 1999 or to apply the CGT discount. A company is permitted to index the cost base of Shares acquired before 11:45 am (ACT time) on 21 September 1999, but is not permitted to apply the CGT discount.

If you acquired your BLY Shares after 11:45 am (ACT time) on 21 September 1999, you cannot index your cost base. However, you may apply the CGT discount (unless you are a company) in calculating any capital gain on disposal if you have held your BLY Shares for at least 12 months.

Indexation does not apply to the calculation of a capital loss.

The choice to apply indexation rather than the discount capital gain provisions must be made on or before the day you lodge your income tax return for the income year in which the disposal occurs. The manner in which you complete your income tax return is generally sufficient evidence of the making of a choice.

#### ***(b) Non-resident Eligible SBB Shareholders***

The general summary in this section (b) applies to Eligible SBB Shareholders that are non-residents of Australia for Australian income tax purposes and meet the criteria set out in section 2.1 above.

#### Withholding tax

As discussed in paragraph 2.2.1 above, no part of the Buy-Back Price should be a dividend for Australian income tax purposes. Therefore, no withholding tax should be payable by non-resident Eligible SBB Shareholders on the Buy-Back Price.

#### Capital Gains Tax

Under Australian CGT rules, a taxable capital gain or capital loss generally will not arise for a non-resident Eligible SBB Shareholder participating in the Selective Buy-Back.

However, different consequences may arise if you hold BLY Shares as part of a business conducted through a permanent establishment in Australia or if you have previously resided in Australia and held the relevant BLY Shares at the time you left Australia and made a choice to treat your BLY Shares as "taxable Australian property" when you ceased to be an Australian resident.

If these circumstances apply to you, you should obtain specific Australian tax advice before making any decision to participate in the Selective Buy-Back.

### 3. **EFFECT OF SELECTIVE BUY-BACK ON BLY**

The maximum amount that BLY will spend to buy-back BLY Shares under the Selective Buy-back will be US\$500,000. The Selective Buy-Back is being undertaken in connection with the Recapitalisation and Re-domiciliation.

The Selective Buy-Back will only proceed if:

- (a) the Selective Buyback is approved by BLY Shareholders at the Extraordinary General Meeting;
- (b) the Re-domiciliation Scheme is approved by BLY Shareholders at the Re-domiciliation Scheme Meeting; and
- (c) the Creditors' Schemes are approved and become effective.

BLY Shareholders should refer to the Notice of Extraordinary General Meeting and the accompanying explanatory statement issued together with this SBB Booklet for further information about the financial impact of the Recapitalisation as well as the Selective Buy-Back.

The maximum number of BLY Shares (calculated on a post Share Consolidation basis) that would be bought back if BLY spent the maximum amount of US\$500,000 to buy back BLY Shares would be 260,080 BLY Shares (based on the average US\$/A\$ exchange rate in May 2021 of \$1.29).

### 4. **ADDITIONAL INFORMATION**

#### 4.1 **Directors and employees**

Directors and employees are entitled to participate in the Selective Buy-Back provided they are otherwise an Eligible SBB Shareholder. However, the BLY Board has determined that all directors and members of BLY management involved in determining which Tender offers are accepted or rejected by BLY will not participate in respect of any BLY Shares held legally or beneficially held by them.

#### 4.2 **BLY's right to accept or reject offers and SBB Tender Forms**

BLY may, in its absolute discretion, and at any time (including prior to the SBB Closing Date), accept or reject:

- (a) any offer to sell BLY Shares or SBB Tender Form; and
- (b) an offer to sell BLY Shares not made on the terms and conditions set out in the Buy-Back Documents, or an SBB Tender Form not submitted in accordance with the procedures set out in the Buy-Back Documents.

BLY will not accept any SBB Tender Forms that contain a Tender for their BLY Shares from any person:

- (a) who does not represent that they are not (and they are not acting on behalf of or for the account of a person who is) located in the United States, a US Person, a resident of Canada or otherwise; or
- (b) that appear to BLY or its agents to have sent their SBB Tender Form from the United States or by an Excluded Foreign Person.

BLY may do each of these things in relation to all or some SBB Tender Forms and/or offers to sell BLY Shares, in its absolute discretion.

BLY will not accept any offer to sell BLY Shares that it may not lawfully accept or which, if accepted, would give rise to:

- (a) an illegal or unenforceable Buy-Back Contract;
- (b) a Buy-Back Contract that BLY cannot otherwise lawfully perform; or
- (c) a Buy-Back Contract that BLY determines would be impractical to perform.

#### 4.3 **BLY's right to adjust offers and SBB Tender Forms**

BLY may, in its absolute discretion and at any time:

- (a) deem any offer to sell BLY Shares it receives or any SBB Tender Form containing a Tender for BLY Shares that it receives to be a valid offer to sell BLY Shares or a valid SBB Tender Form containing a Tender for BLY Shares;
- (b) disregard any offer or any SBB Tender Form it believes should be disregarded; and
- (c) waive any or all of the requirements for making, amending, withdrawing or submitting:
  - (i) an offer to sell BLY Shares; or
  - (ii) an SBB Tender Form.

BLY may do each of these things in relation to all or some offers to sell BLY Shares it receives or SBB Tender Forms it receives.

Once you have submitted an SBB Tender Form containing a Tender in respect of your BLY Shares, the Share Registry will place your BLY Shares in a 'sub-position' in the BLY Share Register and you will not be able to trade those BLY Shares until the next business day after the Buy-Back Date or otherwise released at the discretion of BLY if the Selective Buy-Back does not proceed.

#### 4.4 **Privacy**

BLY is conducting the Selective Buy-Back in accordance with the Corporations Act. This involves the collection of personal information contained in the SBB Tender Form to enable BLY to process your SBB Tender Form. If you do not provide this information, BLY may be hindered in, or prevented from, processing your SBB Tender Form.

The personal information collected by BLY will only be disclosed to:

- (a) the Share Registry;
- (b) a print and mail service provider;
- (c) BLY's advisors in relation to the Selective Buy-Back; and
- (d) financial institutions in respect of payments to you in connection with the Selective Buy-Back,

or as required or authorised by law.

For information about how you can access and correct your personal information and raise privacy concerns, see the Share Registry's Privacy Policy at [linkmarketservices.com.au](http://linkmarketservices.com.au) and BLY's Privacy Policy at [www.boartlongyear.com](http://www.boartlongyear.com).

## 4.5 Applicable law

Each of:

- (a) the Selective Buy-Back (including this SBB Booklet and any invitation to participate in the Selective Buy-Back);
- (b) any offer to sell BLY Shares to BLY through the Selective Buy-Back;
- (c) any SBB Tender Form submitted; and
- (d) any Buy-Back Contract formed,

generally are governed by the laws of New South Wales, Australia. However, certain laws cannot be overridden and, to that extent, the Buy-Back Documents do not intend to override those laws and should be read as subject to them.

## 5. DEFINITIONS AND INTERPRETATION

### 5.1 Definitions

In the Buy-Back Documents, unless the context otherwise requires, the following capitalised terms have these meanings.

TERM	DEFINITION
<b>Ares</b>	Ares Management LLC, on behalf of its affiliated funds and accounts being ARES Institutional High Yield Master Fund LP, Kaiser Foundation Health Plan, INC., as fiduciary of Kaiser Permanente Group Trust, Kaiser Foundation Hospitals, Lucent Technologies Inc. Master Pension Trust, Seattle City Employees' Retirement System, SEI Global Master Fund PLC, SEI Institutional Investment Trust - High Yield Bond Fund, SEI Institutional Managed Trust - High Yield Bond Fund, SEI Investments Canada Company - U.S. High Yield Bond Fund, Superannuation Funds Management Corporation of South Australia and Touchstone Funds Group Trust - Touchstone Credit Opportunities II Fund.
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>Ascribe</b>	Ascribe II Investments LLC.
<b>Associate</b>	Has the meaning given in section 12 of the Corporations Act as if BLY was the designated body.
<b>ASX</b>	ASX Limited (ABN 98 008 624 691), or the securities exchange operated by it, as the context requires.
<b>ASX Settlement</b>	ASX Settlement Pty Limited (ABN 49 008 504 532).
<b>ASX Settlement Operating Rules</b>	The settlement operating rules of ASX Settlement.
<b>ATO</b>	Australian Taxation Office.
<b>Authorised Nominee</b>	CHESS Depository Nominees Pty Limited (ACN 071 346 503; Australian Financial Services Licence number

TERM	DEFINITION
	254514), an approved general participant of ASX Settlement and a wholly owned subsidiary of ASX.
<b>BLY</b>	Boart Longyear Limited (ACN 123 052 728).
<b>BLY Board</b>	The board of directors of BLY from time to time.
<b>BLY Group</b>	BLY and its subsidiaries.
<b>BLY Share</b>	A fully paid ordinary share in the capital of BLY.
<b>BLY Share Register</b>	The register of members of BLY maintained by or on behalf of BLY in accordance with section 168(1) of the Corporations Act.
<b>BLY Shareholder</b>	A person entered in the BLY Share Register as the holder of a BLY Share.
<b>Buy-Back Contract</b>	The contract formed on the Buy-Back Date between an Eligible SBB Shareholder and BLY, if BLY accepts the Eligible SBB Shareholder's offer to sell BLY Shares to BLY under the tender process.
<b>Buy-Back Date</b>	The implementation date of the Creditors' Schemes, which will be announced by BLY to the ASX. This is the date of disposal of BLY Shares acquired under the Selective Buy-Back.
<b>Buy-Back Documents</b>	This SBB Booklet and the SBB Tender Form.
<b>Buy-Back Price</b>	The price at which BLY will buy back BLY Shares from Tenders it accepts in the Selective Buy-Back, which is A\$2.48 per BLY Share (calculated on a post Share Consolidation basis).
<b>Capital Proceeds</b>	The greater of the Buy-Back Price and the CGT Value.
<b>CBP</b>	CCP II Acquisition Holdings, LLC., Centerbridge Credit Partners AIV III, L.P., Centerbridge Credit Partners Master, L.P., Centerbridge Special Credit Partners Master II AIV III, L.P. and Centerbridge Special Credit Partners II, L.P.
<b>CDI</b>	A CHESS Depository Interest, being a unit of beneficial ownership in a Principal Financial Product (as that term is defined in the ASX Settlement Operating Rules) that is registered in the name of the Authorised Nominee in accordance with the ASX Settlement Operating Rules, for the purpose of enabling the securities to be recorded and transferred in accordance with those operating rules.
<b>CHESS</b>	The clearing house electronic subregister system for the electronic transfer of securities operated by ASX Settlement, which provides for the electronic transfer, settlement and registration of securities.
<b>CHESS Holder</b>	A holder of BLY Shares on the CHESS sub-register of BLY.
<b>CGT</b>	Australian capital gains tax.
<b>CGT Value</b>	What would have been the market value of your BLY Shares at the time of the Selective Buy-Back, if the

TERM	DEFINITION
	Selective Buy-Back did not occur and was never proposed to occur.
<b>Commissioner</b>	The Commissioner of Taxation.
<b>Corporations Act</b>	<i>Corporations Act 2001</i> (Cth).
<b>Corre</b>	Corre Partners Management, LLC and those entities affiliated with it including Corre Opportunities Qualified Master Fund, LP and Corre Horizon Fund, LP.
<b>Court</b>	The Supreme Court of New South Wales.
<b>Creditors' Schemes</b>	Has the meaning given to it in the Notice of Extraordinary General Meeting.
<b>Eligible SBB Shareholder</b>	<p>A person who:</p> <ul style="list-style-type: none"> <li>(a) is the registered holder of BLY Shares as at the SBB Record Date which have an aggregate value equal to less than A\$3,000 (calculated by reference to the closing price of BLY Shares on ASX on the SBB Record Date);</li> <li>(b) is a Non-Associated Shareholder; and</li> <li>(c) is not a Excluded Foreign Person.</li> </ul>
<b>Excluded Foreign Persons</b>	<p>Anyone who falls within any of the following exclusions:</p> <ul style="list-style-type: none"> <li>(a) persons who are (or who are acting on behalf of or for the account of a person who is) located in the United States, a US Person, or a resident of Canada;</li> <li>(b) any other BLY Shareholders to whom BLY would be prohibited, pursuant to any act, rule or regulation in any jurisdiction, from making payments;</li> <li>(c) persons who reside, or who are acting on behalf or for the account of a person who resides, in a jurisdiction other than Australia or New Zealand, unless BLY determines that: <ul style="list-style-type: none"> <li>(i) it would not be illegal for BLY to make an invitation to that person, or for that person to participate in the Selective Buy-Back under the laws of that jurisdiction; and</li> <li>(ii) it would not be impractical for BLY to permit the person to participate in the Selective Buy-Back, having regard to the number of BLY Shareholders in the relevant jurisdiction and the requirements of the laws of that jurisdiction.</li> </ul> </li> </ul>
<b>Exit Financing Facility</b>	Has the meaning given to that term in the Notice of Extraordinary General Meeting.
<b>Extraordinary General Meeting</b>	The extraordinary general meeting of BLY Shareholders convened by the Notice of Extraordinary General Meeting to consider, among other things, the Recapitalisation and the Selective Buy-Back which is to be held on Wednesday, 8 September 2021.
<b>FPA</b>	First Pacific Advisors, LP and those entities affiliated with it including FPA New Income, Inc., Motion Picture Industry Heath Plan (Active), Motion Picture Industry

TERM	DEFINITION
	Health Plan (Retiree), Motion Picture Industry Individual Account Plan, SAG-AFTRA Health Plan, The Health Plan of West Virginia, Inc. and The Nature Conservancy.
<b>Issuer Sponsored Holdings</b>	A holding of BLY Shares on the issuer sponsored sub-register of BLY.
<b>ITAA 36</b>	<i>Income Tax Assessment Act 1936</i> (Cth).
<b>Non-Associated Shareholder</b>	A BLY Shareholder who is not any of the following: (a) a TLA Purchaser, TLB Purchaser, SSN Noteholder or SUN Noteholder on the SBB Record Date or at any time after that date; or (b) an Associate of any of the persons referred to in paragraph (a).
<b>Notice of Extraordinary General Meeting</b>	The notice convening the Extraordinary General Meeting and explanatory statement.
<b>Nut Tree</b>	Nut Tree Capital Management and Nut Tree Master Fund, LP.
<b>New BLY Parent</b>	Boart Longyear Ltd. (Ontario Corporation No. 002854330), a company incorporated in Ontario Canada and which will, subject to implementation of the Re-domiciliation Scheme, become the parent company of the BLY Group.
<b>Opening Date</b>	Thursday, 29 July 2021, or such other date as determined by BLY.
<b>PS LA 2007/9</b>	ATO Practice Statement PS LA 2007/9 entitled "Share Buy Backs".
<b>Recapitalisation</b>	The proposed recapitalisation of BLY announced by BLY on 13 May 2021, as further described in the Notice of Extraordinary General Meeting.
<b>Re-domiciliation</b>	The proposed re-domiciliation of BLY to Canada to be effected by way of the Re-domiciliation Scheme.
<b>Re-domiciliation Scheme</b>	A members' scheme of arrangement in accordance with Part 5.1 of the Corporations Act between BLY and BLY Shareholders pursuant to which BLY will become a wholly owned subsidiary of the New BLY Parent by the transfer of all BLY Shares to the New BLY Parent by BLY Shareholders in exchange for New BLY Parent CDIs.
<b>Re-domiciliation Scheme Meeting</b>	The meeting of BLY Shareholders ordered by the Court pursuant to section 411(1) of the Corporations Act to consider the resolution to approve Re-domiciliation Scheme.
<b>Restructuring Support Agreement</b>	Has the meaning given to that term in the Notice of Extraordinary General Meeting.
<b>SBB Booklet</b>	This buy-back booklet (whether in paper or electronic format).
<b>SBB Closing Date</b>	7:00pm on Monday, 6 September 2021, or such other date as determined by BLY and announced to ASX.

TERM	DEFINITION
<b>SBB Record Date</b>	7:00pm (Sydney time) on Wednesday, 28 July 2021, or such other date as determined by BLY.
<b>SBB Tender Period</b>	The period within which Eligible SBB Shareholders may lodge a Tender in accordance with the Buy-Back Documents, which commences on the date of the SBB Booklet and ends on the SBB Closing Date.
<b>SBB Tender Form</b>	The personalised form enclosed with this SBB Booklet which can be used by an Eligible SBB Shareholder to tender an offer to sell their BLY Shares to BLY under the Selective Buy-Back.
<b>Scheme Creditors</b>	Has the meaning given in the Notice of Extraordinary General Meeting.
<b>Second Court Date</b>	Has the meaning given to that term in the Notice of Extraordinary General Meeting.
<b>Secured Creditors' Scheme</b>	Has the meaning given to that term in the Notice of Extraordinary General Meeting.
<b>Selective Buy-Back</b>	The buy-back of BLY Shares by way of a tender process as set out in the Buy-Back Documents.
<b>Share Consolidation</b>	The conversion of every 20 BLY Shares into 1 BLY Share which is intended to be effected prior to the completion of the Selective Buy-Back, as described in the Notice of Extraordinary General Meeting.
<b>Share Purchase Plan</b>	The Share Purchase Plan giving certain eligible BLY Shareholders an opportunity to subscribe for BLY Shares in accordance with the terms and conditions in the SPP Offer Booklet.
<b>Share Registry</b>	Link Market Services Limited (ABN 54 083 214 537).
<b>SPP Application Form</b>	The application form in respect of the Share Purchase Plan and enclosed with the SPP Offer Booklet.
<b>SPP Offer Booklet</b>	The document setting out the terms and conditions of the Share Purchase Plan dated 29 July 2021.
<b>SSN Noteholders</b>	Has the meaning given in the Notice of Extraordinary General Meeting.
<b>SUN Noteholders</b>	Has the meaning given in the Notice of Extraordinary General Meeting.
<b>TD 2004/22</b>	Taxation Determination TD 2004/22.
<b>Tender</b>	An offer, tendered on the SBB Tender Form by an Eligible SBB Shareholder in accordance with the Buy-Back Documents, to sell their BLY Shares to BLY under the Selective Buy-Back.
<b>TLA Purchasers</b>	Has the meaning given in the Notice of Extraordinary General Meeting.
<b>TLB Purchasers</b>	Has the meaning given in the Notice of Extraordinary General Meeting.



TERM	DEFINITION
<b>United States</b>	The United States of America, its territories and possessions, any State of the United States and the District of Columbia.
<b>Unsecured Creditors' Scheme</b>	Has the meaning given to that term in the Notice of Extraordinary General Meeting.
<b>US Person</b>	Has the meaning given by Regulation S under the United States Securities Act of 1933, as amended from time to time.
<b>VWAP</b>	<p>The volume weighted average BLY Share price among all trades on ASX's trading platform over the specified period. This includes trades in the daily closing single price auction but excludes:</p> <ul style="list-style-type: none"> <li>(a) all off-market trades such as transactions defined in the ASX Operating Rules as: <ul style="list-style-type: none"> <li>(i) special crossings</li> <li>(ii) crossings prior to the commencement of the open session state</li> <li>(iii) crossings during overnight trading</li> <li>(iv) overseas trades</li> <li>(v) trades pursuant to the exercise of options over BLY Shares; and</li> </ul> </li> <li>(b) any other trades that are not fairly reflective of supply and demand, as determined by BLY.</li> </ul>
<b>Working Capital Facilities</b>	Has the meaning given in the Notice of Extraordinary General Meeting.

## 5.2 Interpretation

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting the Buy-Back Documents, except where the context makes it clear that a rule is not intended to apply.

- (a) A singular word includes the plural, and vice versa.
- (b) A word which suggests one gender includes the other genders.
- (c) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (d) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (e) The words **associate, controller, entity, officer, related body corporate, relevant interest, security interest, subsidiary** and **voting power** have the same meanings as given by the Corporations Act.
- (f) A reference to:
  - (i) \$ or AUD or A\$ is to the lawful currency of Australia; and
  - (ii) US\$ or USD is to the lawful currency of the United States of America.
- (g) a reference to time is a reference to the time in Sydney, New South Wales.



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**ASX ANNOUNCEMENT (ASX:BLY)**

**Appendix F – RSA Amendment Deed**

## FIRST AMENDMENT TO RESTRUCTURING SUPPORT AGREEMENT

This **FIRST AMENDMENT TO RESTRUCTURING SUPPORT AGREEMENT**, dated July 27, 2021 (this “Amendment”), in respect of that certain Restructuring Support Agreement, dated May 12, 2021 (as amended, amended and restated, supplemented, or otherwise modified from time to time, the “Restructuring Support Agreement”), by and between Boart Longyear Limited (“BLY”), together with certain of its direct and indirect subsidiaries (collectively, the “Company”), and the Supporting Creditors party thereto, is made and entered into by the Company, on the one hand, and the Supporting Creditors party hereto, on the other (collectively with the Company, the “Amendment Parties”).

Capitalized terms used but not defined in this Amendment have the meanings ascribed to such terms in the Restructuring Support Agreement.

### RECITALS

WHEREAS, clause 17.13 of the Restructuring Support Agreement permits the modifications contemplated by this Amendment with the written consent of: (a) BLY; (b) each of the Initial Supporting Creditors; and, if applicable, (c) those Supporting Creditors whose economic treatment would be changed by such modifications (together with the Initial Supporting Creditors, the “Required Supporting Creditors”);

WHEREAS, the Supporting Creditors party hereto constitute the Required Supporting Creditors;

WHEREAS, the Amendment Parties desire to amend the Restructuring Support Agreement to make certain amendments as set forth below;

NOW, THEREFORE, in consideration of the mutual promises contained herein, along with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Amendment Parties hereby agree as follows:

### AGREEMENT

#### Section 1. Amendments to the Restructuring Support Agreement

Clause (iii) on page 2 of the Restructuring Term Sheet, attached as Schedule 2 to the Restructuring Support Agreement, describing the issuance of the New Warrants, shall be amended and restated in its entirety as follows:

Issuance of new warrants (the “New Warrants”) for distribution to holders of SUN Claims under the Creditors’ Schemes to purchase common shares in BLY of up to 10.0% of the total common shares of BLY outstanding immediately upon implementation of the Creditors’ Schemes (after giving effect to the exercise of the New Warrants) (pre-dilution for any shares to be issued under the Share

Purchase Plan, the Creditor Share Purchase Option and any management incentive plan)—being a total number of New Warrants of 32,782,148—with a strike price per share that corresponds to an overall recovery to the holders of SSN Claims on account of their SSN Claims (excluding SSN Claims relating to the Applicable Premium), determined as of the RSA Date (defined below) including all accrued and unpaid interest, of 115.0%, an exercise period not exceeding the sixth anniversary of the date of issue of the New Warrants, and on terms that do not prohibit or restrict BLY in any way from paying any dividends or making any other distributions (including of shares or any other securities or property);

In addition, references to the term, “Creditor Share Purchase Plan”: (a) in clause (ii) on page 2 of the Restructuring Term Sheet; and (b) on page 8 of the Restructuring Term Sheet under the clause pertaining to “Existing Warrants and Options to Purchase Common Shares,” shall be stricken and replaced with the term, “Creditor Share Purchase Option.”

## **Section 2. Ratification**

Except as specifically provided for in this Amendment, no waivers, releases, changes, amendments, or other modifications have been made on or prior to the date hereof or are being made to the terms of the Restructuring Support Agreement or the rights and obligations of the parties thereunder, all of which such terms are hereby ratified and confirmed and remain in full force and effect.

## **Section 3. Effectiveness**

This Amendment shall become effective and binding on the Amendment Parties on the date counterpart signatures to this Amendment shall have been executed by: (a) BLY; and (b) the Required Supporting Creditors.

## **Section 4. Headings**

Titles and headings in this Amendment are inserted solely for the convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction or interpretation of any term or provision hereof.

## **Section 5. Counterparts**

This Amendment may be executed and delivered (by facsimile, electronic mail, or otherwise) in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

**Section 6. Governing Law; Jurisdiction; Selection of Forum; Waiver of Trial by Jury**

This Amendment is governed by the laws of the State of New South Wales. Each Amendment Party irrevocably and unconditionally: (a) submits to the non-exclusive jurisdiction of the courts of the State of New South Wales or the U.S. Bankruptcy Court; and (b) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum. Each Amendment Party waives any right to have a jury participate in resolving any dispute, whether sounding in contract, tort, or otherwise, between any of the parties arising out of, connected with, relating to, or incidental to the relationship established between any of them in connection with this Amendment. Instead, any disputes resolved in court shall be resolved in a bench trial without a jury.

*[Signature Pages Follow]*