

MinterEllison

L A W Y E R S

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AUSTRALIA DX 117 SYDNEY

To Market Announcements Office
ASX Limited

Facsimile 1300 135 638

Date 29 January 2015

Number of pages (including this one): 91

Subject Boart Longyear Limited - Form 604

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Form 604
Corporations Act 2001
Section 671B

Notice of change of interests of substantial holder

To Company Name/Scheme Boart Longyear Limited (BLY)

ACN/ARSN 123 052 728

1. Details of substantial holder (1)

Name CCP II Dutch Acquisition – E2, B.V. (CCP II), CCP Credit SC II Dutch Acquisition – E, B.V. (CCP Credit), CB Dutch Holdings Cooperatieve, U.A. (CB Dutch Holdings), CCP II (Cayman) Holdings A, L.P. (CCP II (Cayman)), Centerbridge Capital Partners II (Cayman), L.P. (Centerbridge Capital), Centerbridge Associates II (Cayman), L.P. (Centerbridge Associates), CCP II Cayman GP, Ltd (CCP II GP), Centerbridge GP Investors II, LLC (Centerbridge GP), Mark T. Gallogly and Jeffrey H. Aronson (together, the Substantial Holders)

ACN/ARSN (if applicable) N/A

There was a change in the interests of the

substantial holder on 27/01/2015

The previous notice was given to the company on 22/12/2014

The previous notice was dated 18/12/2014

2. Previous and present voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in when last required, and when now required, to give a substantial holding notice to the company or scheme, are as follows:

Class of securities (4)	Previous notice		Present notice	
	Person's votes	Voting power (5)	Person's votes	Voting power (5)
Ordinary shares	234,997,205	36.86% (based on 637,490,726 fully paid ordinary shares on issue)	464,501,806 ¹	49.9% (based on 930,864,944 fully paid ordinary shares on issue)

¹ CCP also holds 434,001,868 BLY convertible preference shares, which were issued on 27 January 2015. BLY convertible preference shares are not 'voting shares' and therefore do not require disclosure in accordance with section 671B of the Corporations Act.

3. Changes in relevant interests

Particulars of each change in, or change in the nature of, a relevant interest of the substantial holder or an associate in voting securities of the company or scheme, since the substantial holder was last required to give a substantial holding notice to the company or scheme are as follows:

Date of change	Person whose relevant interest changed	Nature of change (6)	Consideration given in relation to change (7)	Class and number of securities affected	Person's votes affected
27/01/2015	CCP II, CB Dutch Holdings, CCP II (Cayman), Centerbridge Capital, Centerbridge Associates, CCP II GP, Centerbridge GP, Mr Aronson and Mr Gallogly	Acquisition of relevant interest through CCP II subscribing for fully paid ordinary shares as underwriter under the Underwriting Agreement – see Annexure A	A\$0.1650	61,727,736	61,727,736
		Acquisition of relevant interest through CCP II subscribing for fully paid ordinary shares under the Buy-back Subscription Agreement – see Annexure B	A\$0.1650	7,534,112	7,534,112

27/01/2015	CCP Credit, CB Dutch Holdings, CCP II (Cayman), Centerbridge Capital, Centerbridge Associates, CCP II GP, Centerbridge GP, Mr Aronson and Mr Gallogly	Acquisition of relevant interest through CCP Credit subscribing for fully paid ordinary shares as CCP II's permitted nominee under the Underwriting Agreement – see Annexure B	A\$0.1650	57,485,264	57,485,264
		Acquisition of relevant interest through CCP Credit subscribing for fully paid ordinary shares under the Equilization Subscription Agreement – see Annexure C	US\$0.1557	102,757,289	102,757,289

4. Present relevant interests

Particulars of each relevant interest of the substantial holder in voting securities after the change are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Nature of relevant interest (6)	Class and number of securities	Person's votes
CCP II	CCP II	CCP II	Relevant interest under s608(1)	245,589,162	26.4%
CCP Credit	CCP Credit	CCP Credit	Relevant interest under s608(1)	160,242,553	17.2%
CCP Credit	JPMorgan Chase Bank, N.A. (JPM)	CCP Credit	The shares are held by JPM as custodian and bare trustee for CCP Credit. CCP Credit therefore has a relevant interest under s608(1)	59,669,891	6.3%
CB Dutch Holdings	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under section 608(3)(b) as a result of CB Dutch Holdings controlling CCP II and CCP Credit	464,601,606	49.9%
CCP II (Cayman)	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under section 608(3)(a) as a result of CCP II (Cayman) having voting power of more than 20% in CB Dutch Holdings	464,501,606	49.9%
Centerbridge Capital	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under s608(3)(b) as a result of Centerbridge Capital controlling CCP II (Cayman)	464,501,606	49.9%
Centerbridge Associates	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under s608(3)(b) as a result of Centerbridge Associates controlling Centerbridge Capital	464,501,606	49.9%
CCP II GP	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under s608(3)(b) as a result of CCP II GP controlling Centerbridge Associates	464,501,606	49.9%
Centerbridge GP	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under s608(3)(b) as a result of Centerbridge GP controlling CCP II GP	464,501,606	49.9%
Mark T. Gallogly	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under section 608(3)(b) of the Corporations Act as a result of Mark T. Gallogly controlling CB Dutch Holdings and Centerbridge GP	464,501,606	49.9%
Jeffery H. Aronson	CCP II, CCP Credit, JPM	CCP II, CCP Credit	Relevant interest under section 608(3)(b) of the Corporations Act as a result of Jeffery H. Aronson controlling CB Dutch Holdings and Centerbridge GP	464,501,606	49.9%

5. Changes in association

The persons who have become associates (2) of, ceased to be associates of, or have changed the nature of their association (9) with, the substantial holder in relation to voting interests in the company or scheme are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
N/A	

6. Addresses

The addresses of persons named in this form are as follows:

Name	Address
CCP II	Alter Domus, De Boelelaan 7, 1083HJ, Amsterdam, The Netherlands
CCP Credit	Alter Domus, De Boelelaan 7, 1083HJ, Amsterdam, The Netherlands
CB Dutch Holdings	Alter Domus, De Boelelaan 7, 1083HJ, Amsterdam, The Netherlands
CCP II (Cayman)	c/o Intertrust Corporate Services (Cayman) Limited, 87 Mary Street, George Town, Grand Cayman KY
Centerbridge Capital	c/o Intertrust Corporate Services (Cayman) Limited, 87 Mary Street, George Town, Grand Cayman KY
Centerbridge Associates	c/o Intertrust Corporate Services (Cayman) Limited, 87 Mary Street, George Town, Grand Cayman KY
CCP II GP	c/o Intertrust Corporate Services (Cayman) Limited, 87 Mary Street, George Town, Grand Cayman KY
Centerbridge GP	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Mark T. Gallogly	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Jeffery H. Aronson	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Special Credit Partners II, L.P.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Credit Partners, L.P.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Credit Partners Master, L.P.	c/o Ogler Fiduciary Services (Cayman) Limited, 89 Nexus Way, Camana Bay, Grand Cayman KY1-9007, Cayman Islands.
Centerbridge Special Credit General Partner II, L.P.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Credit Partners General Partner, L.P.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Credit Partners Offshore General Partner, L.P.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Special GP Investors II, L.L.C.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Credit GP Investors, L.L.C.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Credit Offshore GP Investors, L.L.C.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Credit Advisors, L.L.C.	c/o Centerbridge Partners, L.P., 375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Partners, L.P.	375 Park Avenue, 12th Floor, New York, New York, USA
Centerbridge Partners Holdings, L.L.C.	375 Park Avenue, 12th Floor, New York, New York, USA
JPM	500 Stanton Christiana Road, OPS3/1, Newark, DE, USA

Signature

print name Jeffrey H. Aronson

capacity On behalf of himself

sign here

date 28 / 1 / 2015

print name Mark T. Galloghly

capacity On behalf of himself

sign here

date 28 / 1 / 2015

print name Susanne V. Clark

capacity

Authorised Signatory of
each of the Substantial
Holders other than Mr
Aronson and Mr Galloghly

sign here

date 28 / 1 / 2015

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 6 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 606 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (6) Include details of:
 - (a) any relevant agreement or other circumstances because of which the change in relevant interest occurred. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying the contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (7) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included on any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
- (9) Give details, if appropriate, of the present association and any change in that association since the last substantial holding notice.

ANNEXURE A to Form 604

This Annexure A of 47 pages is a true copy of the Underwriting Agreement dated 18 December 2014 referred to in the Form 604 prepared by the Substantial Holders in respect of Board Longyear Limited signed by me and dated 28 / 01 /2015.


Signature

Susanne V. Clark
Name

Authorized Signatory
Capacity

Underwriting agreement

Boart Longyear Limited (Issuer)

CCP II Dutch Acquisition – E2, B.V. (Underwriter)

MinterEllison

L A W Y E R S

AURORA PLACE, 88 PHILLIP STREET, SYDNEY NSW 2000, DX 117 SYDNEY
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Underwriting agreement

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Details

Date 18 December 2014

Parties

Name **Boart Longyear Limited**
ABN 49 123 052 728
Short form name **Issuer**
Notice details Suite 600, 10808 S. River Front Parkway, South Jordan, Utah 84095
Facsimile: +1 (801) 977-3366
Attention: Richard O'Brien

Name CCP II Dutch Acquisition -- E2, B.V.
Short form name **Underwriter**
Notice details De Boelelaan 7, 1083 IIJ, Amsterdam, The Netherlands

Attention: The Directors

Background

- A** The Issuer proposes to raise approximately A\$103.4 million by way of a renounceable entitlement offer to Securityholders.
- B** The purpose of the Entitlement Offer is to raise a portion of the equity proceeds contemplated by the Recapitalisation, the proceeds of which will be used to provide the Issuer with additional liquidity to sustain its business through current trading conditions.
- C** The Underwriter has agreed to underwrite the Entitlement Offer on the terms and subject to the conditions of this agreement.

Agreed terms

1. Appointment

1.1 Appointment

- (a) The Issuer appoints the Underwriter as underwriter of the Entitlement Offer on the terms and subject to the conditions of this agreement.
- (b) The Underwriter accepts the appointment under clause 1.1(a) and, subject to clause 2 and clause 9, agrees to underwrite the Entitlement Offer in accordance with this agreement.

2. Conditions

2.1 Conditional obligation of the Underwriter

The obligation of the Underwriter to underwrite the Entitlement Offer under clause 4.7 is conditional on:

- (a) **(Second Closing Transactions)** the Second Closing Transactions having been completed prior to the Record Time in accordance with the terms and conditions of the Implementation Agreement; and
- (b) **(OMD)** the OMD is entered into by the parties to it and is not terminated, amended or rescinded by 9.00am on the Launch Date.

2.2 Conditions not satisfied

- (a) The Issuer must use its best endeavours to ensure or procure that the conditions precedent in clause 2.1 are satisfied.
- (b) If any of the conditions precedent in clause 2.1 are not satisfied or waived by their respective deadlines, the Underwriter (in its absolute and unfettered discretion) may by notice to the Issuer Terminate this agreement at any time before complying with its obligations under clause 4.7, with such notice identifying any relevant condition precedent which is not satisfied or waived, and the Issuer will have no claim against the Underwriter, except to the extent that any claim has accrued at the time of the Termination.

2.3 Benefit of conditions

The conditions precedent in clause 2.1 are for the benefit of the Underwriter only and may only be waived by the Underwriter in writing in its absolute and unfettered discretion.

3. Offer

- (a) The Issuer must conduct the Entitlement Offer in accordance with the Timetable (unless the Underwriter consents to a variation with such consent not to be unreasonably withheld), the Constitution, the Listing Rules, the Corporations Act and any other applicable laws.
- (b) The Underwriter will not, in its capacity as a Securityholder, lodge a Valid Application in respect of any of its Entitlements.
- (c) The Underwriter undertakes that it will not purchase Entitlements on-market.

- (d) The parties acknowledge and agree that the Offer Period for the Entitlement Offer will close half an hour before the offer period for the Share Buy Back Offer on the Closing Date.

4. Conduct of the Entitlement Offer (including the U.S Private Placement component)

4.1 Offer Materials

The Issuer must:

- (a) **(ASX Materials lodgement)** give the ASX Materials to ASX by 9.00am on the Launch Date in a form approved by the Underwriter acting reasonably;
- (b) **(despatch of Rights Issue Booklet)** despatch the Entitlement and Acceptance Form, and the Rights Issue Booklet to each Eligible Securityholder on or before the Despatch Date; and
- (c) **(Excluded Securityholders)** comply with Listing Rule 7.7.1(b) and section 9A and send to each Excluded Securityholder notice of the Entitlement Offer and that they will not be eligible to participate in the Entitlement Offer.

4.2 Conduct

The Issuer must:

- (a) in respect of Accepting Investors (other than Approved U.S Security Holders), accept all Valid Applications for Entitlement Securities which are lodged by Accepting Investors on or before 5.00pm on the Closing Date;
- (b) in respect of Approved U.S. Security Holders, accept all duly executed Subscription Agreements that are delivered by Approved U.S. Security Holders on or before 5.00pm on the Closing Date; and
- (c) use its reasonable endeavours to procure that trading in the Accepted Entitlement Securities and the Shortfall Securities (other than Preference Shares) on ASX is able to occur as from the opening of trading on the Trading Date.

4.3 Registry

The Issuer must ensure that the Registry:

- (a) receives the Entitlement and Acceptance Forms and Renunciation and Transfer Forms and the Application Money in respect of the Entitlement Offer;
- (b) keeps adequate records of all Entitlement and Acceptance Forms and Renunciation and Transfer Forms received (regardless of whether they are Valid Applications); and
- (c) if requested by the Underwriter, delivers a computerised list of Accepting Investors under the Entitlement Offer to the Underwriter on a daily basis (or other such frequency as requested by the Underwriter) during the Offer Period, including on the Closing Date.

4.4 Particulars of each application

The Issuer must direct the Registry, whenever requested by the Underwriter, to notify the Underwriter of the particulars of each Entitlement and Acceptance Form and Renunciation and Acceptance Form received (regardless of whether they are Valid Applications) and the number of Entitlement Securities proposed to be issued under those Entitlement and Acceptance Forms and Renunciation and Transfer Forms.

4.5 Review of applications

On the Business Day after the Closing Date, the Issuer must:

- (a) inform the Underwriter of the number of Invalid Applications and the grounds on which the Issuer believes they are not valid and permit the Underwriter to review those Invalid Applications; and
- (b) in respect of any Invalid Applications which are not valid only because the Application Money has been paid by cheque which has not yet cleared:
 - (i) use reasonable efforts (but with no obligation to incur any material costs) to maximise the clearance of such cheques by 9.00am on the Shortfall Notification Date; and
 - (ii) include the Entitlement Securities the subject of those Invalid Applications in the Shortfall Securities only if they have not become Valid Applications after complying with paragraph (i).

4.6 Shortfall Notice and Closing Certificate

No later than:

- (a) 10.00am on the Shortfall Notification Date, the Issuer may give the Underwriter a Shortfall Notice which specifies the number of Shortfall Securities as at 9.00am on the Shortfall Notification Date and if this notice is furnished, the Issuer must also give the Underwriter a Closing Certificate;
- (b) 9.00am on the Issue Date, the Issuer must give the Underwriter a Closing Certificate whether or not the Issuer gives the Underwriter a Shortfall Notice under clause 4.6(a).

4.7 Subscription for Entitlement Securities

Not later than 2.00 pm on the Issue Date, the Underwriter must, unless the Underwriter has Terminated:

- (a) pay, or procure payment, to the Issuer of the Offer Price in respect of each Shortfall Security;
- (b) subscribe for the Shortfall Securities and pay, to the Issuer the Offer Price in respect of the Shortfall Securities; and
- (c) the Offer Price to be paid to the Issuer under paragraph (b) immediately above shall be paid in U.S. dollars using the Settlement FX Rate.

4.8 Issue

By 5.00pm on the Issue Date, the Issuer must issue the:

- (a) Accepted Entitlement Securities to the Accepting Investors; and
- (b) Shortfall Securities to the Underwriter to the extent subscribed for under clause 4.7(b).

4.9 Quotation

The Issuer must use its reasonable endeavours to procure that trading on ASX in the Entitlement Securities issued on the Issue Date is able to occur as from the opening of trading on the Trading Date.

4.10 Holding Statements

The Issuer must mail a new holding statement in accordance with the Corporations Act and the Listing Rules in respect of the Entitlement Securities in accordance with the Timetable.

4.11 Liability extinguished

Upon clause 4.7 being complied with by the Underwriter, its liability to pay and subscribe for Shortfall Securities under this agreement with respect to the underwriting of the Entitlement Offer shall cease and be extinguished.

4.12 Foreign exchange make whole

- (a) If the Adjustment Amount is a positive number, then not later than 2.00 pm on the Issue Date, the Underwriter must, unless the Underwriter has Terminated, pay or procure payment to the Issuer of the Adjustment Amount.
- (b) If the Adjustment Amount is a negative number, then not later than 2.00 pm on the Issue Date, the Issuer must, unless the Underwriter has Terminated, pay or procure payment to the Underwriter of the Adjustment Amount (as if it were a positive number).

4.13 Conduct of the U.S. Private Placement

The Issuer may only issue Entitlements and offer and sell Entitlement Securities to persons in the United States as part of the Entitlement Offer by way of the U.S. Private Placement, which will be conducted by the Issuer as part of the Entitlement Offer and must be conducted in accordance with the following procedures:

- (a) The Issuer may only make offers to Approved U.S. Security Holders as part of the Entitlement Offer.
- (b) The Issuer will only issue Entitlement Securities to Approved U.S. Security Holders that have delivered an executed Subscription Agreement.
- (c) The Issuer must provide the relevant Covering Email, including the relevant Subscription Agreement and the Approved U.S. Security Holder declaration form, in each case annexed thereto, to Approved U.S. Security Holders at the commencement of the Entitlement Offer.
- (d) The offer of Entitlement Securities to Approved U.S. Security Holders may consist of an offer entitling each Approved U.S. Security Holder to subscribe at the Offer Price and in the Offer Ratio.
- (e) the Lead Manager and/or its U.S. broker-dealer affiliate will act solely as Administration Agent with respect to the U.S. Private Placement, and all offer materials and oral communications with Approved U.S. Security Holders will refer to the Lead Manager acting solely in that capacity.
- (f) The Issuer will provide Approved U.S. Security Holders an opportunity to ask questions and receive answers from management of the Issuer.
- (g) The role of the Administration Agent in connection with the U.S. Private Placement will primarily consist of:
 - (i) assisting the Issuer in structuring the U.S. Private Placement and its terms;
 - (ii) consulting with the Issuer regarding the list of Approved U.S. Security Holders; and
 - (iii) liaising with Approved U.S. Security Holders to confirm their receipt of the Covering Email from the Issuer and providing certain factual information about the terms of the U.S. Private Placement, the provision of passwords to the documents attached to the relevant Covering Email, and settlement mechanics.

5. Due diligence investigations

5.1 Issuer's responsibilities

Until Completion, the Issuer must:

- (a) make such enquiries as are reasonable; and
- (b) exercise due diligence,

to ensure that there are no omissions from the Offer Materials of information required to comply with the Corporations Act and that the statements included in the Offer Materials are not misleading or deceptive or likely to mislead or deceive, and do not become misleading or deceptive or likely to mislead or deceive (whether by misstatement, omission or otherwise).

5.2 Due Diligence Committee

The Issuer must establish a Due Diligence Committee to assist in complying with the obligations under clause 5.1 and must:

- (a) allow the Underwriter to attend Due Diligence Committee meetings as an observer;
- (b) procure that relevant members of management confirm their responses to the Management Questionnaire at a meeting of the Due Diligence Committee held prior to 8.00am on the Launch Date;
- (c) deliver the Due Diligence Report and all other opinions, reports and sign offs (including the legal opinion from Ashurst Australia, Australian counsel to the Issuer, and the Management Sign-offs) to be provided to the Due Diligence Committee or to the Directors in relation to the Entitlement Offer contemplated by the Due Diligence Planning Memorandum by 8.00am on the Launch Date, each (to the extent contemplated by the Due Diligence Planning Memorandum) addressed to the Underwriter (or expressed to be available for reliance by the Underwriter) and in a form acceptable to the Underwriter acting reasonably; and
- (d) deliver to the Underwriter the New Circumstances Sign Offs (as contemplated by the Due Diligence Planning Memorandum) by no later than 9.00am on the Issue Date.

5.3 Due Diligence Report

- (a) The Issuer must provide the Underwriter with full and reasonable access to, and on request, copies of the Due Diligence Report and, subject to clause 5.3, all materials and documents used or created in connection with the Due Diligence Investigations, on receipt of reasonable notice from the Underwriter, and must maintain those materials and documents until the later of:
 - (i) 6 years from the date of Completion; or
 - (ii) the expiry of any regulatory proceedings or inquiries that relate to the Entitlement Offer or this agreement,for that purpose.
- (b) The Underwriter must keep and must procure that its and its advisers keep confidential all information obtained under this clause 5, other than as required by law.
- (c) If the provision of materials and documents under clause 5.3 would lead to a loss of legal professional privilege in those materials and documents, the Issuer must notify the Underwriter of that fact and take all reasonable steps to provide such access and information in a manner which, to the extent reasonably practicable, will not result in a loss of any legal professional privilege.

5.4 Supplementary Cleansing Notice

If the Issuer forms the view or becomes aware:

- (a) of any Excluded Information that would have been required to be disclosed in any Offer Materials (including, in the case of a new circumstance which arises after a relevant document is given to ASX, if it had arisen before the document was given to ASX);
- (b) that the Offer Materials are defective (as that term is defined in sections 708AA(11));
- (c) of a change to the potential effect of the Entitlement Offer on control of the Issuer or to the consequences of that effect; or
- (d) that any of the Offer Materials is, or contains a statement which is, false, misleading or deceptive in any respect (including by misstatement or omission or as a result of a new circumstance that has arisen since the relevant document was issued),

the Issuer must immediately notify the Underwriter of that information or matter and must, if required by the Underwriter or the Corporations Act, as soon as practicable give a correcting notice under subsection 708AA(10) to ASX and prepare and give to ASX an amendment or supplement in respect of that information or matter in a form approved in writing by the Underwriter, such approval not to be unreasonably withheld or delayed. Any such approval is provided without prejudice to the rights of the Underwriter to Terminate. Following the issue of any such correcting notice, amendment or supplement, the Issuer must immediately take such action as may reasonably be requested by the Underwriter (including despatching copies of such correcting notice, amendment or supplement to all recipients of the Offer Materials).

6. Representations and warranties

6.1 Validity of agreement

Each party represents and warrants to each other party that each of the matters set out in Part 1 of Schedule 2 is true, accurate and not misleading.

6.2 The Issuer

The Issuer represents and warrants to the Underwriter each of the matters set out in Part 2 of Schedule 2 is true, accurate and not misleading.

6.3 The Underwriter

The Underwriter represents and warrants to the Issuer each of the matters set out in Part 3 of Schedule 2 is true, accurate and not misleading.

6.4 Independent

Each of the paragraphs set out in Schedule 2 shall be construed independently and no paragraph shall be limited by implications arising from any other paragraph.

6.5 Reliance

Each party acknowledges that the other party is entering into this agreement in reliance on the representations, warranties and undertakings in this clause 6.

6.6 Repetition

Each representation and warranty given by a party under this clause 6 shall be deemed to have been repeated by that party on each day up to and including date of Completion as if made with respect to the facts and circumstances then existing.

6.7 Indemnity

The Issuer indemnifies each of the Indemnified Parties on the terms and conditions set out in Schedule 3.

6.8 Survival

The representations, warranties and indemnities given by a party under this agreement shall not merge upon completion of the transactions contemplated by this agreement.

7. Undertakings by the Issuer

The Issuer must:

- (a) **(compliance)** ensure that the Offer Materials and the Entitlement Offer comply in all material respects with all applicable laws and the Listing Rules;
- (b) **(notice of breach)** immediately notify the Underwriter of any breach of any warranty or undertaking given by it under this agreement, the occurrence of (or any act, fact, matter or thing that is likely to result in the occurrence of) any event as set out in clause 9 and Schedule 4 or the non-satisfaction of any of the conditions in clause 2.1;
- (c) **(supplementary disclosure)** obtain the prior written consent of the Underwriter to the form and content of, and any material amendments to, any of the Offer Materials, such consent not to be unreasonably withheld or delayed. For the avoidance of doubt, this clause 7 does not prejudice the Underwriter's rights to Terminate;
- (d) **(applications)** maintain (and permit the Underwriter to inspect at any reasonable time) accurate records of the receipt of Valid Applications under the Entitlement Offer, the banking of Application Money, the processing of applications and the despatch of holding statements in respect of the Offer Securities issued and ensure that any Application Money in respect of which Entitlement Securities are not issued are duly returned to Securityholders;
- (e) **(notice to nominees)** send a notice to Securityholders whom the Issuer believes hold its Securities as nominee instructing them not to send any Offer Materials to Excluded Securityholders or any Securityholder or person in the United States, in each case for whom they are the nominee holder and not to submit any Entitlement and Acceptance Form or Renunciation and Transfer Form or otherwise purchase Offer Securities on behalf of any Excluded Securityholder or any Securityholder or person in the United States;
- (f) **(cleansing notice)** give to ASX the Cleansing Notice in respect of the Entitlement Offer on the Launch Date; and
- (g) **(U.S. counsel opinion)** procure delivery to the Underwriter by Paul, Weiss, Rifkind, Wharton & Garrison LLP, U.S. counsel to the Issuer, of an opinion by 9.00 am on the Issue Date, or such other time as the Underwriter and the Issuer agree, addressed to and expressed to be for the benefit of the Underwriter as set forth in Annexure A hereto.

8. Fees and costs

The Underwriter is not entitled to any fees in connection with this document or the Entitlement Offer and shall except as provided in the Implementation Agreement be responsible for all its Costs incurred in connection with this document and the Entitlement Offer.

9. Events of termination

9.1 Rights of termination in respect of the Entitlement Offer

Subject to clause 9.2, if any one or more of the events set out in Part 1 of Schedule 4 occurs at any time in the period from (and including) the date of this agreement to 2.00pm on the Issue Date (or, in the case of a paragraph which specifies a particular period, from (and including) the date of this

agreement to (and including) the date or end of the period referred to in the relevant paragraph) then at any time on or before the Issue Date (or the end of the particular period specified) the Underwriter may Terminate by notice in writing to the Issuer specifying the relevant event.

9.2 Materiality

The Underwriter may at any time prior to 2.00pm on the Issue Date, by notice given to the Issuer, and without any cost or liability to the Underwriter, immediately terminate if any one or more of the Termination Events in Part 2 of Schedule 4 occurs or has occurred at any time before 2.00pm on the Issue Date (or such other time as specified in such event) if, in the reasonable opinion of the Underwriter, the Underwriter is likely to contravene, or be involved in a contravention of, or incur a liability under the Corporations Act or any other applicable law as a result of the event.

9.3 Claims

Nothing contained in this clause 9 shall prejudice or nullify any claim for damages or other right which the Underwriter or any other Indemnified Party may have against the Issuer for or arising out of any breach of covenant, warranty or representation or failure to observe or perform an obligation under this agreement.

9.4 Notification

The Issuer must notify the Underwriter in writing immediately after becoming aware that an event of termination has occurred or is about to occur.

9.5 Effect of termination

In the event that the Underwriter Terminates, it will be relieved of its obligations under this agreement.

10. Confidentiality

- (a) This agreement contemplates that the Issuer may supply to the Underwriter certain non-public or proprietary information concerning the Issuer or the Entitlement Offer (**Confidential Information**). In addition, the Underwriter agrees that the Issuer may have provided to them Confidential Information before the date of this agreement. Subject to clause 10(b), the Underwriter agrees that it will not, without the prior consent of the Issuer, disclose any Confidential Information to any person, other than its Related Bodies Corporate and their respective officers, directors, employees and advisers (and on the basis that those persons keep that information confidential on the same basis as set out in this clause 10).
- (b) The restriction in clause 10 will not apply to the Underwriter in respect of any Confidential Information that:
 - (i) becomes publicly available other than as a result of a breach of the Underwriter's undertakings under this clause 10;
 - (ii) comes into the possession of the Underwriter from a third party (unless the Underwriter is aware that the information was obtained by that third party as a result of a breach of an obligation of confidence);
 - (iii) the Underwriter:
 - (A) is required to disclose by law or regulation to any regulatory authority or self-regulatory authority that has jurisdiction over the Underwriter's activities;
 - (B) is required to disclose pursuant to the rules of a stock exchange; or

- (C) otherwise considers it necessary to disclose in connection with any judicial process, regulatory investigation or hearing, or administrative process (including without limitation to establish any defence in respect of any such judicial or administrative process),
- provided that the Underwriter first consults (to the extent it is practicable and it is legally permitted to do so) with the Issuer before disclosing the information and limits the disclosure to only so much of that information legally required to be disclosed.
- (c) The undertaking in this clause 10 by the Underwriter survives termination of this agreement, but automatically terminates 12 months following the date of this agreement.
- (d) In this clause 10 'publicly available' information includes information which is or can be obtained by the Underwriter from any source other than the Issuer, its Related Bodies Corporate or their respective officers, directors, employees and advisers, provided that source has not, to the Underwriter's knowledge, breached a confidentiality obligation concerning such information.

11. Advertising and public announcements

The Issuer is fully responsible for:

- (a) the contents of any promotional material relating to the Entitlement Offer except where the content of that promotional material has not been agreed by the Issuer; and
- (b) all announcements and disclosures in respect of the Entitlement Offer which have been agreed between the Issuer and the Underwriter.

12. Goods and services tax (GST)

12.1 Amounts exclusive of GST

Unless otherwise expressly stated, all amounts or consideration to be provided under or in accordance with this agreement are expressed exclusive of GST.

12.2 Supply subject to GST

If the Underwriter is or becomes liable to pay an amount of GST in respect of any taxable supply under or in connection with this agreement (including, without limitation, the supply of any Services), then, in addition to any fee or other amount or consideration payable to the Underwriter in respect of that taxable supply under any other provision of this agreement, the Underwriter is entitled to be paid an additional amount on account of that GST equal to the GST that the Underwriter has become liable to pay in respect of that taxable supply, however no such additional amount shall be payable under this clause unless and until the Underwriter has issued a tax invoice to the Issuer for the taxable supply to which that additional amount relates.

12.3 Reduction for input tax credits

Any payment or reimbursement required to be made to the Underwriter under this agreement that is calculated by reference to a cost, expense, or other amount paid or incurred by the Underwriter will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates plus any additional amount that may be payable under clause 12.2.

13. Notices

13.1 Form

Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this agreement (Notices) must be in writing, signed by an Authorised Officer of the sender and marked for the attention of the person identified in the Details section (with copies to the persons referred to in clause 8.2 of the Implementation Agreement) for the recipient or, if the recipient has notified otherwise, then marked for attention in the way last notified.

13.2 Delivery

Notices must be:

- (a) left at the address set out or referred to in the Details section;
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details section;
- (c) sent by fax to the fax number set out or referred to in the Details section; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed postal address or changed fax number, or changed email address then the communication must be to that address or number.

13.3 When effective

Notices take effect from the time they are received or deemed to be received under this clause 13 unless a later time is specified.

13.4 Receipt - post

Subject to clause 13.6, if sent by post, Notices are taken to be received three days after posting.

13.5 Receipt - fax

Subject to clause 13.6, if sent by fax, Notices are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

13.6 Receipt outside business hours

If a Notice is received:

- (a) after 5.00pm on a Business Day, or at any time on a day which is not a Business Day, the Notice is deemed to be received at 9.00am on the next Business Day; or
- (b) before 9.00am on a Business Day, the Notice is deemed to be received at 9.00am on that Business Day.

14. Acknowledgments

14.1 Acknowledgments

The Issuer acknowledges that:

- (a) while the Underwriter may act as observer in relation to the due diligence investigations in connection with the Entitlement Offer, the Issuer will rely on its own expertise and on that of specialist legal, accounting and tax advisers in respect of that due diligence; and
- (b) the Underwriter is not responsible in any way for the management or marketing of the Entitlement Offer, the distribution, on-sale or placement of Offer Securities, Shortfall Securities or Entitlements to other parties, the distribution of the Offer Materials or any

announcements or publicity in relation to the Entitlement Offer and has provided no advice of any kind (including with respect to the pricing of the Offer or of the Entitlements) to the Issuer; and

- (c) no proceedings may be taken against any director, officer, employee or agent of the Underwriter in respect of any claim that the Issuer may have against the Underwriter under this document; and
- (d) it is contracting with the Underwriter on an arms length basis to provide the services described in this agreement and the Underwriter have not and are not assuming any duties or obligations (fiduciary or otherwise) in respect of it other than those expressly set out in this agreement.

14.2 Agreements

- (a) Each of the Issuer and the Underwriter agrees that it is solely responsible for making its own independent judgements with respect to the Entitlement Offer.
- (b) The Issuer acknowledges and agrees that the Underwriter in providing services to the Issuer in connection with the Entitlement Offer, including in acting pursuant to the terms of this agreement, has acted and is acting as independent contractor at arm's length to the Issuer and not as a fiduciary, financial adviser or agent. The Issuer acknowledges and agrees that it does not intend that the Underwriter act in any capacity other than independent contractor (including as a fiduciary, financial adviser or agent) or in any other position of higher trust and nothing in this agreement or the nature of the services whether before or after the date of this agreement creates a fiduciary relationship between the Underwriter and the Issuer or its Securityholders, creditors, employees or any other party.
- (c) Underwriter is not advising the Issuer or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Issuer shall consult with its own advisers concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated by this agreement, and the Underwriter shall have no responsibility or liability to the Issuer with respect to such matters. Any review by the Underwriter of the Issuer, the transactions contemplated by this agreement or other matters relating to such transactions will be performed solely for the benefit of the Underwriter and shall not be on behalf of the Issuer.

15. General

15.1 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this agreement expressly states otherwise.

15.2 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

15.3 No liability for loss

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this agreement.

15.4 Conflict of interest

The parties' rights and remedies under this agreement may be exercised even if this involves a conflict of duty or a party has a personal interest in their exercise.

15.5 Remedies cumulative

The rights and remedies provided in this agreement are in addition to other rights and remedies given by law independently of this agreement.

15.6 Variation and waiver

A provision of this agreement or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

15.7 Indemnities, warranties and releases

Each warranty, indemnity and release in this agreement are continuing obligations, independent from the other obligations of the Issuer under this agreement and continue after this agreement ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this agreement.

15.8 Further assurances

Each party agrees, at its own expense, on the request of the other parties, to do everything reasonably necessary to give effect to this agreement and the transactions contemplated by it, including, but not limited to, the execution of documents.

15.9 Enforceability

For the purpose of this agreement, the Underwriter is taken to be acting as agent and trustee on behalf of and for the benefit of all Indemnified Parties and all of those persons are to this extent taken to be parties to this agreement.

15.10 Amendment

This agreement may be amended by the parties (including in a manner that adversely affects the interests of the Indemnified Parties) without obtaining the consent of the Indemnified Parties.

15.11 Severability

If the whole or any part of a provision of this agreement is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this agreement or is contrary to public policy.

15.12 Assignment

The rights and obligations of each party under this agreement cannot be assigned without the prior written consent of the other which consent can be withheld in that party's absolute discretion.

15.13 Civil Liabilities Act

The parties expressly agree, for the purposes of section 3A(2) of the *Civil Liabilities Act 2002* (NSW), that this agreement sets out the full extent of the parties' rights, obligations and liabilities in relation to the arrangements contemplated by this agreement and the operation of the *Civil Liabilities Act 2002* (NSW) in relation to this agreement and the arrangements contemplated by it is excluded to the extent permitted by law.

15.14 No bias against drafter (contra proferentem)

No provision of this agreement is to be interpreted to the disadvantage of a party because that party (or its representative) drafted that provision.

15.15 Counterparts

This agreement may consist of a number of copies, each signed by one or more parties to the agreement. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed will be the date of the agreement.

15.16 Governing law

- (a) This agreement and the transactions contemplated by this agreement are governed by the law in force in New South Wales.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of New South Wales.

16. Interpretation

16.1 Definitions

The following words have these meanings in this agreement unless the contrary intention appears.

Accepted Entitlement Securities means those Entitlement Securities the subject of Valid Applications or for which the Issuer receives subscriptions under a duly executed Subscription Agreement from an Approved U.S. Security Holder.

Accepting Investor means a Securityholder or an acquirer of Entitlements (other than an Approved U.S. Security Holder) who delivers a Valid Application to the Issuer or a Approved U.S. Security Holder who delivers a duly executed Subscription Agreement to the Issuer before the relevant time on the Closing Date, accepting all or part of its Entitlement.

Adjustment Amount means the amount calculated in accordance with the following formula, in US dollars:

$$\text{Adjustment Amount} = (A \times B) - (C \times B)$$

Where:

A = the Launch FX Rate

B = the AUD Shortfall Amount

C = the Settlement FX Rate

Administration Agent means the Lead Manager and/or its U.S. broker-dealer Affiliate acting in its capacity as administration agent with respect to the U.S. Private Placement.

Affiliate has the meaning given to that term in Rule 501(b) under the U.S. Securities Act and means, in respect of any person, any other person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person; and **control** (including the terms **controlled by** and **under common control with**) means the possession, direct or indirect, of the power to direct or cause the direction of the management, policies or activities of a person, whether through the ownership of securities, by contract or agency or otherwise.

Appendix 3B means the document required under the Listing Rules to be lodged with ASX to announce a new securities issue and apply for quotation of new securities.

Application Money means the application money delivered by Accepting Investors to the Registry in respect of a Valid Application.

Approved U.S. Security Holder means those Security Holders or beneficial owners of an ordinary share in the Company as of the Record Date, who are also Security Holders or beneficial owners of an ordinary share in the Company at the date of this Deed, that are:

- (a) CCP II Dutch Acquisition – E2, B.V. and CCP Credit SC II Dutch Acquisition – E, B.V.; or
- (b) located in the United States and that the Company and the Administration Agent have determined to be any of the following:

- (i) a limited number of directors or executive officers (as defined in Rule 501(f) under the Securities Act) of the Company that are "accredited investors" within the meaning of Rule 501(a)(4), Rule 501(a)(5) and Rule 501(a)(6) under the Securities Act, provided that no more than 15 persons may be considered Approved U.S. Security Holders under this clause (b)(1);
- (ii) QIBs that are acting for their own account or for the account or benefit of one or more persons, each of whom is a QIB; or
- (iii) dealers or other professional fiduciaries organised, incorporated or (if individuals) resident in the United States that are acting for an account (other than an estate or trust) held for the benefit or account of persons that are not U.S. Persons for which they have and are exercising investment discretion, within the meaning of Rule 902(k)(2)(i) of Regulation S,
- and in each case that are acquiring the U.S. Entitlement Securities for investment purposes and not with a view to the distribution thereof and whose participation in the U.S. Private Placement the Company and the Administration Agent have expressly approved.
- ASIC means the Australian Securities and Investments Commission.
- ASX means the ASX Limited, or the financial market operated by it, as the context requires.
- ASX Materials means the Press Release, Investor Presentation, the Cleansing Notice, the Appendix 3B and any announcement or material accompanying them (each in a form approved by the Underwriter acting reasonably) given to ASX by the Issuer on the Launch Date.
- ASX Settlement means ASX Settlement Pty Limited.
- ASX Settlement Operating Rules means the settlement rules for ASX Settlement.
- AVD Shortfall Amount means the amount which the Underwriter is required to pay or procure payment to the Issuer pursuant to clause 4.7(a), in Australian dollars.
- Authorised Officer means a person appointed by a party to act as an authorised officer for the purposes of this agreement.
- Authorisation means:
- (a) an authorisation, approval, consent, declaration, exemption, notariation, licence, permit, concession, order, registration, qualification, decree or waiver, of a Government Agency or otherwise, however it is described; 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,
- including any renewal or amendment.
- Business Day means a day on which:
- (a) ASX is open for trading in securities; and
- (b) banks are open for general banking business,
- in Sydney, New South Wales.
- Capital Stock means
- (a) in the case of a corporation, corporate stock;

- (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (d) any other interest or participation that confers on a person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

CHESS means the Clearing House Electronic Subregister System.

CHESS Rules means the ASX Settlement Operating Rules and the provisions of the Corporations Act and Listing Rules concerning the electronic share registration and transfer system as and to the extent that they apply to the Issuer.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise.

Cleansing Notice means the notice given to ASX by the Issuer under section 708AA(2)(f) in respect of the Entitlement Offer.

Closing Certificate means a certificate pursuant to clauses 4.6(b) signed on behalf of the Issuer by any two Directors or Director and the Company Secretary which certifies to the Underwriter as at the date of the Closing Certificate that to the best of those persons' knowledge and information after due enquiry, other than as disclosed in the Closing Certificate:

- (a) the Issuer has complied with all obligations on its part to be performed:
 - (i) under this agreement;
 - (ii) under the Implementation Agreement; and
 - (iii) in respect of the Entitlement Offer under statute or otherwise;
- (b) none of the events referred to in clause 9 and Schedule 4 has occurred; and
- (c) the warranties contemplated under clause 6 and Schedule 2 that relate to the Issuer are true and correct.

Completion will occur when all of the Offer Securities have been issued by the Issuer in accordance with the Entitlement Offer.

Co- Manager means the Co- Manager to the Offer appointed by the Issuer being Moclis Australia Advisory Pty Limited (ACN 72 142 008 446).

Constitution means the constitution of the Issuer.

Corporations Act means the *Corporations Act 2001* (Cth), or as amended or relived by any applicable regulation, ASIC class order or other instrument.

Costs means any costs, charges or expenses.

Covering Email means each cover email, including an appropriate cautionary legend, sent by the Issuer to Approved U.S. Security Holders in connection with the U.S. Private Placement, annexing a draft of the Subscription Agreement and the U.S. security holder declaration form and the U.S. renunciation form, which documents must be protected by a separately transmitted password, in the form agreed with the Lead Manager.

Directors means the directors of the Issuer.

Due Diligence Committee means the working group formed by the Issuer in connection with the Entitlement Offer pursuant to clause 5.2.

Due Diligence Investigations means the activities referred to in clause 5.1.

Due Diligence Planning Memorandum means the due diligence planning memorandum in respect of the Recapitalisation in the form agreed by the Issuer and the Underwriter (acting reasonably).

Due Diligence Report means the report of the Due Diligence Committee to the Directors (and also provided to and for the benefit of the Underwriter), including all annexures and schedules to the report and all supporting documents to which the Underwriter is given access for the purpose of the Due Diligence Investigations.

Eligible Securityholders means Securityholders who:

- (a) are registered as a holder of Securities cum rights as at 7.00pm (AEDT) on the Record Date; and
- (b) as at the Record Date:
 - (i) have a registered address in Australia or New Zealand; or
 - (ii) have a registered address in Canada, Germany or Switzerland and are employees of the Group; and
- (c) are not in the United States and are not acting for the account or benefit of a person in the United States; and
- (d) are eligible under all applicable securities laws to receive an offer under the Offer without any requirement for a prospectus or offer document to be lodged or registered.

Entitlement means in respect of a Securityholder, its tradable entitlement to be issued Entitlement Securities under the Entitlement Offer.

Entitlement and Acceptance Form means a personalised entitlement and acceptance form in relation to the Entitlement Offer.

Entitlement Offer means the pro rata renounceable entitlement offer of Securities to Securityholders entitling each Securityholder to subscribe at the Offer Price for 0.9798 Securities for every 1 Security held by that Securityholder at 7.00pm on the Record Date (and, where the context requires, includes subscription for Shortfall Securities) to raise US\$84 million. For the avoidance of doubt, the Entitlement Offer includes the U.S. Private Placement.

Entitlement Securities means the Securities offered to Securityholders under the Entitlement Offer (and includes the U.S Entitlement Offer Securities).

Equity Interests means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for Capital Stock.

Exchange Rate means on any day, for the purposes of determining the US Dollar equivalent of Australian dollars, the rate at which one Australian Dollar may be exchanged into US Dollars at the time of determination on such day (i.e. the A\$ / US\$ cross rate), as set forth on the Reuters WRLD Page for such currency. In the event that such rate does not appear on any Reuters WRLD Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Underwriter and the Issuer.

Excluded Information has the meaning given in sections 708AA(8) and 708AA(9) of the Corporations Act.

Excluded Securityholder means Securityholders as at 7.00pm on the Record Date who are not (i) Eligible Securityholders to whom Listing Rule 7.7.1(a) applies or (ii) Approved U.S. Security Holders, provided that:

- (a) other than an Approved U.S. Securityholder, any such holder of Securities that is in the United States and any such holder of Securities who holds Securities for the account or benefit of a person in the United States (to the extent that such holder holds the Securities for the account or benefit of such person in the United States); and
- (b) any such holder of Securities who holds Securities for the account or benefit of a person outside Australia, New Zealand or the United States (to the extent that such holder holds the Securities for the account or benefit of such person other than on behalf of an Institutional Investor in a Permitted Jurisdiction),

is an Excluded Securityholder.

Existing Unsecured Notes has the meaning given to it in the Implementation Agreement.

Government Agency means any governmental, semi-governmental, administrative, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity.

Group means the Issuer and its subsidiaries.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other Act or regulation relating to the imposition or administration of GST.

Implementation Agreement means the implementation agreement for the recapitalisation of the Issuer group entered into by the Issuer, Boart Longyear Management Pty Limited, Longyear Canada, ULC, Boart Longyear Canada and CCP II Dutch Acquisition - E2, B.V. on 23 October 2014.

Indemnified Claim means any Claim made against an Indemnified Party in respect of which that Indemnified Party has a right to be indemnified by the Issuer under clause 6.7 and paragraph 1 of Schedule 3.

Indemnified Parties means

- (a) the Underwriter;
- (b) the Affiliates and Related Bodies Corporate of the Underwriter;
- (c) the directors, officers and employees of:
 - (i) the Underwriter; and
 - (ii) the Affiliates and Related Bodies Corporate of the Underwriter;
- (d) each person, if any, who controls the Underwriter within the meaning of Section 15 of the U.S. Securities Act or Section 20 of the U.S. Exchange Act.

Insolvent means a person is Insolvent if:

- (a) it is (or states it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or it has had a Controller (as defined in the Corporations Act) appointed to its property; or

- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this agreement); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1)) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 (or it makes a statement from which another party to this agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to paragraphs (a) to (g) above happens in connection with that person under the law of any jurisdiction.

Institutional Investor means a person who the Lead Manager reasonably believes to be a person to whom offers for the issue of Offer Securities may lawfully be made without any other lodgement (in each case disregarding the operation of sections 708A and 708AA), registration or approval with or by a Governmental Agency (other than one with which the Issuer is willing to comply) provided that if such a person is in the United States or is acting for the account or benefit of a person in the United States, it is only an Institutional Investor (and any person for whom such person is acting) if it is an Approved U.S. Securityholder.

Invalid Application means an Entitlement and Acceptance Form or Renunciation and Transfer Form which has been delivered to the Registry but which is not a Valid Application for whatever reason.

Investor Presentation means the presentation to be lodged by the Issuer on the Launch Date in relation to the Issuer's affairs at the time of the launch of the Entitlement Offer.

Launch FX Rate means the Exchange Rate at 5:00pm on the Business Day prior to the Launch Date.

Lead Manager means Goldman Sachs Australia Pty Limited (ACN 006 797 897).

Listing Rules means the Listing Rules of ASX, except as waived or modified from time to time in respect of the Issuer.

Losses means all Claims, demands, damages, losses, costs, expenses and liabilities.

Management Questionnaire means the management due diligence questionnaire executed on or about the date of announcement of the Recapitalisation and provided to the Issuer on or about 17 December 2014.

Management Sign-offs means the management sign-offs executed by:

- (a) Richard O'Brien;
- (b) Jeff Olsen; and
- (c) Fabrizio Rasetti.

New Circumstances Sign-off means the new circumstances sign-offs contemplated in the Due Diligence Planning Memorandum.

Offer Materials means:

- (a) the ASX Materials;
- (b) Rights Issue Booklet;
- (c) any Entitlement and Acceptance Form;
- (d) the Renunciation and Transfer Form;
- (e) any supplementary Rights Issue Booklet;
- (f) the Subscription Agreements;
- (g) the Covering Email;
- (h) all other communications with Excluded Securityholders, Securityholders, nominees and other parties approved or authorised by or on behalf of the Issuer in connection with the Entitlement Offer, including the shareholding declaration forms; and
- (i) any supplement or amendment to, or replacement of, the materials referred to in paragraphs (a) to (f).

Offer Period means the period commencing on the Opening Date and ending on the Closing Date.

Offer Price means \$0.1656 per Offer Security.

Offer Securities means the Securities proposed to be offered for subscription issued under the Entitlement Offer, and where relevant (but without intending to lead to double-counting for the purposes of any subscription obligations or fee calculations) includes any Shortfall Securities (including, where the context required, the Preference Shares that may be issued to the Underwriter).

OMD means an offer management deed in relation to the Entitlement Offer to be entered into by the Issuer and the Lead Manager, in a form acceptable to the Underwriter, acting reasonably having regard to customary market terms in Australia for such an agreement.

Permitted Jurisdiction means:

- (a) Canada (British Columbia, Ontario and Quebec provinces);
- (b) European Economic Area (Denmark, Germany and Netherlands);
- (c) Hong Kong;
- (d) Norway;
- (e) Singapore;
- (f) Switzerland; and
- (g) the United Kingdom.

Preference Share has the meaning given to it in the Implementation Agreement.

Press Release means the release given to ASX dated on or about the date of this agreement in respect of the Entitlement Offer.

Public Information means public and other media statements (including any announcements, advertisements, notices of general meetings and explanatory statements, publicity, roadshow materials or marketing presentations) made by, or on behalf of, the Issuer in relation to the affairs of the Issuer or the Entitlement Offer.

Publication means any media statements, announcements, advertisements, publicity or roadshow materials relating to the Entitlement Offer published by the Issuer or on their behalf.

QIB means a 'qualified institutional buyer' as that term is defined in Rule 144A under the U.S. Securities Act.

Recapitalisation means the transactions with respect to the Issuer contemplated by the Implementation Agreement.

Renunciation and Transfer Form means the renunciation and transfer form or similar form issued by the Issuer to enable the transfer of Entitlements.

Record Time means 7.00pm on the Record Date.

Registry means the Issuer's securities registry, Link Market Services Pty Limited.

Regulation S means Regulation S under the U.S. Securities Act.

Related Body Corporate means has the meaning given by section 50 of the Corporations Act.

Related Funds means, with respect to the Underwriter:

- (a) any fund, account or investment vehicle that is controlled or managed by:
 - (i) the Underwriter;
 - (ii) an Affiliate of the Underwriter; or
 - (iii) the same investment manager or advisor as the Underwriter or an Affiliate of such investment manager or advisor; or
- (b) any entity formed and controlled by any of the foregoing, individually or collectively, for the purpose of subscribing for Preference Shares.

Rights Issue Booklet means an offer document issued or published by or on behalf of the Issuer in respect of the Entitlement Offer to be sent to Securityholders.

SEC means the U.S. Securities and Exchange Commission.

Security means a fully paid ordinary share in the capital of the Issuer.

Second Closing Transactions has the meaning given to it in the Implementation Agreement.

Securityholders means those persons whose names appear in the register of members of the Issuer as holders of Securities as at 7.00pm on the Record Date.

Services means goods, services, rights, benefits or things.

Settlement FX Rate means the Exchange Rate at 5:00pm on the Business Day prior to the Issue Date.

Share Buy Back Offer has the meaning given to it in the Implementation Agreement.

Shortfall Notice means a notice from the Issuer to the Underwriter specifying the number of Shortfall Securities as contemplated under clause 4.6(a).

Shortfall Securities means Securities equal in number to the sum of:

- (a) Entitlement Securities for which Valid Applications have not been received by the Registry from Eligible Securityholders or an eligible acquirer of Entitlements; and
- (b) U.S Entitlement Securities for which the Issuer has not received a duly executed Subscription Agreement by 5.00pm on the Closing Date,

the number of which is specified in any final Shortfall Notice delivered under clause 4.6(a), provided that, to the extent clause 4.7(b) requires the issuance of Shortfall Securities to the Underwriter and after giving effect to such issuance to the Underwriter, would result in the Underwriter being a 'person' or a member of 'group' (as such terms are used in Sections 13(d) and 14(d) of the U.S. Exchange Act) that is the 'beneficial owner' (as defined in Rules 13d-3 and 13d-5 under the U.S. Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Issuer (including Entitlement Securities) as of such time, then in lieu of issuing each such Shortfall Security in excess thereof, the Issuer will instead issue one Preference Share. If this occurs, references in this agreement to Shortfall Securities will, unless the context requires otherwise, be taken to include a reference to Preference Shares issued instead of Shortfall Securities.

Subscription Agreements means each of the subscription agreements to be entered into by the Issuer with Approved U.S. Security Holders in connection with the U.S. Private Placement, substantially in the form agreed between the Issuer and the Lead Manager as at the date of this agreement (and as may be subsequently amended by the Lead Manager in agreement with the Issuer).

Terminate means the termination by the Underwriter of all further obligations under this agreement in accordance with clause 2.2 or clause 9.

Timetable means the Timetable set out in Schedule 1 as it may be varied under clause 3.

U.S. Entitlement Securities means the Offer Securities to be offered and sold to Approved U.S. Security Holders under the U.S. Private Placement.

U.S. Exchange Act means the *U.S. Securities Exchange Act of 1934*.

U.S. Investment Company Act means the *U.S. Investment Company Act of 1940*.

U.S. Private Placement means the offer and sale of Offer Securities by the Issuer to Approved U.S. Security Holders as part of the Entitlement Offer in the manner contemplated by the Subscription Agreements and clause 4.13.

U.S. Person has the meaning given to that term in Rule 902(k) under the U.S. Securities Act.

U.S. Securities Act means the *U.S. Securities Act of 1933*.

United States has the meaning given to that term in Rule 902(l) under the U.S. Securities Act.

Valid Application means in respect of Offer Securities, other than the U.S. Entitlement Securities:

- (a) a duly completed and executed Entitlement and Acceptance Form submitted by a Securityholder or a Renunciation and Transfer Form submitted in accordance with the Rights Issue Booklet and payment in full for Accepted Entitlement Securities in cleared funds lodged with the Registry prior to 5.00pm on the Closing Date; or
- (b) payment for the Entitlement Securities made by BPAY where the Issuer receives the Offer Price in cleared funds by 5.00 pm on the Closing Date.

Voting Stock of the Issuer means all classes of Equity Interests of the Issuer then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of the directors, managers or trustees thereof, and including any other Share Equivalents of the Issuer that constitute 'Voting Stock' as defined in the indenture, dated as of March 28, 2011, as supplemented, amended or modified from time to time, between Board Management and U.S. Bank National Association, as trustee, governing the Existing Unsecured Notes.

16.2 References to certain general terms

Unless the contrary intention appears, a reference in this agreement to:

- (a) **(variations or replacement)** a document (including this agreement) includes any variation or replacement of it;
- (b) **(clauses, annexes and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this agreement;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(Corporations Act)** a reference to a section, Part or Division is a reference to a section, Part or Division of the Corporations Act;
- (e) **(singular includes plural)** the singular includes the plural and vice versa;
- (f) **(person)** the word **person** includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Government Agency;
- (g) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novating) and assigns;
- (h) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (i) **(jointly and severally)** an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (j) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) **(dollars)** Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (l) **(calculation of time)** if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (m) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) **(meaning not limited)** the words include, including, for example or such as are not used as, nor are they to be interpreted as, words of limitations, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
- (o) **(time of day)** time is a reference to time in the Business Day place.

16.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this agreement.

16.4 Timetable Events and Dates

Any reference to an **Event** in the Timetable is taken to be a reference to the corresponding **Date** in the Timetable and has the same meaning where used in this agreement, as it may be varied under clause 3.

Schedule 1 – Timetable

Event	Date
Signing Date – the date of this agreement	18 December 2014
Launch Date – the date on which the Offer is launched and:	18 December 2014
<ul style="list-style-type: none"> • announcement of launch of Entitlement Offer • ASX Materials lodged with ASX 	
Despatch of Appendix 3B information notice	19 December 2014
Entitlements Trading Date and 'Ex' date	22 December 2014
Record Date – record date for the Entitlement Offer	7.00pm (Sydney time) 24 December 2014
Opening Date and Despatch Date:	30 December 2014
<ul style="list-style-type: none"> • despatch of Rights Issue Booklet and Entitlement and Acceptance Form • first date on which acceptances of the Entitlement Offer may be received 	
Entitlements trading ends	12 January 2015
Quotation Approval Date – last date for ASX approval of official quotation of Entitlement Securities	13 January 2015
Closing Date – last date on which acceptances of the Entitlement Offer may be received	19 January 2015
Shortfall Notification Date	22 January 2015
Issue Date:	27 January 2015
<ul style="list-style-type: none"> • date for payment and issue of Entitlement Securities • Issuer announces results of Entitlement Offer to ASX 	
Trading Date – commencement of trading of Entitlement Securities on a normal basis	28 January 2015

Schedule 2 – Representations and warranties

1. Part 1: The Parties

Each party to this agreement represents and warrants in relation to itself to each other party that:

- (a) **(status and power)** it:
 - (i) is a body corporate validly existing under the laws of its place of incorporation; and
 - (ii) has power to, and has taken all necessary corporate action to, enter into and perform its obligations under, and carry out the transactions contemplated by, this agreement;
- (b) **(authority)** all approvals and Authorisations that are necessary to permit it to enter into and perform its obligations under, and carry out the transactions contemplated by, this agreement have been taken and obtained by it, remain valid and subsisting and have not since been rescinded or varied; and
- (c) **(binding obligation)** this agreement is a valid and binding obligation on it, enforceable against it in accordance with its terms.

2. Part 2: The Issuer

The Issuer represents and warrants to the Underwriter that:

- (a) **(inside information)** as at the Launch Date, except as disclosed in the Offer Materials, it is not aware of any information that is not generally available at the date of this agreement which, if made generally available, would be likely to have a material effect upon the price or value of the Securities or would otherwise be required to be disclosed as Excluded Information;
- (b) **(Excluded Information):**
 - (i) the ASX Materials will not omit any information which is Excluded Information at the time of their release to ASX; and
 - (ii) the Issuer is not aware of anything that will result in there being any Excluded Information at any time before Completion.
- (c) **(no exemptions or orders)** no:
 - (i) exemption under sections 111AS or 111AT; or
 - (ii) order under sections 340 or 341,has been made in respect of the Issuer, or any person, as a director or auditor of the Issuer at any time in the previous 12 months.
- (d) **(section 708AA compliance)**
 - (i) the Issuer is able to provide, and there is nothing preventing it from providing, the Cleansing Notice in accordance with this agreement and the Entitlement Offer will be an offer to which section 708AA of the Corporations Act and 708A(12A) of the Corporations Act applies; and

- (ii) the Offer Securities (other than the Preferred Shares) are and will be in a class of securities that were quoted securities at all times in the 12 months prior to the Second Issue Date and trading in that class of securities on ASX has not been suspended for more than a total of 5 days in those 12 month periods;
- (c) **(purpose not for resale)** the Offer Securities are not being issued for the purpose of resale (whether by selling or transferring them or granting, issuing or transferring interests in, options or warrants over, them);
- (f) **(Offer Materials)**
 - (i) from publication there are no omissions from the Offer Materials of material required by the Corporations Act to be included;
 - (ii) from publication the Offer Materials do not contain any statements which are untrue, inaccurate, misleading or deceptive or likely to mislead or deceive (whether by inclusion or omission); and
 - (iii) from publication the Offer Materials contain all information required to comply with all applicable laws,

and the distribution of the Offer Materials itself will not constitute conduct by any person which is misleading or deceptive;
- (g) **(opinions, beliefs and forward looking statements)** each:
 - (i) forecast and estimate or statement by the Issuer or the Directors that relates to a future matter; and
 - (ii) expression of opinion, belief, expectation, intention or policy by the Issuer or the Directors,

in any Offer Material is honestly held and has been made on reasonable grounds;
- (h) **(no misleading or deceptive conduct)** the Issuer has not engaged, and will not engage, in conduct that is misleading or deceptive or is likely to mislead or deceive in connection with the Entitlement Offer;
- (i) **(no contravention)** none of:
 - (i) the entry into this agreement;
 - (ii) the performance by the Issuer of its obligations under this agreement; or
 - (iii) the carrying out of any transaction contemplated by this agreement,

will conflict with, or result in a breach of, any provisions of:

 - (iv) any agreement, deed, trust, document or other arrangement;
 - (v) any applicable law; or
 - (vi) any judgment of any Court,

binding on any Group Member or any of their respective assets in any material respect;
- (j) **(no action to prevent Entitlement Offer)** no action has been taken, and no proceeding or process has been commenced, is pending or has been threatened, against the Issuer to restrain, contest or challenge its right, power or ability to undertake the Entitlement Offer, to invite applications for and to issue the Offer Securities, to publish the Offer Materials or to enter into or perform this agreement;

(k) **(Offer Securities)**

- (i) the Offer Securities will be fully paid, validly issued, remain validly issued and the Offer Securities (other than the Preferred Shares) rank equally with all other Securities from their date of issue; and
- (ii) the Issuer has the ability to issue the Offer Securities free from all Encumbrances, and applicants for the Offer Securities will receive good, valid and uncontestable title to the Offer Securities free from any Encumbrance;

(l) **(eligible for quotation)** the Offer Securities (other than the Preferred Shares) will be eligible under the Listing Rules and other requirements of ASX for Official Quotation;

(m) **(no section 708AA(3) determination)** no determination by ASIC under section 708AA(3) in respect of the Issuer is currently in force, and no such determination in respect of the Issuer has been in force at any time in the 12 months prior to the date of this agreement;

(n) **(no money laundering)** the operations of the Issuer and its Related Bodies Corporate and Affiliates are and have been conducted at all times in compliance with all financial recordkeeping and reporting requirements imposed by law or regulation and in compliance with the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority (collectively, the **Money Laundering Laws**); and no action, suit or proceeding by or before any court or Governmental Authority, body or any arbitrator involving the Issuer or any of its Related Bodies Corporate and Affiliates with respect to the Money Laundering Laws is pending or, to the best knowledge of the Issuer, threatened;

(o) **(U.S. sanctions)** none of the Issuer, any of its Related Bodies Corporate or any of its Affiliates or, to the best knowledge of the Issuer, any director, officer, agent, employee or other person acting on behalf of the Issuer or any of its Related Bodies Corporate or any of its Affiliates is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury (**OFAC**) or any similar Australian sanctions administered by the Commonwealth of Australia; and the Issuer will not directly or indirectly use the proceeds of the offering of the Offer Securities hereunder, or lend, contribute or otherwise make available such proceeds to any Related Body Corporate, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC or any similar Australian sanctions administered by the Commonwealth of Australia;

(p) **(no corrupt practices)** none of the Issuer, any of its Related Bodies Corporate or any of its Affiliates or, to the best knowledge of the Issuer, any director, officer, agent, employee or other person acting on behalf of the Issuer or any of its Related Bodies Corporate or any of its Affiliates has:

- (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity
- (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; or
- (iii) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment,

in each case, in violation of any applicable laws

- (q) **(no general solicitation or general advertising)** neither the Issuer, nor any of its Affiliates, nor any person acting on behalf of the Issuer or any of its Affiliates (other than the Underwriter or its Affiliates or any person acting on behalf of any of them, as to whom no representation or warranty is made) has offered or sold, or will offer or sell, any Offer Securities in the United States using any form of 'general solicitation' or 'general advertisement' within the meaning of Rule 502(c) under the U.S. Securities Act or in any manner involving a public offering in the United States within the meaning of section 4(2) of the U.S. Securities Act;
- (r) **(no directed selling efforts)** with respect to those Offer Securities sold in reliance on Regulation S, neither the Issuer, nor any of its Affiliates, nor any person acting on behalf of the Issuer or any of its Affiliates (other than the Underwriter or its Affiliates or any person acting on behalf of any of them, as to whom no representation or warranty is made), has engaged or will engage in any 'directed selling efforts' within the meaning of Rule 902(c) under the U.S. Securities Act;
- (s) **(no integration)** neither the Issuer, nor any of its Affiliates, nor any person acting on behalf of the Issuer or any of its Affiliates (other than the Underwriter or any of its Affiliates or any person acting on behalf of any of them, as to whom no representation or warranty is made) has solicited any offer to buy, offered to sell or sold, and none of them will solicit any offer to buy, offer to sell or sell, in the United States, any security of the Issuer which is or could be integrated with the issue or the sale of the Offer Securities in a manner that would require the offer and sale of the Offer Securities to be registered under the U.S. Securities Act;
- (t) **(foreign private issuer and no substantial U.S. market interest)** the Issuer is a 'foreign private issuer' as defined in Rule 405 under the U.S. Securities Act and there is no 'substantial U.S. market interest' (as defined in Rule 902(j) under the U.S. Securities Act) in the Offer Securities or any security of the same class or series as the Offer Securities;
- (u) **(stabilization; manipulation)** neither the Issuer, nor any of its Affiliates, nor any person acting on behalf of the Issuer or any of its Affiliates (other than the Underwriter or its Affiliates or any person acting on behalf of any of them, as to whom no representation or warranty is made) has taken or will take, directly or indirectly, any action designed to, or that might reasonably be expected to, cause or result in stabilization or manipulation of the price of the Offer Securities in violation of any applicable law;
- (v) **(no offers or sales to non-Approved U.S. Security Holders)** The Issuer will not issue Entitlements or offer or sell Entitlement Securities to persons that are in the United States or that are acting for the account or benefit of persons in the United States (to the extent that such persons hold securities for the account or benefit of persons in the United States) that are not Approved U.S. Security Holders;
- (w) **(PFIC)** the Issuer does not expect that it would be classified as a 'passive foreign investment company' (PFIC) within the meaning of Section 1297 of the US Internal Revenue Code of 1986, as amended, for its most recent completed taxable year, and does not expect to be classified as a PFIC for the current taxable year;
- (x) **(investment company)** the Issuer is not, and immediately after giving effect to the issuance and sale of the Offer Securities and the application of the net proceeds therefrom will not be, required to register as an 'investment company' under the US Investment Company Act;
- (y) **(Rule 144A eligibility)** when the Offer Securities are issued and delivered pursuant to this agreement, the Offer Securities will be eligible for resale pursuant to Rule 144A under the U.S. Securities Act and will not be of the same class (within the meaning of Rule

144A(d)(3) under the U.S. Securities Act) as securities which are listed on a national securities exchange registered under Section 6 of the U.S. Exchange Act or quoted in a U.S. automated inter-dealer quotation system;

- (z) **(Rule 144A(d)(4) information requirement)** for so long as any Offer Securities are 'restricted securities' within the meaning of Rule 144(a)(3) under the U.S. Securities Act, the Issuer will at any time when it is not subject to Section 13 or 15(d) of the U.S. Exchange Act and is not exempt from reporting under the U.S. Exchange Act pursuant to Rule 12g3-2(b) thereunder, for the benefit of holders from time to time of such 'restricted securities', furnish, upon request and at the Issuer's expense, to holders in the United States of Offer Securities and prospective purchasers of Offer Securities in the United States designated by any holder, information satisfying the requirements of Rule 144A(d)(4)(i) under the U.S. Securities Act;
- (aa) **(ADR facility)** the Issuer does not have a sponsored American Depositary Receipt Program; and
- (bb) **(no registration)** subject to the accuracy of, and compliance with, the representations, warranties and agreements of the Underwriter in paragraphs (a), (i), (j) and (k) of Part 3 of this Schedule 2, and the accuracy of, and compliance with, any corresponding representations, warranties and agreements of any sub-underwriters, co-lead manager, co-managers and brokers in their respective appointment letters, it is not necessary in connection with the issue of the Entitlements, the initial offer, sale and delivery of the Offer Securities by the Issuer to the Underwriter in the manner contemplated by this agreement, to register the Entitlements or the Offer Securities under the U.S. Securities Act, it being understood that the Issuer makes no representation or warranty about any subsequent resale of the Offer Securities.

3. Part 3: The Underwriter

The Underwriter represents and warrants to the Issuer that:

- (a) **(status of Underwriter)** it is a person to whom the offer of the Offer Securities may lawfully be made under all applicable laws (including the Corporations Act), and to whom the Offer Securities may be issued, without the need for any registration, lodgement or other formality;
- (b) **(non-U.S. entity)** the Underwriter is not an entity registered or organised in the United States of America;
- (c) **(acquisition for own account)** the Offer Securities to be acquired by the Underwriter will be acquired for the Underwriter's own account and with no intention of distributing or reselling such Offer Securities or any part thereof in any transaction that would be in violation of any securities laws;
- (d) **(access to and evaluation of information concerning the Issuer)** the Underwriter has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of acquiring the Offer Securities, and has so evaluated the merits and risks of such acquisition;
- (e) **(accredited investor)** the Underwriter is an "accredited investor," as that term is defined in Rule 501 of Regulation D, promulgated under the U.S. Securities Act;
- (f) **(U.S. Securities Act acknowledgments):**
 - (i) the Underwriter understands, acknowledges and agrees that the Offer Securities (i) have not been registered under the U.S. Securities Act or any applicable U.S. state

securities laws by reason of exemptions from the registration requirements of the U.S. Securities Act and such U.S. state laws and (ii) may not be sold, pledged, assigned, hypothecated or otherwise transferred or disposed of in the absence of an effective registration statement under the U.S. Securities Act unless an exemption from such registration is available; and

- (ii) the Underwriter understands, acknowledges and agrees that the offer to sell the Offer Securities was communicated to the Underwriter directly by the Issuer and was not communicated through any form of general advertising or solicitation;
- (g) **(no proceeding)** there is no pending or, to the knowledge of the Underwriter, threatened proceeding, action, investigation, inquiry, litigation or suit (whether civil, criminal, administrative or investigative) involving a Government Agency involving the Underwriter that challenges, or would reasonably be expected to have the effect of preventing, delaying, making illegal, or otherwise interfering with the ability of the Underwriter to enter into and perform its obligations under this agreement. The Underwriter is not subject to any outstanding judgment, judicial decision, writ, order or injunction by any Government Agency that prohibits or otherwise restricts its ability to perform its obligations under this agreement;
- (h) **(institutional accredited investor or not a U.S. Person)** it is an institutional accredited investor within the meaning of Rule 501(a)(1), (2), (3) or (7) under the U.S. Securities Act or it is not a U.S. Person;
- (i) **(U.S. Securities Act)** it understands that neither the Entitlements nor the Offer Securities have been, and none of them will be, registered under the U.S. Securities Act, and may only be offered or sold (i) in the United States, to Approved U.S. Security Holders in the U.S. Private Placement pursuant to an exemption from, or in a transaction not subject to, the registration requirements of, the U.S. Securities Act; and (ii) outside the United States, in 'offshore transactions' (as defined in Rule 902(h) under Regulation S) in reliance on Regulation S;
- (j) **(no general solicitation or general advertising)** it, its Affiliates and each person acting on behalf of any of them has not solicited offers for or offered to sell or sold, and will not solicit offers for or offer to sell or sell, the Offer Securities using any form of 'general solicitation' or 'general advertising' within the meaning of Rule 502(c) under the U.S. Securities Act or in any manner involving a public offering in the United States within the meaning of section 4(2) of the U.S. Securities Act;
- (k) **(no registration)** it understands that the Entitlements and the Offer Securities have not been, and will not be, registered under the Securities Act and that the Entitlements and Offer Securities may only be offered or sold (i) in the United States, to Approved U.S. Security Holders in the U.S. Private Placement pursuant to Section 4(a)(2) of the U.S. Securities Act or in reliance on Regulation S; and (ii) outside the United States, in "offshore transactions" (as defined in Rule 902(h) under Regulation S) in reliance on Regulation S;
- (l) **(no directed selling efforts)** with respect to those Offer Securities sold in reliance on Regulation S, it, its Affiliates and each person acting on behalf of any of them has not engaged and will not engage in any 'directed selling efforts' within the meaning of Rule 902(c) under the U.S. Securities Act; and
- (m) **(stabilisation; manipulation)** neither it nor any of its Affiliates nor any person acting on behalf of any of them has taken or will take, directly or indirectly, any action designed to, or that might reasonably be expected to, cause or result in stabilisation or manipulation of the price of the Offer Securities in violation of any applicable law.

Schedule 3 - Indemnity

Unless the contrary intention appears, clause references in this Schedule 3 are references to clauses in this Schedule 3.

1. Indemnity

Subject to clause 2 and to the extent permitted by law, the Issuer unconditionally and irrevocably undertakes to indemnify each of the Indemnified Parties against, and to hold them harmless from and against all Losses incurred in respect of the Entitlement Offer, whether directly or indirectly by an Indemnified Party including but not limited to:

- (a) **(Offer Materials and Public Information)** a Claim that an Indemnified Party has liability in respect of:
 - (i) the Offer Materials, including any misleading or deceptive statement in or omission of information required from the Offer Materials;
 - (ii) the Public Information; or
 - (iii) any other materials in relation to the Entitlement Offer made or distributed by or on behalf of the Issuer or an Indemnified Party (with the prior authorisation of the Issuer either directly or via its legal counsel);
- (b) **(breach)** a breach by the Issuer of its obligations under this agreement, its Constitution or any other binding obligations in respect of any Offer Materials or the Entitlement Offer, including any of the representations and warranties by the Issuer contained in this agreement not being or ceasing to be true and correct;
- (c) **(making the Entitlement Offer)** the making of the Entitlement Offer;
- (d) **(issue)** the issue of the Offer Securities;
- (e) **(generally)** any claims that an Indemnified Party has any liability under the Corporations Act (including sections 1041II and 1041I) and any other applicable law in relation to the Entitlement Offer; or
- (f) **(regulatory)** any review, inquiry or investigation undertaken by APRA, ASIC, ASX, the Australian Taxation Office, any state or territory regulatory office or any other regulatory or Government Agency in relation to the Entitlement Offer or the Rights Issue Booklet.

Each of the paragraphs of this clause 1 will be construed independently and no paragraph will be limited by implications arising from any other paragraph.

2. Limited indemnity

The indemnity in clause 1 does not extend to, and is not to be taken to be an indemnity against, any Losses of an Indemnified Party to the extent that those Losses are finally judicially determined by a court of competent jurisdiction to have primarily resulted from:

- (a) any fraud, wilful misconduct or gross negligence of an Indemnified Party by that Indemnified Party;
- (b) any penalties or fines which an Indemnified Party must pay in respect of any contravention of the Corporations Act or the *Australian Securities and Investments Commission Act 2001* by the Indemnified Party; or

- (c) any amount in respect of which this indemnity would be illegal, void or unenforceable under Australian law.

3. Release

The Issuer agrees that:

- (a) no Claim may be made by it against an Indemnified Party and the Issuer unconditionally and irrevocably releases and discharges each Indemnified Party from any Claim that may be made by it, to recover from that Indemnified Party any Losses suffered or incurred by the Issuer arising directly or indirectly as a result of the participation of that Indemnified Party (or any other Indemnified Party) in preparing the Offer Materials or in relation to the Entitlement Offer, except to the extent those Losses are finally judicially determined to have resulted from a matter referred to in clause 2 and there will be no liability of an Indemnified Party in respect of those Losses;
- (b) the Indemnified Parties are not liable in any circumstance for any indirect or consequential loss or damage whether the claim is made in negligence, for breach of contract or otherwise; and
- (c) the Issuer further agrees that no Claim may be made by it against any officer, employee, adviser or agent of the Underwriter or any of its Related Bodies Corporate or Affiliate (together, the **Released Parties**), and the Issuer unconditionally and irrevocably releases and discharges each Released Party from any Claim that may be made by them, to recover from any Released Party any Loss incurred or sustained by the Issuer arising directly or indirectly in relation to the Entitlement Offer.

4. Notice of potential action

If any Indemnified Party becomes aware of any act, matter or thing which in its opinion will (acting reasonably) give rise to an action or proceeding against it and in relation to which the Issuer would be required to indemnify it under clause 1, then that Indemnified Party must notify the Issuer giving full details so far as is practicable within 20 Business Days of becoming aware of the act, matter or thing. Failure on the part of an Indemnified Party to notify the Issuer in accordance with this clause 4 does not affect the right of that Indemnified Party to be indemnified under this Schedule 3 unless the failure to so notify directly results in:

- (a) a defence no longer being available to the Issuer; or
 - (b) a significant increase in the amount payable by the Issuer under the indemnity in clause 1,
- in which case the Issuer's liability to indemnify the Indemnified Parties is reduced by the amount that the Loss the subject of the indemnity under clause 1 increases as a result of the failure by the Indemnified Party to give notice pursuant to this clause 4(a).

5. Conduct of proceedings

- (a) Subject to clause 7, clause 5(a)(v) and clause 5(c), the Issuer is entitled to defend or to institute legal or other proceedings which may give rise to claims of the type referred to in clause 4 and to have those proceedings (**Proceedings**) (unless the Issuer has declined to exercise such rights or has not exercised such rights within 10 Business Days of receipt of the relevant notice under clause 4) conducted under the sole management and control of the Issuer in the name of the Indemnified Parties at its sole cost (and in that case, the Issuer is not responsible for any additional Costs and expenses incurred by the

Indemnified Person (including legal costs) after the Issuer takes over conduct of Proceedings) provided that:

- (i) the Issuer diligently pursues or defends any such Proceedings;
 - (ii) the Underwriter has the right to information, consultation concerning or with respect to the development and defence of any litigation or threatened litigation;
 - (iii) the Issuer keeps the Underwriter fully informed of the progress of such Proceedings;
 - (iv) the Issuer has reasonable regard to preserving the Underwriter's reputations in conducting the defence to any claim or action;
 - (v) the Underwriter or other Indemnified Parties have the right at any time to re-assume the defence of any claim or action by or against it assumed by the Issuer subject to clause 5(b); and
 - (vi) the Issuer must not:
 - (A) settle the Indemnified Claim or Proceedings without the prior written approval of the Indemnified Person or instruct the Indemnified Person to do so unless the settlement of the Indemnified Claim or Proceedings includes an unconditional release of such Indemnified Person from all liability in respect of the subject matter of the Proceedings and it does not include a statement as to, or an admission of fault, or culpability or a failure to act by or on behalf of the Indemnified Person;
 - (B) otherwise make any admission of liability or compromise whatsoever in connection with the Indemnified Claim or Proceedings without the prior written consent of the Indemnified Person.
- (b) If an Indemnified Person assumes or re-assumes the defence of any claim or proceedings by or against it, it will have sole conduct of any proceedings or dispute that may arise and absolute discretion with respect to the progress, negotiation and settlement (if any) of any such proceedings or disputes but in doing so will consult with and take account of the views of the Issuer so far as is reasonably possible.
- (c) Without in any way limiting clause 1, if the Issuer initiates, defends or takes any proceedings as described in clause 5(a), it must indemnify the Indemnified Parties who are parties to, or the subject of, the proceedings, in respect of all Losses incurred by those Indemnified Parties in relation to the claim the subject of the proceedings or to any Loss resulting from those proceedings.

6. Obligations of Indemnified Party

Each Indemnified Party, subject only to clauses 5 and 7, is required, and to the extent practicable and permitted by law, the Underwriter must take reasonable steps to cause the Indemnified Parties:

- (a) to take such reasonable action as the Issuer requests to avoid, dispute, resist, appeal, compromise or defend the Claim or any adjudication in respect of it;
- (b) not to settle any Claim without the prior written consent of the Issuer (not to be unreasonably withheld); and

- (c) to do anything reasonably necessary or desirable to ensure that the Issuer is subrogated to and enjoys the benefit of the rights of the Indemnified Parties in relation to any cross claim.

7. Conditions to Indemnified Parties' obligations

- (a) The Indemnified Parties are under no obligation under clause 5, nor are the terms of clause 6 to apply, unless, at the time at which the Issuer request any of the Indemnified Parties to take any action, the Issuer:
 - (i) acknowledges that it is liable to indemnify the Indemnified Parties against all Losses incurred in respect of an Indemnified Claim, including legal costs and disbursements of the Indemnified Party's lawyers on a full indemnity basis and the cost of any involvement of any officers of the Underwriter's or the Indemnified Party at normal commercial rates; and
 - (ii) has, and continues to have, the financial ability to indemnify the Indemnified Parties and provides, and continues to provide, adequate security for all legal and other costs in connection with the defence of the Indemnified Claim and pays such costs as they arise.
- (b) The Indemnified Parties are under no obligation to take or refrain from taking any action under clause 6 if to do so would, in the reasonable opinion of the Underwriter, lead to a risk of damage to reputation or standing of the Underwriter.

8. Separate representation

- (a) Notwithstanding any other provision of this Schedule 3, where the Issuer has conduct of Proceedings in the name of an Indemnified Party, that Indemnified Party may engage its own legal counsel provided that the fees and expenses of such counsel incurred by it in relation to that Proceeding will only be borne by the Issuer to the extent that those expenses are incurred:
 - (i) prior to the Issuer taking over conduct of that Proceeding; or
 - (ii) with the prior written authority of the Issuer; or
 - (iii) if the Issuer has not chosen legal counsel satisfactory to the Indemnified Party (acting reasonably); or
 - (iv) without prejudice to its right of indemnity under this Schedule 3, if a conflict arises for legal counsel chosen by the Issuer or between the interests of the Issuer and the interests of the Indemnified Party; or
 - (v) where there may be legal defences available to the Indemnified Party that are different from or additional to those available to the Issuer or another Indemnified Party represented by such legal counsel; or
 - (vi) if the Indemnified Party believes it desirable to do so in order to protect the Indemnified Party's or the Underwriter's reputation or standing.

9. Contractual contribution

If for any reason the indemnities contained in this Schedule 3 are unavailable or insufficient to fully indemnify any Indemnified Party against any Loss against which the Indemnified Party is stated to be indemnified under this clause 1 (other than as a result of the operation of clause 2),

then the Issuer agrees to contribute to the relevant Loss in accordance with this clause 9 to clause 13, in all cases to the maximum extent permitted by law.

10. Proportional contribution

The respective proportional contribution of the Issuer and the Indemnified Parties in relation to the relevant Loss contemplated under clause 2 will be such proportion as is appropriate to reflect the relative benefits received by the Issuer on the one hand and by the Underwriter on the other from the offering of the Offer Securities under this agreement. The relative benefits claimed by the Issuer on the one hand and the Underwriter in respect of which the indemnification is claimed on the other shall be deemed to be in the same proportion as the total net proceeds from the offering of the Offer Securities (before deducting expenses) received by the Issuer bear to the total fees received by the Underwriter under this agreement.

11. No excess contribution

The Issuer agrees with the Indemnified Parties that the Indemnified Parties will not be required to contribute under clause 10 to any Claim or Loss an aggregate amount exceeding \$2.5 million the aggregate commission and fees paid to the Underwriter by the Issuer under this agreement.

12. Reimbursement by Issuer

If an Indemnified Party pays an amount in relation to a Loss where it is entitled to contribution from the Issuer under this clause 12, the relevant Issuer agrees promptly to reimburse the Indemnified Party for that amount.

13. Reimbursement by Indemnified Party

If an Issuer pays an amount in relation to a Loss where it is entitled to contribution from the Indemnified Parties under this clause 13, the Indemnified Parties must promptly reimburse or the Underwriter must procure that the relevant Indemnified Party promptly reimburses the Issuer for that amount.

14. Preservation of rights

Subject to clause 2, the rights of an Indemnified Party in respect of this clause 14 will not in any way be prejudiced or affected by:

- (a) any approval given by that party in relation to the Rights Issue Booklet or the Public Information or any other public release or announcement by the Issuer contemplated by this agreement;
- (b) any consents to be named in any Rights Issue Booklet;
- (c) any knowledge (actual or constructive) acquired after the date of this agreement of any failure by the Issuer to perform or observe any obligations under this agreement;
- (d) any Termination by the Underwriter;
- (e) any inaccuracy in any representation or warranty made by the Issuer under this agreement; or
- (f) any other fact, matter or thing (other than an express waiver) which might otherwise constitute a waiver of, or in any way prejudice or affect, any right of an Indemnified Party.

15. Benefits of indemnity

Each Indemnified Party, whether or not a party to this agreement, will be entitled to the benefit of this clause 15 and this clause 15 is entered into and may be enforced on that Indemnified Party's behalf by the Underwriter.

16. Limitation of liability of third parties

- (a) The Issuer will promptly notify the Underwriter of any limitation on the extent to which the Issuer may claim against a third party in connection with the Entitlement Offer (a **Relevant Limitation**).
- (b) If any Loss is suffered by the Issuer for which the Underwriter would otherwise be jointly or jointly and severally liable with a third party to the Issuer, the extent to which the Loss may be recoverable by the Issuer from the Underwriter:
 - (i) will be limited in proportion to the Underwriter's contribution to the overall fault for the Loss, as agreed between the parties or, in the absence of agreement, as finally determined by a court of competent jurisdiction; and
 - (ii) will be no more than it would have been had any Relevant Limitation not been agreed to by the Issuer.
- (c) If any Loss is suffered by the Underwriter arising from a liability which would be a joint or joint and several liability of the Underwriter with a third party, but for:
 - (i) a Relevant Limitation; or
 - (ii) a limitation on the extent to which the Underwriter may claim against a third party which binds the Underwriter,the indemnity of the Issuer under this clause 16 will cover any amount which the Underwriter is unable to recover from the third party because of the Relevant Limitation or other limitation.
- (d) The degree (if any) to which the Underwriter may rely on the work of a third party is unaffected by any Relevant Limitation.

17. Qualification on limitations

Notwithstanding the limitations on the indemnity set out in clause 2 and the limitations on the release set out in clause 3, such limitations shall not apply in respect of any claims under U.S. law to the extent that such Losses arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Offer Materials or any supplement or amendment thereto, or in any public information or any information otherwise provided to one or more investors (either specifically or generally) by, or with the approval of, the Issuer in connection with the Entitlement Offer or otherwise or arise out of or are based upon any omission or alleged omission to state a material fact necessary in order to make the statements therein, taken together with the ASX and other public disclosure of the Group as a whole, in the light of the circumstances under which they were made, not misleading.

Schedule 4 – Termination Events

1. Part 1

- (a) **(Implementation Agreement)** the conditions in clause 5.2(a) and 5.2(b) of the Implementation Agreement are not satisfied or waived in accordance with the Implementation Agreement by or at 10:00am on the Issue Date;
- (b) **(withdrawal)** the Issuer withdraws the Entitlement Offer or the invitations to apply for Offer Securities under the Offer Materials;
- (c) **(unable to issue Offer Securities)** the Issuer is prevented from allotting and issuing the Offer Securities in accordance with this agreement;
- (d) **(listing)** the Issuer ceases to be admitted to the official list of ASX; or
- (e) **(ASX approval)** ASX advises the Issuer in writing that official quotation of the Offer Securities (other than the Preference Shares) will not be granted.

2. Part 2

- (a) **(ASIC action)** ASIC:
 - (i) applies for an order under section 1324 or 1325, of the Corporations Act, or an order under Part 9.5 of the Corporations Act, in relation to the Entitlement Offer or any Offer Material;
 - (ii) holds, or gives notice of intention to hold, a hearing or investigation in relation to the Entitlement Offer or any Offer Material under the Corporations Act or the *Australian Securities and Investments Commission Act 2001* (Cth);
 - (iii) prosecutes or gives notice of an intention to prosecute; or
 - (iv) commences proceedings against, or gives notice of an intention to commence proceedings against, the Issuer or any of its officers, employees or agents in relation to the Entitlement Offer or any Offer Material;
- (b) **(Offer Materials)**: the Offer Materials do not comply with the Corporations Act, the Listing Rules or any other applicable law, including due to:
 - (i) any adverse new circumstance arising or becoming known which, if known at the time of issue of any of the Offer Materials, would have been required to be disclosed in the Offer Materials;
 - (ii) any statement in the Offer Materials being or becoming false, misleading or deceptive (including by way of omission) (having regard to the provisions of section 708AA);
 - (iii) any of the Offer Materials not containing all information required to comply with all applicable laws;
 - (iv) the Cleansing Notice being or becoming defective (as that term is defined in section 708AA(11)); or
- (c) **(new circumstance)** a new circumstance arises which is a matter materially adverse to investors in Offer Securities and which would have been required by the Corporations Act

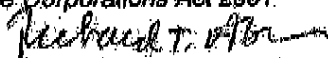
to be included in the Offer Materials had the new circumstance arisen before the Offer Materials were given to ASX;

- (d) **(misleading or deceptive conduct)** civil or criminal proceedings are brought against the Issuer or any officer of the Issuer in relation to any fraudulent, misleading or deceptive conduct relating to the Issuer whether or not in connection with the Entitlement Offer;
- (e) **(Certificate)** a statement in a Certificate is, in any material respect, untrue incorrect or misleading or deceptive;
- (f) **(misrepresentation)** a representation or warranty made or given, or deemed by clause 5.2 to have been made or given, by the Issuer under this agreement proves to be, or has been, or becomes, untrue or incorrect.
- (g) **(breach)** the Issuer fails to comply with any of its obligations under this agreement, or any representation or warranty by the Issuer in this agreement is or becomes untrue or incorrect; or
- (h) **(compliance with regulatory requirements)** the Entitlement Offer or the Offer Materials do not comply with any applicable law or regulatory requirement or there is a contravention by the Issuer of the Corporations Act, its Constitution or any of the Listing Rules.

Signing page

EXECUTED as an agreement.

Executed in Sydney by **Boart Longyear Limited** in accordance with Section 127 of the *Corporations Act 2001*.


Signature of director

RICHARD T. O'BRIEN
Name of director (print)

←  ←
Signature of director/company secretary
(Please delete as applicable)

FABRIZIO RAGETTI
Name of director/company secretary (print)

Executed in New York by CCP II Dutch
Acquisition – E2 B.V. by:
its:

By: _____
Signature



Jonathan Levinsohn
Name (print)
Authorized Signatory
Title (print)

[Signature page to Underwriting Agreement]

Annexure A – US counsel legal opinion

[Date], 2015

CCP II Dutch Acquisition – E2, B.V.
De Boelelaan 7
1083 HJ, Amsterdam
The Netherlands

Ladies and Gentlemen:

We have acted as special United States counsel to Boart Longyear Limited, a company organized under the laws of the State of New South Wales, Australia (the “Company”), in connection with the Underwriting Agreement (the “Underwriting Agreement”), dated as of [date], between the Company and CCP II Dutch Acquisition – E2, B.V. (the “Underwriter”), relating to a traditional renounceable entitlement offer (the “Offer”) of ordinary shares of the Company (the “Offered Securities”), including (i) a pro rata grant of entitlements to subscribe for and purchase Offered Securities to Eligible Securityholders of the Company each of whom has a registered address in Australia or New Zealand or have a registered address in Canada, Germany or Switzerland and are employees of the Company, that are not in the United States and do not hold ordinary shares in the Company for the account or benefit of a person in the United States (to the extent that such security holder holds the ordinary shares for the account or benefit of such person in the United States), (ii) the offer and sale of the Offered Securities to Approved U.S. Securityholders who have executed a Subscription Agreement and (iii) the offer and sale of the Offered Securities to CCP II Dutch Acquisition – E2, B.V. in its capacity as underwriter in respect of Offered Securities for which the Company has not received Valid Applications (the “Underwriter”). This opinion is being furnished at the request of the Company as contemplated by clause 7(g) of the Underwriting Agreement. Capitalized terms used and not otherwise defined in this letter have the respective meanings given those terms in the Underwriting Agreement.

In connection with the furnishing of this opinion, we have examined originals, or copies certified or otherwise identified to our satisfaction, of the following documents:

1. the Offer Management Deed, of even date herewith, between Goldman Sachs Australia Pty Ltd (the “Offer Manager”) and the Company (the “OMD”);
2. the forms of the Subscription Agreement and the Confirmation of Allocation and Registration Details Form, which are attached hereto as Schedules A-1 and A-2, respectively (the “Subscription Agreement”);
3. the forms of Covering Email to be sent by the Company to each Approved U.S. Securityholder;
4. the entitlement and acceptance form to subscribe for Offered Securities in the form of the entitlement and acceptance form attached to the Rights Issue Booklet (the “Entitlement and Acceptance Form”);
5. the renunciation and acceptance form to enable the transfer of the Entitlements (the “Renunciation and Acceptance Form”);
6. the form of security holder declaration form to be completed by each Approved U.S. Securityholder;
7. the Underwriting Agreement;

8. the form of co-manager appointment letter entered into by the Offer Manager and Moelis Australia Advisory Pty Limited (the "Co-Manager") (the "Co-Manager Letter"); and
9. the Offer Materials.

In addition, we have examined such certificates, agreements and documents as we deemed relevant and necessary as a basis for the opinions and beliefs expressed below. We have also relied upon oral and written statements of officers and representatives of the Company, the factual matters contained in the representations and warranties of the Company, the Underwriter and the Offer Manager made in the OMD and the Underwriting Agreement.

In our examination of the documents referred to above, we have assumed, without independent investigation, (i) the genuineness of all signatures, (ii) the legal capacity of all individuals who have executed any of the documents reviewed by us, (iii) the authenticity of all documents submitted to us as originals, (iv) the conformity to the originals of all documents submitted to us as certified, photostatic, reproduced or conformed copies of valid existing agreements or other documents, (v) that the offer, sale and delivery of the Offered Securities in the Offer were made in the manner contemplated by the OMD and the Underwriting Agreement, (vi) that all Approved U.S. Securityholders who are Accepting Investors have executed the Subscription Agreement substantially in the form we have reviewed, (vii) that all Eligible Securityholders (other than the Approved U.S. Securityholders) who are Accepting Investors or who have indicated an intention to renounce their Entitlements have signed the Entitlement and Acceptance Form or Renunciation and Acceptance Form substantially in the forms we have reviewed and (viii) that the Co-Manager has executed and delivered or will execute and deliver a Co-Manager Letter to the Offer Manager.

Based upon the above and upon (i) the representations, warranties and covenants of the Company and the Offer Manager in the OMD and the Underwriting Agreement (other than Section (aa) of Part 2 of Schedule 2 of the Underwriting Agreement), (ii) the representations, warranties and covenants of the Underwriter in the Underwriting Agreement, (iii) the representations, warranties and covenants of the Approved U.S. Securityholders in their respective Subscription Agreements, (iv) the representations, warranties and covenants of each of the Eligible Securityholders other than the Approved U.S. Securityholders in their respective Entitlement and Acceptance Form or Renunciation and Acceptance Form and (v) the representations, warranties and covenants of the Co-Manager in the Co-Manager Letter, as applicable, we are of the opinion that:

1. It is not necessary in connection with the issue of the Entitlements, or the initial offer, sale and delivery of the Offered Securities by the Company pursuant to the Underwriting Agreement, to register the Entitlements or the Offered Securities under the U.S. Securities Act of 1933, as amended, it being understood that we express no opinion as to any subsequent reoffer or resale of the Offered Securities.
2. The Company is not, and immediately after giving effect to the issue of the Entitlements, or the offering and sale of the Offered Securities and the application of their proceeds as described in the Offer Materials will not be, required to be registered as an investment company under the U.S. Investment Company Act of 1940, as amended, and the rules and regulations of the U.S. Securities and Exchange Commission promulgated thereunder.

The opinions expressed above are limited to the federal laws of the United States of America. No opinion is expressed in this letter with respect to the requirements of, or compliance with, any state securities laws or blue sky laws. Our opinions are rendered only with respect to the laws, and the rules, regulations and orders under those laws, that are currently in effect.

This letter is furnished by us solely for your benefit in connection with the transactions referred to in the Purchase Agreement and may not be circulated to, or relied upon by, any other person without our prior written consent. Notwithstanding the foregoing, you may furnish a copy of this letter (a) to the extent required by any applicable law or regulation, (b) to the extent required by any regulatory authority having

jurisdiction over you or your U.S. broker-dealer affiliate or (c) in connection with any dispute or claim to which you or your U.S. broker-dealer affiliate may be a party relating to the opinions expressed herein regarding the Offered Securities (it being understood in each such case that any such recipient to which this opinion is furnished is not entitled to rely on this opinion for any purpose).

Very truly yours,

PAUL, WEISS, RIFKIN, WHARTON & GARRISON LLP

ANNEXURE B to Form 604

This Annexure B of 17 pages is a true copy of the Buy-back Subscription Agreement dated 18 December 2014 referred to in the Form 604 prepared by the Substantial Holders in respect of Boart Longyear Limited signed by me and dated 28 / 01 / 2015.


Signature

Susanne V. Clark
Name

Authorized Signatory
Capacity



Buy Back Subscription Agreement

Boart Longyear Limited

ABN 49 123 052 728

and

CCP II Dutch Acquisition – E2, B.V.

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THIS AGREEMENT is made on 18 December 2014

BETWEEN:

- (1) **Boart Longyear Limited** ABN 49 123 052 728 (the **Company**); and
- (2) **CCP II Dutch Acquisition – E2, B.V.** a *besloten vennootschap* organised under the laws of the Netherlands (the **Investor**).

RECITALS:

- (A) The Company, Boart Management, Longyear Canada, ULC, Boart Longyear Canada and the Investor entered into the Recapitalization Implementation Agreement on 23 October 2014.
- (B) Under clause 1.5(c)(i) of the Recapitalization Implementation Agreement, the Investor agreed to subscribe for and the Company agreed to Issue the Final Closing Shares, on the terms of this agreement and the Recapitalization Implementation Agreement.
- (C) Pursuant to clause 1.7 of the Recapitalization Implementation Agreement, to the extent any Issuance of Shares under this agreement would result in the Investor, being a "person" or a member of "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) that is the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Company (including Shares) as of such time, then in lieu of issuing each such Share in excess thereof, the Investor will instead subscribe for and the Company will issue, one Preference Share, to the extent necessary for the Investor not to be a "person" or a member of "group" (as such terms is used in Sections 13(d) and 14(d) of the Exchange Act) that is the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Company (including Shares) as of such time.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this agreement.

ASIC means Australian Securities & Investments Commission.

ASX means ASX Limited ACN 008 624 691 or the financial market operated by it, as the context requires.

ASX Listing Rules means the listing rules of ASX as waived or modified in respect of the Company.

Authorisation means the following and includes any renewal or amendment of them:

- (a) an authorisation, consent, declaration, exemption, notarialisation or waiver, however it is described; 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.

Boart Management means Boart Longyear Management Pty Limited ABN 38 123 283 545, a corporation organized under the laws of Victoria, Australia.

Bought Back Shares means the Shares bought back by the Company pursuant to the Share Buy Back Offer.

Business Day means any day other than a Saturday, Sunday or any other day on which commercial banks in New York, New York U.S.A. or Sydney, New South Wales Australia are not required to be open for business.

Constitution means the constitution of the Company.

Corporations Act means the *Corporations Act 2001* (Cth).

Encumbrance means any charge, claim, community property interest, condition, equitable interest, lien, license, option, pledge, security interest, preemptive right, antidilution right, right of first refusal or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

Exchange Act means Securities Exchange Act of 1934, as amended.

Final Closing means the completion of the subscription for and allotment and issue of all of the Shares and Preference Shares in accordance with this agreement.

Final Closing Date means the date on which Final Closing occurs.

Final Closing Shares means the Replacement Ordinary Shares and the Preference Shares.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person including a statutory corporation; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Insolvency Event means in relation to a party:

- (a) **insolvency official**: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the party or to the whole or a substantial part of the property or assets of the party and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements**: the entry by the party into a compromise or arrangement with its creditors generally;
- (c) **winding up**: the calling of a meeting to consider a resolution to wind up the party (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the party) or the making of an application or order for the winding up or deregistration of the party other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments**: the party suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **ceasing business**: the party ceases or threatens to cease to carry on business;

- (f) **insolvency**: the party is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) **deregistration**: the party being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement**: the party executing a deed of company arrangement;
- (i) **party as trustee or partner**: the party incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the party is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (I) a breach of trust or obligation as partner by the party;
 - (II) the party acting outside the scope of its powers as trustee or partner;
 - (III) a term of the trust or partnership denying, or limiting, the party's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **analogous events**: anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the party under the laws of a foreign jurisdiction.

Per Share Price means AUD\$0.1656 per Share or Preference Share.

Preference Share means a fully paid preference share in the capital of the Company issued by the Company pursuant to clause 3.1(b) on the Preference Share Terms.

Preference Share Terms means the terms of issue of the Preference Shares as set out in Exhibit D of the Recapitalization Implementation Agreement.

Recapitalization Implementation Agreement means the implementation agreement dated on or around 23 October 2014 between the Company, Board Management, Longyear Canada, ULC, Board Longyear Canada and the Investor.

Replacement Ordinary Shares means the Shares issued under this agreement below the threshold referred to in clause 3.1(b).

Share means a fully paid ordinary share in the capital of the Company.

Share Buy Back Offer means the offer by the Company to all shareholders of the Company to buy-back issued Shares held by eligible Shareholders at the relevant record date by way of an off-market equal access scheme at the Per Share Price, in an aggregate amount not to exceed US\$20,000,000, provided, however, that such amount will be reduced by way of a scale-back applied to all acceptances in the same proportions, if under any circumstance the offer would result in Investor being a "person" or a member of "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) that is the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Company (including Shares) as of such time.

Voting Stock has the meaning given to it in the Recapitalization Implementation Agreement.

Warranties means the representations and warranties set out in Schedule 1 and **"Warranty"** has a corresponding meaning.

1.2 Rules for interpreting this agreement

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this agreement, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this agreement) or agreement, or a provision of a document (including this agreement) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this agreement 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) A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it.
- (g) The expression **"this agreement"** includes the agreement, arrangement, understanding or transaction recorded in this agreement.
- (h) The expressions **"subsidiary"**, **"holding company"** and **"related body corporate"** each have the same meaning as in the Corporations Act.

1.3 Business Days

If the day on or by which a person must do something under this agreement is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

1.4 **Conflict with the Recapitalization Implementation Agreement**

To the extent that the provisions of this agreement conflict with the Recapitalization Implementation Agreement, the Recapitalization Implementation Agreement prevails to the extent of the inconsistency.

2. **CONDITION PRECEDENT**

The obligations of the parties under this agreement (other than under this clause 2 and clauses 7 - 10 (inclusive)) do not become binding and the rights of the parties hereunder are not able to be exercised unless and until the conditions precedent set out in clause 5.2(a) and 5.2(b) of the Recapitalisation Implementation Agreement have been satisfied or waived in accordance with the Recapitalisation Implementation Agreement.

3. **SUBSCRIPTION FOR FINAL CLOSING SHARES**

3.1 **Issue of Final Closing Shares**

- (a) Subject to clause 3.1(b), the Investor agrees to subscribe for and the Company agrees to issue to the Investor a number of Shares equal to the number of Bought Back Shares, free and clear of all Encumbrances, for the Per Share Price on the terms of this agreement.
- (b) To the extent that any issuance of Shares to the Investor under clause 3.1(a) would result in the Investor being a "person" or a member of "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) that is the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Company (including Shares) as of such time, then in lieu of issuing each such Share in excess thereof, the Investor agrees to subscribe for and the Company agrees to issue, one Preference Share for an issue price per Preference Share equal to the Per Share Price.

3.2 **Bound by Constitution**

On the issue of the Final Closing Shares, the Investor agrees to become a member of the Company and to be bound by the Constitution (and in addition, the Preference Share Terms with respect to the Preference Shares).

4. **FINAL CLOSING**

4.1 **Time and place of Final Closing**

Final Closing will be held by electronic exchange of documents (provided that if the Company and the Investor agree to a physical closing it will take place at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022), at 10:00 a.m. New York City time on 26 January 2015 or, subject to the ASX Listing Rules, at such other date, time and place as the Company and the Investor agree.

4.2 **Investor's obligations at Final Closing**

At Final Closing, the Investor will deliver or cause to be delivered to the Company to a bank account designated by the Company in writing to the Investor at least two (2) Business Days prior to the Final Closing Date, the product of the Per Share Price and the Final Closing Shares by wire transfer of immediately available funds (such transfer to be confirmed by evidence of transfer by the Investor's bank), or in any other form that the Company may agree to accept as payment.

4.3 Company's obligations at Final Closing

Subject to Investor performing its obligations under clause 4.2, the Company will at Final Closing:

- (a) allot and issue the Final Closing Shares to the Investor;
- (b) register the Investor as the holder of the Final Closing Shares;
- (c) deliver a Preference Share certificate in relation to any Preference Shares issued to the Investor; and
- (d) give and deliver to the Investor a copy of a resolution of the Company's board of directors authorising:
 - (i) the issue and allotment of the Final Closing Shares; and
 - (ii) the registration of the Investor in the Company's register of members as the holder of the Replacement Ordinary Shares; and
 - (iii) If any Preference Shares are to be issued to the Investor, the registration of the Investor in the Company's register of Preference Share holders as the holder of the Preference Shares.

4.4 Completion simultaneous

In respect of Final Closing:

- (a) the obligations of the parties under this agreement are interdependent; and
- (b) all actions required to be performed will be taken to have occurred simultaneously on Final Closing.

4.5 Company's obligations following Final Closing

Immediately after Final Closing, the Company must:

- (a) **(quotation)** apply for Official Quotation of the Replacement Ordinary Shares by lodging an Appendix 3B (New Issue announcement, application for quotation of additional securities and agreement) with ASX; and
- (b) **(cleansing statement)** lodge a notice with the ASX under section 708A(5)(e) of the Corporation Act that complies with section 708A(6) of the Corporations Act.

5. WARRANTIES

5.1 By each party generally

Each party represents and warrants to the other party that each of the Warranties set out in Part 1 of Schedule 1 is true and accurate at the date of this agreement.

5.2 By the Investor

The Investor represents and warrants to the Company that each of the Warranties set out in Part 2 of Schedule 1 is true and accurate at the date of this agreement.

5.3 By the Company

The Company represents and warrants to the Investor that each of the Warranties set out in Part 3 of Schedule 1 is true and accurate at the date of this agreement.

6. NOTICES

6.1 How to give a notice

A notice, consent or other communication under this agreement is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it or any person acting as an officer or agent of that person;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (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; or
 - (iii) sent by email to that person's email address.

6.2 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 delivered or sent by fax, 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 by email, at the earlier of:
 - (i) when the sender receives an automated message confirming delivery; and
 - (ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

6.3 Addresses for notices

For the purpose of this clause the address of a person is the address set out below or another address of which that person may give notice to each other person:

If to the Investor:

CCP II Dutch Acquisition - E2, B.V.
De Boelelaan 7, 1083 HJ
Amsterdam, The Netherlands
Attention: The Directors

and

c/o Centerbridge Partners, L.P.
375 Park Avenue, 12th Floor
New York, NY, USA 10152
Attention: The Office of the General Counsel
Facsimile No.: +1 (212) 672-5001
Email: legalnotices@centerbridge.com

with copies (which will not constitute notice) to:

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, IL, USA 60654
Attention: Anup Sathy, P.C.

Neal J. Reenan
Steve Toth
Facsimile No.: +1 (312) 862-2200
Email: asathy@kirkland.com

neal.reenan@kirkland.com
steve.toth@kirkland.com

and

Minter Ellison Lawyers
Aurora Place, 88 Phillip Street
Sydney, NSW 2000
Attention: Ron Forster
Ben Smith
Facsimile No.: +61 2 9921 8110
Email: ron.forster@minterellison.com
ben.smith@minterellison.com

If to the Company:

Boart Longyear Limited
10808 S. River Front Parkway, Suite 600
South Jordan, UT, 84095
Attention: General Counsel and Chief Executive Officer
Facsimile No.: +1 (801) 977-3366
Email: frasetti@boartlongyear.com
richard.obrien@boartlongyear.com

with copies (which will not constitute notice) to:

Ashurst Australia
Level 35, 225 George Street
Sydney NSW 2000
Attention: Sarah Dulhunty
Facsimile No.: + 61 2 9258 6999
Email: sarah.dulhunty@ashurst.com

7. **TERMINATION**

This agreement will automatically terminate with immediate effect if the Recapitalization Implementation Agreement is terminated by any party.

8. **AMENDMENT**

This agreement can only be amended or replaced by another document executed by the parties.

9. **ASSIGNMENT**

A party may only assign, encumber, declare a trust over or otherwise deal with its rights under this agreement with the written consent of the other party.

10. **GENERAL**

10.1 **Governing law**

- (a) This agreement is governed by the laws of the state of New South Wales.
- (b) Each party submits to the jurisdiction of the courts of that state and of any court that may hear appeals from any of those courts, for any proceedings in connection with this agreement.

10.2 **Liability for expenses**

Subject to the Recapitalization Implementation Agreement each party must pay its own costs and expenses incurred in negotiating, preparing, executing and registering this agreement.

10.3 **Giving effect to this agreement**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this agreement.

10.4 **Operation of this agreement**

- (a) Any right that a person may have under this agreement is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this agreement enforceable, unless this would materially change the intended effect of this agreement.

10.5 **No merger**

No provision of this agreement merges on or by virtue of Final Closing.

10.6 Counterparts

This agreement may be executed in counterparts.

Schedule 1

Warranties

Part 1 – By each party generally

1. **(Status)** It is a body corporate duly organized and validly existing under the laws of the place of its incorporation;
2. **(Power)** It has full legal capacity and power to enter into this agreement and carry out the transactions that this agreement contemplates in accordance with its terms;
3. **(Corporate authority)** It has taken all corporate action that is necessary to authorise it entering into this agreement;
4. **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (a) enable it to properly execute this document and to carry out the transactions that this document contemplates in accordance with its terms;
 - (b) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (c) enable it to properly carry on its business,and it is complying with any conditions to which any such Authorisation is subject;
5. **(Agreement effective)** the execution, delivery and performance of this agreement by it will constitute legal, valid and binding obligations of it, enforceable in accordance with its terms;
6. **(No contravention)** neither its execution of this agreement nor the carrying out by it of the transactions that it contemplates in accordance with its terms, contravenes, breaches, violates, conflicts with or results in a default under any provision of:
 - (a) any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (b) any undertaking or instrument binding on it or any of its property; or
 - (c) its constitution;
7. **(No Insolvency Event)** no Insolvency Event has occurred in relation to that party, and no Insolvency Event is expected to occur in relation to that party on execution of, and due performance under, this agreement; and
8. **(Not a trustee)** it is not entering into this agreement as trustee of any trust or settlement.

Part 2 – By the Investor

1. **(Status of Investor)** It is a person to whom the offer of the Final Closing Shares may lawfully be made under all applicable laws (including the Corporations Act), and to whom the Final Closing Shares may be issued, without the need for any registration, lodgement or other formality.
2. **(Non-US entity)** The Investor is not an entity registered or organised in the United States of America.
3. **(Acquisition for Own Account)** The Final Closing Shares to be acquired by the Investor will be acquired for the Investor's own account and with no intention of distributing or reselling such Final Closing Shares or any part thereof in any transaction that would be in violation of any securities laws.
4. **(Access to and Evaluation of Information Concerning the Company)** The Investor has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of acquiring the Final Closing Shares, and has so evaluated the merits and risks of such acquisition.
5. **(Accredited Investor)** The Investor is an "accredited investor," as that term is defined in Rule 501 of Regulation D, promulgated under the U.S. Securities Act of 1933, as amended (the "Securities Act").
6. **(Securities Act Acknowledgments):**
 - (a) The Investor understands, acknowledges and agrees that the Final Closing Shares (i) have not been registered under the Securities Act or any applicable U.S. state securities laws by reason of exemptions from the registration requirements of the Securities Act and such U.S. state laws and (ii) may not be sold, pledged, assigned, hypothecated or otherwise transferred or disposed of in the absence of an effective registration statement under the Securities Act unless an exemption from such registration is available; and
 - (b) The Investor understands, acknowledges and agrees that the offer to sell the Final Closing Shares was communicated to the Investor directly by the Company and was not communicated through any form of general advertising or solicitation.
7. **(No Proceeding)** There is no pending or, to the knowledge of the Investor, threatened proceeding, action, investigation, inquiry, litigation or suit (whether civil, criminal, administrative or investigative) involving a Government Agency involving the Investor that challenges, or would reasonably be expected to have the effect of preventing, delaying, making illegal, or otherwise interfering with the ability of the Investor to enter into and perform its obligations under this agreement. The Investor is not subject to any outstanding judgment, judicial decision, writ, order or injunction by any Government Agency that prohibits or otherwise restricts its ability to consummate fully the Final Closing.

Part 3 – By the Company

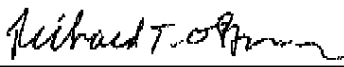
1. **(Final Closing Shares)** The Company represents and warrants to the Investor that:
 - (a) **(rights of Shares)** on their allotment and issue, the Replacement Ordinary Shares will rank on an equal footing in all respects with the then existing issued shares of the same class in the capital of the Company; and
 - (b) **(no Encumbrance)** on allotment and issue of the Final Closing Shares issued to the Investor pursuant to this agreement, the Investor will be the holder of those Final Closing Shares free from any encumbrance or third party interest.

2. **(No determination)** As at the Final Closing Date, no determination by ASIC within the meaning of section 708A(2) of the Corporations Act was in force in relation to the Company.
3. **(Quotation)** The Replacement Ordinary Shares are in a class of securities that were quoted securities at all times in the 3 months before the day on which the Replacement Ordinary Shares are issued under this agreement and trading in that class of securities on ASX was not suspended for more than a total of 5 days in the period of 12 months before the day on which the Replacement Ordinary Shares are issued.
4. **(No exemption)** No exemption under section 111AS or section 111AT of the Corporations Act covered the Company, or any person as director or auditor of the Company, at any time in the 12 months before the day on which the Replacement Ordinary Shares are issued under this agreement.
5. **(No order)** No order under section 340 or section 341 of the Corporations Act covered the Company, or any person as director or auditor of the Company, at any time in the 12 months before the day on which the Replacement Ordinary Shares are issued under this agreement.
6. **(Cleansing notice)** The Company is able to provide, and there is nothing preventing it from providing, the cleansing notice to be issued under clause 4.5(b) and the offer of the Replacement Ordinary Shares will be an offer to which section 708A(5) of the Corporations Act applies.
7. **(Purpose of issue)** The Replacement Ordinary Shares are not being issued for the purpose of resale (whether by selling or transferring them or granting, issuing or transferring interests in, options or warrants over, them).

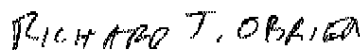
EXECUTED as an agreement.

Each person who executes this agreement 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** ABN 49 123 052 728 under
section 127 of the Corporations Act 2001
(Cth):



Signature of director



Name



Signature of director/secretary



Name

EXECUTED by Jonathan Lawinsohn as
attorney for CCP II Dutch Acquisition -
EZ, B.V. under power of attorney dated
16 October 2014 in the presence of

Signature of witness

Sali Shih


Name

Signature of attorney

[SIGNATURE PAGE TO BUY BACK SUBSCRIPTION AGREEMENT]

ANNEXURE C to Form 604

This Annexure C of 19 pages is a true copy of the Equitization Subscription Agreement dated 27 January 2015 referred to in the Form 604 prepared by the Substantial Holders in respect of Boart Longyear Limited signed by me and dated 28 / 01 / 2015.


Signature

Susanne V. Clark
Name

Authorized Signatory
Capacity



Equitization Subscription Agreement

Boart Longyear Limited

ABN 49 123 052 728

and

CCP II Dutch Acquisition – E2, B.V.

and

CCP Credit SC II Dutch Acquisition – ND B.V.

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THIS AGREEMENT is made on 27 January 2015

BETWEEN:

- (1) **Boart Longyear Limited** ABN 49 123 052 728 (the **Company**);
- (2) **CCP II Dutch Acquisition – E2, B.V.** a *besloten vennootschap* organised under the laws of the Netherlands (the **Investor**); and
- (3) **CCP Credit SC II Dutch Acquisition – ND B.V.** a *besloten vennootschap* organised under the laws of the Netherlands (the **Noteholder**).

RECITALS:

- (A) The Company, Boart Management, Longyear Canada, ULC, Boart Longyear Canada and the Investor entered into the Recapitalization Implementation Agreement on 23 October 2014.
- (B) Under clause 1.5(c)(iv) of the Recapitalization Implementation Agreement:
 - (1) the Investor agreed to be Issued with the Equitization Shares, as payment in lieu for all amounts outstanding under the Equitized Unsecured Notes, which Equitized Unsecured Notes will be cancelled concurrently therewith; and
 - (2) the Investor agreed to subscribe for and the Company agreed to Issue the Equitization Shares,
 in each case on the terms of this agreement.
- (C) The Noteholder is the holder of the Equitized Unsecured Notes.
- (D) Under clause 1.8 of the Recapitalization Implementation Agreement, the Investor may designate that some or all of the Equitization Shares to be issued under this agreement to an Affiliate or Related Fund or any other Person, (in each case, over which the Investor, or any group of its Affiliates or any Related Funds controlled by the Investor, collectively exercise, directly or indirectly, control) and has so designated CCP Credit SC II Dutch Acquisition – E B.V..
- (E) Pursuant to clause 1.7 of the Recapitalization Implementation Agreement, to the extent any Issuance of Shares under this agreement would result in the Investor, being a "person" or a member of "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) that is the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Company (including Shares) as of such time, then in lieu of Issuing each such Share in excess thereof, the Investor will Instead subscribe for and the Company will Issue, one Preference Share, to the extent necessary for the Investor not to be a "person" or a member of "group" (as such terms is used in Sections 13(d) and 14(d) of the Exchange Act) that is the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Company (including Shares) as of such time.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this agreement.

ASIC means Australian Securities & Investments Commission.

ASX means ASX Limited ACN 008 624 691 or the financial market operated by it, as the context requires.

ASX Listing Rules means the listing rules of ASX as waived or modified in respect of the Company.

Affiliates has the meaning given in the Recapitalization Implementation Agreement.

Authorisation means the following and includes any renewal or amendment of them:

- (a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; 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.

Boart Management means Boart Longyear Management Pty Limited ABN 38 123 283 545, a corporation organized under the laws of Victoria, Australia.

Business Day means any day other than a Saturday, Sunday or any other day on which commercial banks in New York, New York U.S.A. or Sydney, New South Wales Australia are not required to be open for business.

Constitution means the constitution of the Company.

Corporations Act means the *Corporations Act 2001* (Cth).

Encumbrance means any charge, claim, community property interest, condition, equitable interest, lien, license, option, pledge, security interest, preemptive right, antidilution right, right of first refusal or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership.

Equitization Shares means 102,757,289 Shares.

Equitized Unsecured Notes has the meaning given in clause 2.1.

Existing Unsecured Notes has the meaning given in clause 2.1.

Exchange Act means Securities Exchange Act of 1934, as amended.

Final Closing means the completion of the subscription for and allotment and issue of all of the Equitization Shares.

Final Closing Date means the date on which Final Closing occurs.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person including a statutory corporation; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Insolvency Event means in relation to a party:

- (a) **insolvency official**: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the party or to the whole or a substantial part of the property or assets of the party and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements**: the entry by the party into a compromise or arrangement with its creditors generally;
- (c) **winding up**: the calling of a meeting to consider a resolution to wind up the party (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the party) or the making of an application or order for the winding up or deregistration of the party other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments**: the party suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **ceasing business**: the party ceases or threatens to cease to carry on business;
- (f) **insolvency**: the party is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) **deregistration**: the party being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement**: the party executing a deed of company arrangement;
- (i) **party as trustee or partner**: the party incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the party is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the party;
 - (ii) the party acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the party's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or

- (j) analogous events: anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the party under the laws of a foreign jurisdiction.

Permitted Nominee means CCP Credit SC II Dutch Acquisition – E, B.V..

Per Share Price means US\$0.1557 per Share or Preference Share.

Recapitalization Implementation Agreement means the Implementation agreement dated on or around 23 October 2014 between the Company, Board Management, Longyear Canada, ULC, Board Longyear Canada and the Investor.

Related Funds has the meaning given to it in the Recapitalization Implementation Agreement.

Share means a fully paid ordinary share in the capital of the Company.

Voting Stock has the meaning given to it in the Recapitalization Implementation Agreement.

Warranties means the representations and warranties set out in Schedule 1 and "Warranty" has a corresponding meaning.

1.2 Rules for Interpreting this agreement

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this agreement, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
- (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this agreement) or agreement, or a provision of a document (including this agreement) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this agreement 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) A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it.
- (g) The expression "**this agreement**" includes the agreement, arrangement, understanding or transaction recorded in this agreement.
- (h) The expressions "**subsidiary**", "**holding company**" and "**related body corporate**" each have the same meaning as in the Corporations Act.

1.3 Business Days

If the day on or by which a person must do something under this agreement is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

1.4 Conflict with the Recapitalization Implementation Agreement

To the extent that the provisions of this agreement conflict with the Recapitalization Implementation Agreement, the Recapitalization Implementation Agreement prevails to the extent of the inconsistency.

2. SUBSCRIPTION FOR EQUITIZATION SHARES

2.1 Issue and subscription of Equitization Shares

- (a) Subject to clause 2.1(c), the Investor will procure that the Permitted Nominee subscribe for and the Company agrees to issue to the Permitted Nominee the Equitization Shares at the Per Share Price free and clear of all Encumbrances on the terms of this agreement, as payment in lieu for all amounts outstanding under Board Management's outstanding 7% Senior Notes Due 2021 (the **Existing Unsecured Notes**) held by the Noteholder, which Equitized Unsecured Notes will be cancelled.
- (b) The Investor and the Noteholder acknowledge and agree that the Issue of the Equitization Shares to the Permitted Nominee will be in full, unconditional and irrevocable satisfaction and discharge of all liabilities and obligations arising under or in respect of the Existing Unsecured Notes (including any principal or accrued interest owing under those notes).
- (c) To the extent that any Issuance of Shares to the Investor or its Permitted Nominee under clause 2.1(a) would result in the Investor being a "person" or a member of "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) that is the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of more than 49.9% of the total voting power of the Voting Stock of the Company (including Shares) as of such time, then in lieu of Issuing each such Share in excess thereof, the Investor or its Permitted Nominee agrees to subscribe for and the Company agrees to Issue, one Preference Share for an Issue price per Preference Share equal to the Per Share Price.

2.2 Bound by Constitution

On the issue of the Equitization Shares, the Investor will procure that the Permitted Nominee agrees to become a member of the Company and to be bound by the Constitution.

3. FINAL CLOSING

3.1 Time and place of Final Closing

Final Closing will be held by electronic exchange of documents (provided that if the Company and the Investor agree to a physical closing it will take place at the offices of Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022), at 4:00 pm. New York City time on 26 January 2015 or, subject to the ASX Listing Rules, at such other date, time and place as the Company and the Investor agree.

3.2 Noteholder's obligations at Final Closing

At Final Closing, the Noteholder will deliver or cause to be delivered to the Company evidence of the cancellation of the Equitized Unsecured Notes.

3.3 Company's obligations at Final Closing

Subject to the Noteholder performing its obligations under clause 3.2, the Company will at Final Closing:

- (a) allot and issue the Equitization Shares to the Permitted Nominee;
- (b) register the Permitted Nominee as the holder of the Equitization Shares; and
- (c) give and deliver to the Investor a copy of a resolution of the Company's board of directors authorising:
 - (i) the issue and allotment of the Equitization Shares; and
 - (ii) the registration of the Permitted Nominee in the Company's register of members as the holder of the Equitization Shares.

3.4 Completion simultaneous

In respect of Final Closing:

- (a) the obligations of the parties under this agreement are interdependent; and
- (b) all actions required to be performed will be taken to have occurred simultaneously on Final Closing.

3.5 Company's obligations following Final Closing

Immediately after Final Closing, the Company must:

- (a) **(quotation)** apply for Official Quotation of the Equitization Shares which are Shares by lodging an Appendix 3B (New issue announcement, application for quotation of additional securities and agreement) with ASX; and

- (b) **(cleansing statement)** If the Equitization Shares include Shares, lodge a notice with the ASX under section 708A(5)(e) of the Corporation Act that complies with section 708A(6) of the Corporations Act.

4. WARRANTIES

4.1 By each party generally

Each party represents and warrants to the other party that each of the Warranties set out in Part 1 of Schedule 1 is true and accurate at the date of this agreement.

4.2 By the Investor

The Investor represents and warrants to the Company that each of the Warranties set out in Part 2 of Schedule 1 is true and accurate at the date of this agreement.

4.3 By the Company

The Company represents and warrants to the Investor and the Noteholder that each of the Warranties set out in Part 3 of Schedule 1 is true and accurate at the date of this agreement.

4.4 By the Noteholder

The Noteholder represents and warrants to the Company that each of the Warranties set out in Part 4 of Schedule 1 is true and accurate at the date of this agreement.

5. NOTICES

5.1 How to give a notice

A notice, consent or other communication under this agreement is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it or any person acting as an officer or agent of that person;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (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; or
 - (iii) sent by email to that person's email address.

5.2 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 delivered or sent by fax, 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 by email, at the earlier of:
 - (I) when the sender receives an automated message confirming delivery; and
 - (II) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

5.3 Addresses for notices

For the purpose of this clause the address of a person is the address set out below or another address of which that person may give notice to each other person:

If to the Investor:

CCP II Dutch Acquisition - E2, B.V.
De Boelelaan 7, 1083 HJ
Amsterdam, The Netherlands

Attention: The Directors

if to the Noteholder

CCP Credit SC II Dutch Acquisition - ND B.V.
De Boelelaan 7, 1083 HJ
Amsterdam, The Netherlands

Attention: The Directors

and

c/o Centerbridge Partners, L.P.
375 Park Avenue, 12th Floor
New York, NY, USA 10152

Attention: The Office of the General Counsel
Facsimile No.: +1 (212) 672-5001
Email: legalnotices@centerbridge.com

with copies (which will not constitute notice) to:

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, IL, USA 60654

Attention: Anup Sathy, P.C.
Neal J. Reenan
Steve Toth

Facsimile No.: +1 (312) 862-2200
Email: asathy@kirkland.com
neal.reegan@kirkland.com
steve.toth@kirkland.com

and

Minter Ellison Lawyers
Aurora Place, 88 Phillip Street
Sydney, NSW 2000

Attention: Ron Forster
Ben Smith
Facsimile No.: +61 2 9921 8110
Email: ron.forster@minterellison.com
ben.smith@minterellison.com

If to the Company:

Boart Longyear Limited
10808 S. River Front Parkway, Suite 600
South Jordan, UT, 84095
Attention: General Counsel and Chief Executive Officer
Facsimile No.: +1 (801) 977-3366
Email: frasettl@boartlongyear.com
richard.obrien@boartlongyear.com

with copies (which will not constitute notice) to:

Ashurst Australia
Level 35, 225 George Street
Sydney NSW 2000
Attention: Sarah Dulhunty
Facsimile No.: + 61 2 9258 6999
Email: sarah.dulhunty@ashurst.com

6. AMENDMENT

This agreement can only be amended or replaced by another document executed by the parties.

7. ASSIGNMENT

A party may only assign, encumber, declare a trust over or otherwise deal with its rights under this agreement with the written consent of the other parties.

8. GENERAL

8.1 Governing law

- (a) This agreement 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 of any court that may hear appeals from any of those courts, for any proceedings in connection with this agreement.

8.2 Liability for expenses

Subject to the Recapitalization Implementation Agreement each party must pay its own costs and expenses incurred in negotiating, preparing, executing and registering this agreement.

8.3 Giving effect to this agreement

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that any other party may reasonably require to give full effect to this agreement.

8.4 Operation of this agreement

- (a) Any right that a person may have under this agreement is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this agreement enforceable, unless this would materially change the intended effect of this agreement.

8.5 No merger

No provision of this agreement merges on or by virtue of Final Closing.

8.6 Counterparts

This agreement may be executed in counterparts.

Schedule 1

Warranties

Part 1 – By each party generally

1. **(Status)** it is a body corporate duly organized and validly existing under the laws of the place of its incorporation;
2. **(Power)** it has full legal capacity and power to enter into this agreement and carry out the transactions that this agreement contemplates in accordance with its terms;
3. **(Corporate authority)** It has taken all corporate action that is necessary to authorise it entering into this agreement;
4. **(Authorisations)** It holds each Authorisation that is necessary or desirable to:
 - (a) enable it to properly execute this document and to carry out the transactions that this document contemplates in accordance with its terms;
 - (b) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (c) enable it to properly carry on its business,and it is complying with any conditions to which any such Authorisation is subject;
5. **(Agreement effective)** the execution, delivery and performance of this agreement by it will constitute legal, valid and binding obligations of it, enforceable in accordance with its terms;
6. **(No contravention)** neither its execution of this agreement nor the carrying out by it of the transactions that it contemplates in accordance with its terms, contravenes, breaches, violates, conflicts with or results in a default under any provision of:
 - (a) any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (b) any undertaking or instrument binding on it or any of its property; or
 - (c) its constitution;

7. **(No Insolvency Event)** no Insolvency Event has occurred in relation to that party, and no Insolvency Event is expected to occur in relation to that party on execution of, and due performance under, this agreement; and
8. **(Not a trustee)** it is not entering into this agreement as trustee of any trust or settlement.

Part 2 – By the Investor

1. **(Status of Investor and the Permitted Nominee)** it and the Permitted Nominee is a person to whom the offer of the Equitization Shares may lawfully be made under all applicable laws (including the Corporations Act), and to whom the Equitization Shares may be issued, without the need for any registration, lodgement or other formality.
2. **(Non-US entity)** It and the Permitted Nominee is not an entity registered or organised in the United States of America.
3. **(Acquisition for Own Account)** The Equitization Shares to be acquired by the Permitted Nominee will be acquired for the Permitted Nominee's own account and with no intention of distributing or reselling such Equitization Shares or any part thereof in any transaction that would be in violation of any securities laws.
4. **(Access to and Evaluation of Information Concerning the Company)** The Investor and its Permitted Nominee have such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of acquiring the Equitization Shares, and have so evaluated the merits and risks of such acquisition.
5. **(Accredited Investor)** Each of the Investor and the Permitted Nominee is an "accredited investor," as that term is defined in Rule 501 of Regulation D, promulgated under the U.S. Securities Act of 1933, as amended (the "Securities Act").
6. **(Securities Act Acknowledgments):**
 - (a) Each of the Investor and the Permitted Nominee understands, acknowledges and agrees that the Equitization Shares (i) have not been registered under the Securities Act or any applicable U.S. state securities laws by reason of exemptions from the registration requirements of the Securities Act and such U.S. state laws and (ii) may not be sold, pledged, assigned, hypothecated or otherwise transferred or disposed of in the absence of an effective registration statement under the Securities Act unless an exemption from such registration is available; and
 - (b) Each of the Investor and the Permitted Nominee understands, acknowledges and agrees that the offer to sell the Equitization Shares was communicated to the Investor or the Permitted Nominee directly by the Company and was not communicated through any form of general advertising or solicitation.

7. **(No Proceeding)** There is no pending or, to the knowledge of the Investor, threatened proceeding, action, investigation, inquiry, litigation or suit (whether civil, criminal, administrative or investigative) involving a Government Agency involving the Investor or the Permitted Nominee that challenges, or would reasonably be expected to have the effect of preventing, delaying, making illegal, or otherwise interfering with the ability of the Investor to enter into and perform its obligations under this agreement. Neither the Investor or the Permitted Nominee is subject to any outstanding judgment, judicial decision, writ, order or injunction by any Government Agency that prohibits or otherwise restricts its ability to consummate fully the Final Closing.

Part 3 – By the Company

1. **(Equitization Shares)** The Company represents and warrants to the Investor and Noteholder that:
 - (a) **(rights of Shares)** on their allotment and issue, the Equitization Shares will rank on an equal footing in all respects with the then existing issued shares of the same class in the capital of the Company; and
 - (b) **(no Encumbrance)** on allotment and issue of the Equitization Shares issued to the Permitted Nominee pursuant to this agreement, the Permitted Nominee will be the holder of those Equitization Shares free from any Encumbrance or third party interest.
2. **(No determination)** As at the Final Closing Date, no determination by ASIC within the meaning of section 708A(2) of the Corporations Act was in force in relation to the Company.
3. **(Quotation)** The Equitization Shares are in a class of securities that were quoted securities at all times in the 3 months before the day on which the Equitization Shares are issued under this agreement and trading in that class of securities on ASX was not suspended for more than a total of 5 days in the period of 12 months before the day on which the Equitization Shares are issued.
4. **(No exemption)** No exemption under section 111AS or section 111AT of the Corporations Act covered the Company, or any person as director or auditor of the Company, at any time in the 12 months before the day on which the Equitization Shares are issued under this agreement.
5. **(No order)** No order under section 340 or section 341 of the Corporations Act covered the Company, or any person as director or auditor of the Company, at any time in the 12 months before the day on which the Equitization Shares are issued under this agreement.
6. **(Cleansing notice)** The Company is able to provide, and there is nothing preventing it from providing, the cleansing notice to be issued under clause 3.5(b) and the offer of the Equitization Shares will be an offer to which section 708A(5) of the Corporations Act applies.
7. **(Purpose of issue)** The Equitization Shares are not being issued for the purpose of resale (whether by selling or transferring them or granting, issuing or transferring interests in, options or warrants over, them).

Part 4 – By the Noteholder

1. **(No Proceeding)** There is no pending or, to the knowledge of the Noteholder, threatened proceeding, action, investigation, inquiry, litigation or suit (whether civil, criminal, administrative or investigative) involving a Government Agency involving the

Noteholder that challenges, or would reasonably be expected to have the effect of preventing, delaying, making illegal, or otherwise interfering with the ability of the Noteholder to enter into and perform its obligations under this agreement. The Noteholder is not subject to any outstanding judgment, judicial decision, writ, order or injunction by any Government Agency that prohibits or otherwise restricts its ability to consummate fully the Final Closing.

EXECUTED as an agreement.

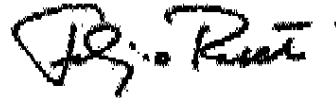
Each person who executes this agreement on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

EXECUTED by **BOART LONGYEAR LIMITED** under section 127 of the Corporations Act 2001 (Cth):



Signature of director

Richard O'Brien
Name



Signature of director/secretary

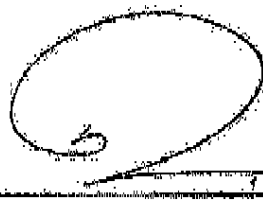
Fabrizio Rasetti
Name

**EXECUTED by CCP II Dutch
Acquisition - E2, B.V.**



Name: Conor Tohill

Title: Managing Director A

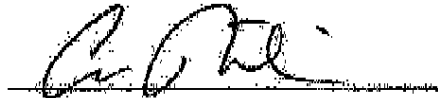


Name: Hendrikus Zuldema

Title: Managing Director B

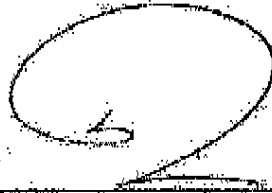
[SIGNATURE PAGE TO EQUITIZATION SUBSCRIPTION AGREEMENT]

**EXECUTED by CCP Credit SC II Dutch
Acquisition - ND B.V.:**



Name: Conor Tohillin

Title: Managing Director A



Name: Hendrikus Zuidema

Title: Managing Director B

[SIGNATURE PAGE TO EQUITIZATION SUBSCRIPTION AGREEMENT]