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NOTICE SEEKING CLEARANCE OF A BUSINESS ACQUISITION PURSUANT TO SECTION 66 OF THE COMMERCE ACT 1986

10 December 2021

The Registrar
Business Acquisitions and Authorisations
Commerce Commission
PO Box 2351
Wellington

Pursuant to s 66(1) of the Commerce Act 1986 notice is hereby given seeking clearance of a proposed business acquisition.

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1. EXECUTIVE SUMMARY

- 1.1 THL Group (Australia) Pty Ltd, a subsidiary of Tourism Holdings Limited (*thl*), seeks clearance to acquire 100% of the shares in Apollo Tourism & Leisure Ltd (**Apollo**) by way of a scheme of arrangement (**Proposed Transaction**).
- 1.2 *thl* and Apollo both supply motorhome and campervan rental services to domestic and international tourists in New Zealand. In this application, motorhomes and campervans are collectively referred to as motorhomes.¹ *thl* offers a range of rental motorhomes under the Maui, Britz and Mighty rental brands. Apollo offers a range of rental motorhomes under the Star RV, Apollo, Cheapa Campa and Hippie rental brands. The Proposed Transaction will primarily allow the parties to realise cost synergies that will enable them to face the ongoing impacts of COVID-19 on the New Zealand tourism sector and respond to the competitive pressures from the growth of peer-to-peer platforms.
- 1.3 The Proposed Transaction will not have the effect or likely effect of substantially lessening competition in a national market for motorhome rentals or in any related market in New Zealand because:
- (a) there is vigorous competition in the motorhome rental market which will continue to constrain the merged entity, including from:
 - (i) traditional motorhome rental operators, including larger rental operators such as Jucy and Wenderkreisen, and a substantial number of smaller rental operators, including Wilderness, McRent, Tui, and TAB; and
 - (ii) privately owned motorhomes available to rent through peer-to-peer platforms (**privately owned rental platform vehicles**). Peer-to-peer platforms enable private owners to rent out their motorhomes. Peer-to-peer platforms that have motorhome rentals available in New Zealand include Outdoorsy and Camplify, both of which are recent entrants that have been growing quickly in New Zealand and globally;
 - (b) due to COVID-19, there are unprecedented levels of excess capacity which will act as a significant constraint on the merged entity. This is likely to continue in the medium-term;
 - (c) the merged entity will continue to be constrained by other recreational vehicle (**RV**)², accommodation and transport options. Domestic and international tourists have many other travel and accommodation options which provide significant constraint on motorhome rental pricing and will continue to do so post-Transaction;
 - (d) barriers to entry and/or expansion are very low as evidenced by the recent entry into New Zealand of the Outdoorsy and Camplify platforms; and
 - (e) wholesalers possess significant countervailing power in relation to international tourists.

¹ A motorhome is a motorised vehicle designed to serve as self-contained living quarters for travel. They often (but do not always) include a kitchen and bathroom facilities. The terms motorhome and campervan are often used interchangeably in the industry. Further information about motorhomes and campervans is provided in Annexure 1. For the purposes of this application, a motorhome means a motorhome or campervan.

² A recreational vehicle, or RV, is a motorised vehicle (such as a motorhome) or 'towable' (such as a caravan or camper trailer) which includes living quarters designed for accommodation. Further information about the different types of RVs in New Zealand is provided in Annexure 1.

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- 1.4 The Proposed Transaction will not result in any coordinated effects because, amongst other things, there is a high degree of differentiation in the products and services offered by motorhome rental operators, no transparency of volumes of sales and fleet capacity and the Proposed Transaction will not result in the removal of a particularly aggressive or destabilising competitor.

2. APPLICANT AND OTHER PARTIES

The Applicant

- 2.1 This notice seeking clearance is given by THL Group (Australia) Pty Ltd (**thl Acquirer**).

- 2.2 Contact details for thl Acquirer are:

Postal address: PO Box 4239, Auckland 1010, New Zealand
Physical address: Level 1, 83 Beach Road, Auckland 1010, New Zealand
Telephone: +64 9 336 4299
Web address: www.thlonline.com

Contact person: Grant Webster
CEO
grant.webster@thlonline.com

- 2.3 thl Acquirer is wholly owned by **thl**. A diagram showing the ownership structure of **thl** is in Annexure 2.

- 2.4 All correspondence and notices in respect of this application should be directed in the first instance to:

Minter Ellison Rudd Watts
Level 22, PwC Tower
15 Customs Street West
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The other party

- 2.5 The other party is Apollo Tourism & Leisure Ltd (**Apollo**).

- 2.6 Contact details for Apollo are:

Postal address: 698 Nudgee Road, Northgate, Queensland 4013, Australia
Physical address: 698 Nudgee Road, Northgate, Queensland 4013, Australia
Telephone: +61 7 3265 9200
Web address: <https://apollotourism.com/> (Corporate);
<https://www.apollocamper.com/> (rentals)

Contact person: Tennille Carrier
Company Secretary
t.carrier@apollocamper.com

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- 2.7 All correspondence and notices in respect of this application should be directed in the first instance to:

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3. TRANSACTION DETAILS

The Proposed Transaction

- 3.1 The Proposed Transaction, if implemented, will be undertaken by way a scheme of arrangement governed by Part 5.1 of the Corporations Act 2001 (the **Scheme**). If approved and implemented, the Scheme will involve:
- (a) the acquisition by **thl**, through its wholly-owned subsidiary, the thl Acquirer, of 100% of the shares held by Apollo shareholders (other than those shares held by **thl** and its subsidiaries) (**Apollo Shareholders**); and
 - (b) as consideration, **thl** will issue 1 new ordinary **thl** share for every 3.680818 Apollo share held by the Apollo Shareholders.
- 3.2 The terms of the Scheme are set out in the Scheme Implementation Deed (**SID**) entered into between Apollo, **thl** and thl Acquirer, dated 10 December 2021.
- 3.3 The Proposed Transaction is conditional on a range of conditions, including obtaining merger clearance from the Australian Competition and Consumer Commission (**ACCC**) and the Commission.
- 3.4 The parties are targeting to close the transaction in the second quarter of 2022. This timing is indicative only and may be subject to change.
- 3.5 A copy of the SID and Scheme Booklet are included at Annexure 3.

The rationale for the Proposed Transaction

- 3.6 **thl** considers that the Proposed Transaction will enable it to face the impacts of COVID-19 and the competitive pressures of growing category expansion by different segments in the RV industry and substitute products, in particular the growth of peer-to-peer platforms. The Proposed Transaction will realise cost synergies through the reduction of duplicated branch networks and head office overhead functions across the two businesses in New Zealand and Australia, and improving fleet efficiency.
- 3.7 It will also allow the merged entity to leverage the fixed cost management overheads of the business at a global level. For example, **thl** operates in USA where Apollo does not have a presence, and Apollo operates in Canada and Europe where **thl** does not.

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- 3.8 The Proposed Transaction will also provide an opportunity for *thl* to expand into the retail dealership segment in Australia, where it currently has little presence. This will provide a further channel for the sale of its ex-rental vehicles.
- 3.9 Apollo believes that merging the two businesses will strengthen its ability to provide a better platform to thrive through the continuing impacts of COVID-19. Apollo intends to realise synergies through the Proposed Transaction which would allow the merged entity to compete with emerging competitors such as peer-to-peer RV sharing models and other accommodation services.

Counterfactual

- 3.10 *thl's* view is that it is difficult to assess what will happen should the Proposed Transaction not proceed, as it is significantly dependent upon the timing and scale of the return of international tourism in New Zealand. The current operating structure for *thl's* New Zealand rentals business is not a long-term sustainable position. In FY21 it suffered a \$14.7M EBIT loss, and there is considerable uncertainty over whether international tourism will return to anywhere near pre-COVID levels.
- 3.11 International tourists accounted for 90% of *thl's* rental revenue pre-COVID. With international borders closed, *thl* has reduced its fleet size by close to [REDACTED] since early 2020 to reduce its debt. [REDACTED].
- 3.12 Should the Proposed Transaction not proceed, Apollo will continue with the status quo, [REDACTED].

Other competition agencies that are being notified

- 3.13 The ACCC has also been notified of the Proposed Transaction.

4. THE ACTIVITIES OF THE PARTIES TO THE TRANSACTION

The Applicant

- 4.1 *thl* is a global tourism company, whose shares are listed on the New Zealand stock exchange. It operates in a wide range of tourism related businesses in Australia, New Zealand, North America and the United Kingdom.
- 4.2 In New Zealand, its business includes:
- (a) the manufacture and sale of motorhomes;
 - (b) the design and manufacture of specialist commercial vehicles for public and private sector customers;
 - (c) the rental of motorhomes. It operates under the Maui, Britz and Mighty rentals brands (discussed further below); and
 - (d) the packaging of travel and tourism products and leisure attractions such as the Waitomo Glowworm Caves, and Kiwi Experience coach tours.

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4.3 **thl** also owns and operates two online peer-to-peer rental platforms, trading as Highway and SHAREaCAMPER, which enable RV owners to offer their vehicles for rental.³

4.4 Further information about each of **thl**'s relevant businesses and the impact of COVID-19 is set out below.

New Zealand rental business

4.5 Maui is **thl**'s premier motorhome range and offers two-berth, two-berth toilet and shower, four-berth or six-berth motorhomes with varying features. Britz also offers two-berth, two-berth toilet and shower, four-berth or six-berth motorhome rentals as well as optional extras such as Britz Bikes. Mighty is **thl**'s budget motorhome range catering for backpackers and budget conscious travellers.

4.6 **thl** has rental depots in Auckland, Christchurch and Queenstown. **thl** also has a limited rental presence in Wellington through a partnership with Top 10 Holiday Parks.

4.7 **thl** expects it will have approximately [REDACTED] vehicles in its New Zealand rental fleet as at 31 December 2021.⁴

Motorhome and commercial vehicle manufacturing and sales

4.8 **thl** owns and operates Action Manufacturing, New Zealand's largest motorhome and specialist vehicle manufacturer. Action Manufacturing has operations in Auckland and Hamilton and designs and manufactures RVs and other vehicles, including for St John Ambulance, the New Zealand Police, the New Zealand Defence Force and numerous District Health Boards.

4.9 **thl** sells ex-rental and new motorhomes direct to retail customers through its own RV Super Centre dealerships, as well as through wholesale channels using third party dealerships.

Peer-to-peer rentals

4.10 As noted above, **thl** currently owns and operates the Highway and SHAREaCAMPER peer-to-peer rental platforms.

4.11 **thl** established the Highway platform in November 2015. Highway only operates in New Zealand. Since then it has [REDACTED], in large part because [REDACTED].

4.12 SHAREaCAMPER was established in 2016 by a German company. **thl** acquired the Australian and New Zealand assets of SHAREaCAMPER in May 2020 for [REDACTED]. At that time, SHAREaCAMPER, which had operations in Germany, Australia and New Zealand, [REDACTED] and **thl** saw the acquisition as an opportunity to [REDACTED].

4.13 [REDACTED].

4.14 **thl** was presented with an opportunity to sell the platforms to Camplify in exchange for shares and, on 26 October 2021, it was announced⁵ that:

³ **thl** has entered into a conditional agreement to sell Highway and SHAREaCAMPER to Camplify Holdings Limited. Refer to paragraphs 4.14 – 4.17 for further information.

⁴ Fleet sizes can fluctuate materially across the year due to timing of sales and on-fleet of new vehicles.

⁵ <https://www.nzx.com/announcements/381526>.

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- (a) **thl** had entered into a conditional agreement to sell Highway and SHAREaCAMPER to Camplify Holdings Limited (**Camplify**), an Australian-based peer-to-peer platform operator (further information on Camplify is set out at paragraph 5.36 of this application); and
- (b) **thl** will receive shares in Camplify to be issued in two equal tranches, the first on completion and the second 12 months after completion;

(the **Camplify Transaction**).

- 4.15 It is expected that, as a result of the Camplify Transaction, **thl** will own approximately 5% of the shares in Camplify.
- 4.16 As part of the Camplify Transaction, **thl** and Camplify propose to enter into an ongoing commercial arrangement. The arrangement is still subject to agreement of commercial terms.
- 4.17 [REDACTED].

Impact of COVID-19

- 4.18 **thl's** operations have been heavily affected by the COVID-19 pandemic. The advent of COVID-19 saw **thl's** revenue streams largely disappear and cancellations and refunds commence in large numbers. **thl** took action in the areas it still had some control over through management of its costs (such as labour and rent), fleet and capital. **thl's** rental fleet size in New Zealand has reduced from circa 2,500 vehicles prior to the COVID-19 pandemic to its expected rental fleet size of around [REDACTED] vehicles at 31 December 2021.
- 4.19 As COVID-19 restrictions eased in mid-2020, **thl's** business adjusted to the reality of a purely domestic customer base for the foreseeable future. **thl** responded with its 'get moving, to get New Zealand moving' rentals campaign, offering the lowest rates in its history, starting from \$29 a day. The campaign generated a significant amount of media interest and resulted in approximately 20,000 bookings over the six-week campaign period. While the campaign was not financially lucrative due to its marginal-cost pricing, it created enough activity to save a number of jobs within the business and encouraged domestic travel and tourism activity across New Zealand.
- 4.20 **thl's** New Zealand rentals and tourism businesses continue to be significantly impacted by the closure of New Zealand's borders as, historically, approximately 90% of customers in these businesses were international tourists. In the 12 months to 30 June 2021, **thl's** New Zealand rentals business incurred a \$14.7 million loss (before interest and tax), the largest in its history. Its Waitomo business also operated at a loss despite receiving approximately \$1.72 million in Government grant funding through the Strategic Tourism Asset Protection Programme (which is not being repeated). **thl's** New Zealand rentals and Waitomo Glowworm Caves businesses continue to operate at a loss, while its Kiwi Experience coach business remains in hibernation for the foreseeable future.

Other information

- 4.21 We provide at Confidential Annexure 4 **thl's** total New Zealand sales revenues, volumes and rental utilisation rates for the past three financial years. **thl's** most recent annual report can be found at <http://www.thlonline.com/FinancialInvestorInformation/Documents/AnnualResultsDocs2021/thl-FY21-annual-results.pdf>.

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- 4.22 We also provide together with this application confidential documents prepared for *thl*'s senior management relating to the Proposed Transaction.
- 4.23 Further information about *thl* can be found at <http://www.thlonline.com/>.

The other party

- 4.24 Established in 1985, Apollo Tourism & Leisure Ltd is a leading Australian tourism leisure company with operations in Australia, New Zealand, Canada, Germany, the United Kingdom and Ireland. It is listed on the Australian Securities Exchange (ASX code: ATL).
- 4.25 Since its beginnings as a small family business, Apollo has grown into a multi-national company focused on manufacturing, rental, sales and distribution of a range of RVs including motorhomes. Apollo also owns approximately 17-18% of the shares in Camplify and has a director on the Camplify Board.

Rental business

- 4.26 Apollo is a well-recognised international RV company and offers a complete range of motorhomes under many brands. Its rental brands in New Zealand are:
- (a) Star RV: Apollo's premium brand, and includes extras such as a linen exchange service. Star RV has a range of 2-berth, 4-berth, 6-berth (6 adults or 4 adults/2 children models), and 7-berth (4 adults and 3 small children), and are the newest RV's in the Apollo fleet;
 - (b) Apollo: Apollo's flagship brand and has the largest range of RVs, which includes motorhomes and 4WDs;
 - (c) Cheapa Campa: Apollo's budget brand. It offers a hitop, 2-berth, 4-berth and 6-berth motorhome and 4WD camper rentals; and
 - (d) Hippie Camper: Apollo's affordable motorhomes for the young and young at heart. It offers 2-berth and 4-berth (2 adults/2 children) motorhome rental options.
- 4.27 Apollo operates rental depots in Auckland and Christchurch. Apollo expects it will have approximately [REDACTED] vehicles in its New Zealand rental fleet by 31 December 2021.⁶

Impact of COVID-19

- 4.28 Apollo has also been significantly impacted by COVID-19. Prior to COVID-19, [REDACTED] of Apollo's New Zealand guests were international visitors. The travel restrictions imposed by governments around the world in response to COVID-19 [REDACTED]. [REDACTED] have also significantly impacted Apollo's ability to generate revenue from the domestic market. Apollo has sold down its rental fleet in New Zealand to generate cash and to "right-size" its fleet for the domestic market.
- 4.29 Within Australia, when domestic borders are open, Apollo has demonstrated its ability to generate revenue from the domestic market similar to pre-COVID levels. The much smaller population in New Zealand means that it will not be until the trans-Tasman bubble reopens that Apollo will be able to once again generate meaningful rental revenue in New Zealand.

⁶ [REDACTED]

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4.30 Prior to COVID-19, Apollo had a small New Zealand manufacturing plant that manufactured motorhomes for its rental fleet. This plant was permanently closed due to COVID-19, and its future fleet requirements for New Zealand will be manufactured in its Australian manufacturing facility.

4.31 Domestic restrictions on travel and movement have also seen the closure of, or forced restricted trading for, Apollo's retail dealerships. While demand for retail RVs has been strong following the initial phase of COVID-19, restrictions have made deliveries (including spare parts) and sales difficult, with many sites shut for long periods of time.

Other information

4.32 Apollo's most recent annual report can be found at <https://wcsecure.weblink.com.au/pdf/ATL/02425530.pdf>. Apollo's ASX releases can be found at <https://apollotourism.com/shareholder-centre/asx-announcements>.

4.33 We also provide at Confidential Annexure 5 Apollo's total sales revenues, volumes, utilisation rates for the past three financial years.

4.34 Further information about Apollo can be found on its website at <https://apollotourism.com/>

Horizontal overlap between the parties

4.35 The key area of overlap between the parties is in relation to motorhome rentals.

4.36 While there is also some overlap in the supply of new and used motorhomes to the New Zealand market:

(a) the wholesale and retail markets for the sale of new and used RVs in New Zealand has many participants, including RV manufacturers and importers (such as Jayco, TrailLite, UCC Motorhomes and Caravans, CI Motorhomes, Leisure Line, Nationwide RV, RV Direct NZ, European Motorhomes NZ Ltd, MAD Campers, Weinderkreisen, Vanlifer, Vanco Motorhomes and Spaceships), dealers (for new and used RVs) and private individuals (for used RVs); and

(b) the parties' combined share of supply for new and used motorhomes in New Zealand is insignificant.⁷

4.37 Accordingly, the sales of new and used RVs in New Zealand are not considered further in this application.

4.38 There is also no overlap between the parties in relation to manufacturing in New Zealand, as noted at paragraph 4.30 above. Accordingly, manufacturing is not considered further in this application.

⁷ In FY21, Apollo sold [redacted] in New Zealand. This is compared to *thl*'s sales of [redacted] motorhomes in FY21 (which was largely the result of the sell down of *thl*'s fleet and therefore *thl*'s sales in FY21 were much higher than in a typical year). *thl* estimates that it will sell approximately [redacted] new and used motorhomes in New Zealand in FY22. *thl* management estimates that there are approximately 14,500 new and used motorhomes sold in New Zealand annually. This does not include sales of other RVs, such as caravans, which are substitutable for motorhomes.

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5. INDUSTRY CONTEXT AND RELEVANT MARKETS

Industry overview

- 5.1 RVs combine transport and accommodation for tourists. There are many different types of RVs, offering a variety of facilities, including kitchen facilities and toilet and shower facilities, depending on the type of RV, size and price. Examples of the most common types of RVs in New Zealand are shown in Annexure 1.
- 5.2 The parties both supply motorhome rentals in New Zealand. This is the most common type of RV rental in New Zealand, although camper trailers are gaining popularity. Motorhomes typically range in size from two-berth to six-berth models. They usually include a kitchen and bathroom facilities, which may be plumbed or otherwise (depending on the type and size of motorhome).
- 5.3 Motorhome rentals are marketed in the same manner as other tourism and transport products. Prior to COVID-19, sales of motorhome rentals were generally made through the following channels:
- (a) tour wholesalers who sell pre-purchased rentals to the retail channel overseas. Wholesalers include Flight Centre, Trailfinders in the UK, or FTI⁸ in Germany. They operate as either a wholesale distributor to their own retail stores (e.g. Flight Centre), or as an independent distribution channel to a variety of brands. Many wholesale trade partners have their own direct online distribution which is an online representation of their physical store (e.g. Flight Centre website) or a different brand targeted at a specific product or market (e.g. DER Touristik Group which is a large wholesale trader partner which owns Camperboerse.de, targeting campervan specific bookings);
 - (b) online agents (otherwise called web consolidators). These are third party operated websites that facilitate bookings with traditional rental operators such as **thl**. The most recognisable example of an online agent is Expedia. RV specific examples include Camperdays (<https://www.camperdays.com/>), Motorhome Republic (www.motorhomerepublic.com), which is a subsidiary of the Webjet Group, Camper Champ (www.camperchamp.co.nz) and VroomVroomVroom (<https://campers.vroomvroomvroom.com/>). These operators have a variety of customer service options but generally operate an extensive call centre operation. Given the lower cost of operation and set up, these operators tend to have more brands, more specific target marketing and will target the widest possible range of products to supply as possible. There is a growing amalgamation of the wholesale trade partners and online agents, blurring the lines between the two channels;
 - (c) direct online sales. These are bookings made directly with **thl** through one of the **thl** owned websites or social media. Sales through this channel were predominantly to international tourists, although a small proportion of rentals were made by New Zealand tourists;
 - (d) call centre sales. This is a direct sales channel through which a customer confirms their booking through a direct call to a **thl** reservations agent. This could be the result of a lead from an online channel; and

⁸ See https://www.fti.de/?cm_mmc=Kooperation-_-fti-group-_-marken-_-tba&utm_medium=kooperationen&utm_source=fti-group&utm_content=marken

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- (e) walk-up sales. These are rentals made to customers at a physical branch, and includes sales which result from the customer visiting the branch to view the vehicles before proceeding to make a booking and bookings made when a customer telephones the branch. While the latter is a telephone booking, it is deemed by **thl** to be a 'walk-up' sale because branch labour is used for the transaction.
- 5.4 While **thl** has three direct sales channels – online, call centre and walk-up – it no longer attributes direct sales to the individual channels. Customers move between the different channels and **thl** no longer considers it meaningful to allocate costs or revenues between them.
- 5.5 At present, as a consequence of COVID-19, there are no international tourists in New Zealand. Bookings made by domestic tourists are primarily through direct internet sales.
- 5.6 There are a large number of alternate motorhome rental operators in New Zealand. These operators own the fleet of motorhomes that they provide for rent and typically have physical branches and set locations for pickup and delivery. In this application, these operators are referred to as traditional motorhome rental operators. The main traditional motorhome rental operators are discussed at paragraphs 5.33-5.34 below.
- 5.7 In addition to traditional motorhome rental operators, customers can also rent motorhomes through peer-to-peer rental platforms. Peer-to-peer platforms differ from online agents in that they enable private individuals to rent their RV when it is not in use, or for smaller operators to offer motorhomes for rent, similar to the AirBnB model. Online agents traditionally only take bookings for traditional motorhome rental operators. Peer-to-peer platforms offer customers an alternative to traditional motorhome rental operators' rental offerings and online agents as they allow regional guests to rent a motorhome from somewhere close to them, instead of having to travel to a major city to collect a rental from a traditional motorhome rental provider's facility.
- 5.8 Peer-to-peer rental platforms such as Camplify, SHAREaCAMPER, Outdoorsy and Mighway have been increasing in popularity in New Zealand. The popularity of these platforms has resulted in increased supply of motorhomes for rental, increased price competition and greater consumer choice.
- 5.9 Motorhome owners who choose to list their vehicle on a peer-to-peer platform are required to pay a commission to the platform, which can be up to 25% of the rental price. Motorhome owners set their own price for the rental of their motorhome through a peer-to-peer platform.

Suppliers of RVs

- 5.10 There are many suppliers of new RV vehicles in New Zealand as noted in paragraph 4.36(a) above. Traditional motorhome rental operators can acquire new motorhomes from most of these suppliers or import motorhomes. For example, McRent imports its motorhomes from Dethleffs, a European RV manufacturer.⁹
- 5.11 Traditional motorhome rental operators may also acquire second-hand motorhomes to meet their fleet requirements, from the many suppliers of second-hand motorhomes (other RV rental operators, RV dealers and private individuals). As an example, Lucky

⁹ <https://www.mcrent.co.nz/about-mcrent/>

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Rentals has several ex-Jucy motorhomes on its fleet.¹⁰ In addition, traditional motorhome rental operators could import second hand motorhomes from Europe and the United Kingdom and, with minor (and relatively simple) modifications, have them certified for use in New Zealand.

Impact of COVID-19 on the motorhome rental industry

- 5.12 Given New Zealand's relatively small domestic population, all traditional motorhome rental operators in New Zealand are heavily reliant on international tourism and therefore have been significantly impacted by the closure of New Zealand's borders.
- 5.13 To fund ongoing operating losses and protect their businesses, the industry has responded to the substantial decline in demand by releasing cash through the sale of vehicles, reduction of rental fleet sizes and reduction of workforces.
- 5.14 *thl* estimates that the total capacity of the traditional motorhome rental operators has reduced by up to 40% since the start of COVID-19, and despite this, there remains an oversupply relative to domestic demand. For example, in FY21, *thl* achieved an annualised utilisation of only [REDACTED], compared to a historical annualised utilisation of [REDACTED]. This is in part because some of the vehicles it sold are now available to rent through peer-to-peer platforms such as Mighway and Outdoorsy. *thl*'s own rental fleet in New Zealand has decreased by approximately [REDACTED] since the start of COVID-19, [REDACTED].
- 5.15 However, the reduction in fleet sizes is only a short-term solution to the current market conditions. To be profitable, rental operators within the industry need to maintain a certain scale of operations to allow revenue generated to cover the fixed overheads of the business as well as the variable costs. This requires a minimum fleet size to be retained and while fleet sizes can be temporarily reduced below this floor, it is not a sustainable long-term position.
- 5.16 While New Zealand's borders remain substantially closed the industry will continue to be significantly impacted by COVID-19. Operating a rental business in the domestic market poses a number of challenges for the industry, relative to serving the international market.
- 5.17 Replacing international bookings with domestic bookings does not provide the same level of returns because:
- (a) domestic bookings are often clustered around the same periods, being long weekends and school holidays, with minimal demand during the shoulders of those peak periods. For example, New Zealanders have little inclination to holiday in November or February, given that they will usually have planned a holiday for, or have just returned from holiday, over the Christmas/New Year period. Those months are traditionally high demand periods for international tourists;
 - (b) domestic customers are generally willing to pay less, as they can use their personal vehicle at no additional cost for travel, combined with the use of other forms of accommodation such as caravans, hotels, motels and holiday parks for cabins or tenting; and

¹⁰ <https://www.luckyrentals.co.nz/campers/lucky-rambler/>

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- (c) domestic bookings are, on average, 60% shorter in duration than international bookings. Consequently, an operator has to facilitate a greater number of pick-ups, drop offs and cleans and preparations, resulting in greater operational expenditure (labour, cleaning, etc.) per hire day on average.
- 5.18 An extract from a market update that *thl* gave to investors in July 2021 relating to the difficulties associated with domestic tourism is at Annexure 6.
- 5.19 From a longer-term perspective, it is expected that the wider tourism market for New Zealand will continue to face challenges for several years following the re-opening of the border to international tourists. Factors contributing to this outlook include:
- (a) a significant reduction in airline capacity over the last 12 months, which is expected to take several years to return to pre-COVID capacity levels and also contribute to increased travel costs;
 - (b) an increasing global trend in recent years for 'flight shaming,' convincing travellers to elect for more eco-friendly means of transportation, which has a disproportionately negative impact on New Zealand given the long-haul flights required from most large inbound tourist markets; and
 - (c) the New Zealand Government's declared intention to discourage the recovery of inbound tourism volumes to pre-COVID levels in favour of 'high-value' tourism, expected to be implemented by raising international visitor levies.
- 5.20 More specific to the RV rental industry, the New Zealand Government has positioned itself against the RV travel segment, including through the introduction of stricter freedom camping rules, due to a negative perception that tourists who travel by RV do not contribute as much to the New Zealand economy.
- 5.21 The industry has also had a significant supply-side shock as a result of COVID-19. Lockdown restrictions have caused factory shutdowns for some of the largest global chassis manufacturers, including Mercedes who supplies the majority of chassis for *thl's* New Zealand rental fleet.¹¹ When lockdown restrictions have ended, the requirement to comply with social distancing within operations have also contributed to slower manufacturing outputs. More broadly, there is also a well-documented shortage of semi-conductors (computer chips) impacting the automotive industry globally as well as shipping delays and increasing freight costs.
- 5.22 These factors are creating large inflationary pressures across all aspects of the RV supply chain, as well as delays. [REDACTED].

Relevant markets

- 5.23 The relevant area of overlap between the parties is in the supply of motorhome rental services.

Previous approach to market definition by the Commission

- 5.24 In 1999, the Commission granted clearance for the acquisition by *thl* of the assets, liabilities and businesses operated by Britz New Zealand Rentals Limited and

¹¹ *thl* imports all of its chassis. It builds them into motorhomes at its factory in New Zealand.

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Backpacker Campervans Limited. In that decision,¹² the Commission defined the relevant market as a national market for motorhome rentals.

- 5.25 While the Commission preferred to adopt a narrow product market of motorhome rentals (instead of a wider tourism market, or accommodation and rental transport markets) on the basis that the proposal involved aggregation in the motorhome rental business, the Commission did recognise that there were “*some arguments available that would support a broader market*”.
- 5.26 The Commission also considered the relevant market to be national in scope. This was on the basis that the parties to that transaction and other motorhome rental operators operated nationally.

Approach taken by the parties

- 5.27 Motorhomes combine transport and accommodation for tourists. There are countless other transport and accommodation options available to tourists, including:
- (a) other types of RV, such as 4WD campers and towables;
 - (b) alternative transport options, such as hiring a rental car, flying or travelling by cruise ship, coach or train; and
 - (c) alternative accommodation options, such as motels, hotels, hostels, bed & breakfasts, holiday homes, camping and peer-to-peer accommodation rentals (for example, through AirBnB).
- 5.28 In addition, domestic tourists may choose to use their own vehicle or hire car and any one of the many other accommodation options available to them.
- 5.29 All these different accommodation and transport packages create alternatives for tourists to renting a motorhome. They are substitutable for motorhome rentals throughout a tourist’s decision-making process, and tourists will often compare the cost of renting a motorhome to the cost of other RV rentals and other travel and accommodation packages.¹³ For example, a tourist may choose to rent a car and motel package instead of a motorhome, or they may choose to substitute a two-week motorhome rental for a one week motorhome rental and a one week rental car and motel package, or a two week rental car and hotel/motel/B&B package.
- 5.30 The parties therefore consider that the relevant market is a broader tourism market, which includes all these other types of RVs and accommodation and vehicle combinations.
- 5.31 However, for the purposes of this application, the parties have adopted the Commission’s previous approach to market definition and analysed the Proposed Transaction based on a national market for motorhome rentals (which the Commission

¹² Commerce Commission Decision 368, Tourism Holdings Ltd and Britz New Zealand Rentals Limited and Backpacker Campervans Limited, August 1999 (Britz).

¹³ A recent (pre-COVID) article comparing the cost of a motorhome or rental car holiday in New Zealand can be viewed here: <https://guestnewzealand.com/travelling-new-zealand-motorhome-vs-rental-car-helpful-tips/>

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acknowledged to be “narrow”¹⁴). This corresponds to the main area of overlap between the parties.

- 5.32 The larger suppliers of motorhome rentals typically have depots in Auckland and Christchurch¹⁵, the country’s primary entry and exit points, and supply motorhome rental services nationally, allowing customers to collect a motorhome at one location and drop off the vehicle at a different location. Operators can and do move vehicles between pick-up and drop off locations with relative ease and appoint agents in other locations to assist with the provision of services in those locations.¹⁶ [REDACTED] of *thl*’s rental bookings are one-way.

Competitors of *thl* and Apollo

- 5.33 There are a large number of traditional motorhome rental operators in New Zealand. Besides *thl* and Apollo, the other major operators are:

- (a) **McRent:** McRent is Europe’s largest motorhome rental company with operations in 27 countries. It is a subsidiary of Thor Industries, a global manufacturer of towable and motorised RVs with a market capitalisation of US\$6.2 billion listed on the New York Stock Exchange. Thor supplies approximately 50% of all RVs sold in the US and 35% of all RVs sold in Europe. It, combined with all its subsidiaries, is the largest RV operator in the world. McRent entered the New Zealand market in 2017 and has depots in Auckland and Christchurch. Dethleffs, a European motorhome manufacturer, fabricates McRent’s RVs. Its fleet consists of a cheaper range of compact motorhomes with up to four beds, family group motorhomes with space for up to six beds, and a comfort category with a maximum of four seats and beds. Further information about McRent can be found on its website <https://www.mcrent.co.nz/>.
- (b) **Jucy:** Jucy was established in Auckland in 2001 beginning with a fleet of just 35 rental cars, and now operates thousands of cars and motorhomes across Australia and New Zealand. In New Zealand, Jucy supplies two berth, three berth or four berth motorhomes for rental. Jucy has a nationwide presence with depots in Auckland, Christchurch and Queenstown. As a result of the impact of COVID-19, the family owned company that originally operated Jucy Rentals went into receivership in November 2020. The business was purchased by Polar Capital (a New Zealand-owned private equity firm associated with Colin Neal), who continues to operate it in a substantially similar form today. Further information about Jucy can be found on its website <https://www.jucy.com/nz/en/>.
- (c) **Wilderness:** Wilderness is a family owned company established in 2004. Wilderness operates a fleet of two berth and four berth motorhomes imported from Germany under the brand names Burstner and Cardao. Wilderness operates in New Zealand only, with depots in Auckland and Christchurch. Further information about Wilderness can be found on its website <https://www.wilderness.co.nz/>.
- (d) **Wenderkreisen:** Wenderskreisen is a New Zealand motorhome hire and sales company that has offered motorhome and car rentals for over 30 years.

¹⁴ Decision 368 at [24].

¹⁵ *thl* has depots in each of Auckland, Christchurch and Queenstown, and a limited presence in Wellington. Apollo has depots in Auckland and Christchurch only. All the parties’ major competitors have depots in each of Auckland and Christchurch. In FY21, *thl* facilitated pick-ups and drop offs from a range of locations throughout New Zealand.

¹⁶ For example, in 2020, *thl* partnered with Top 10 Holiday Parks as its agent.

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Wenderkreisen has depots in Auckland and Christchurch and its fleet ranges from larger four to six berth motorhomes to smaller hitop two to three berth motorhomes and station wagon cars with roof tents. Further information about Wenderkreisen can be found on its website <https://www.wendekreisen.co.nz/>

- (e) **Tui:** Tui has been in operation since 1983 offering motorhome rentals under the Tui Campers, Freedom Campers, Budget Campers and Tui Sleepervans brand names. Tui operates a combined rental network across New Zealand and Australia. Further information about Tui can be found on its websites <https://www.tuicampers.co.nz/>, <https://www.freedomcampers.co.nz/>, <https://www.budgetcampers.co.nz/>, and <https://www.sleepervans.co.nz/>.
- (f) **Travellers Autobarn (TAB):** TAB is a well-established Australian motorhome company that has been operating in New Zealand since 2009. In New Zealand, TAB operates a fleet predominantly marketed at backpackers or budget travellers ranging from two berth motorhomes and larger 3-5 berth motorhomes. TAB has depots in Auckland, Christchurch, Hamilton and Queenstown. Further information about TAB can be found on its website <https://www.travellers-autobarn.co.nz/>.
- (g) **Wicked Campers Limited:** Wicked Campers is a privately owned Australian company that has been operating since 2001. In New Zealand, Wicked Campers supplies a range of non-toilet motorhomes. Wicked Campers' vehicles are uniquely branded and targeted towards the young, backpacker segment of the market. Each motorhome is uniquely designed and painted to appeal specifically to young people. Wicked Campers also prices its campervans to appeal to more budget-conscious travellers. Wicked Campers has depots in Auckland, Wellington, Christchurch and Queenstown. Further information about Wicked Campers can be found on its website <https://wickedcampers.co.nz/>.
- (h) **Spaceships Limited:** Spaceships is a New Zealand owned company that supplies motorhome rentals in New Zealand, Australia and the UK. In New Zealand, Spaceships supplies a range of 2 berth motorhomes. Spaceships' vehicle fleet is comprised of ex-family vehicles that have been converted into campervans. Spaceships' motorhomes are custom designed, award-winning and Qualmark endorsed with enviro silver for sustainable business practices. Spaceships has depots in Auckland and Christchurch. Further information about Spaceships can be found on its website <https://www.spaceshipsrentals.co.nz/>.
- (i) **Escape Rentals Limited:** Escape Rentals is a New Zealand owned company that has been operating since 2003. Escape Rental also has a presence in the United States of America. Escape Rentals' New Zealand fleet is comprised of fitted 3 berth Nissan Caravans, some of which are self-contained. Escape Rentals' vehicles are uniquely painted and are targeted towards the backpacker segment of the market. Escape Rentals has depots in both Auckland and Christchurch. Further information about Escape Rentals can be found on its website <https://www.escaperentals.co.nz/>.
- (j) **Pacific Horizon:** Pacific Horizon is a privately owned New Zealand motorhome hire business which has been operating since 1986. Pacific Horizon offers a range of premium 2, 4 and 6 berth motorhomes for hire. All Pacific Horizon motorhomes are designed and built in New Zealand. Every motorhome and campervan in its fleet has an onboard toilet and shower. Pacific Horizon has depots in Auckland, Wellington and Christchurch. Further information about Pacific Horizon can be found on its website <https://pacifichorizon.co.nz/>.

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- (k) **Mad Campers:** Mad Campers is a New Zealand owned company that has been operating since 2017. Mad Campers offers a range of certified self-contained 2 berth campervans for hire. All Mad Campers' motorhomes are high roofed Nissan Vanette's (or similar). Mad Campers has depots in Auckland and Christchurch. Further information about Mad Campers can be found on its website <https://www.madcampers.co.nz/>.
 - (l) **Lucky rentals:** Lucky Rentals has a presence in both New Zealand and Australia. Lucky Rentals offers a range of 2, 3 and 4 berth campervans for hire. Lucky Rentals' 3 and 4 berth campervans are certified self-contained vehicles. Lucky Rentals has depots in Auckland and Christchurch. Further information about Lucky Rentals can be found on its website <https://www.luckyrentals.co.nz/>.
- 5.34 There is also a substantial number of smaller motorhome rental operators in New Zealand, including Mojo Campers, Venture RV, Euro Campers (which includes the Heron Campers and Budgy Campers brands), Vantastic New Zealand, Coastal Campers, Kia Ora Campers, Kiwi Motorhomes, Off Track Rentals, Cruzy Campers, Next Campers, Classic Campers, Jones Motorhome Rentals, Your kind of Camper, Bay of Islands Campervans Ltd, and Tiny House Campers. Information about many of these operators can be found here: <https://www.tourism.net.nz/region/-new-zealand/transport/rental-campervans-and-motorhomes>.
- 5.35 In addition to traditional motorhome rental operators, there are also privately owned vehicles available to rent on peer-to-peer platforms in New Zealand. The main peer-to-peer platforms in New Zealand are Mighway, SHAREaCAMPER, Outdoorsy and Camplify.
- 5.36 Camplify was founded in Australia in 2015. Since then it has expanded into the UK, Spain and New Zealand, and has more than 5,000 caravan and motorhome owners around the world on its platform. Camplify completed an IPO on the ASX in June 2021, with two capital raises totalling A\$14m. Its share price has nearly tripled since listing, indicating the confidence investors have in the future growth prospects for peer-to-peer platforms. Further information about Camplify can be found on its website at <https://www.camplify.co.nz/>.
- 5.37 Outdoorsy was founded in the US in 2015. It now has 25,000+ unique rentals available on its platform in over 4,800 cities and 11 countries, including Australia and New Zealand. It claims to be the fastest growing marketplace for RV rentals and outdoor experiences. In June 2021, it raised a further US\$120m in funding through \$90m equity and a \$30M debt facility. Further information about Outdoorsy can be found on its website at <https://nz.outdoorsy.com/>.
- 5.38 As noted at paragraphs 4.14 - 4.15 above, Mighway and SHAREaCAMPER are currently owned by **thl** but (subject to clearance) are in the process of being sold to Camplify. Following the Camplify Transaction, **thl** will own 5% of the shares in Camplify. As Apollo already owns approximately 17-18% of the shares in Camplify, following the Proposed Transaction if Camplify is granted clearance for the acquisitions, the merged entity will own 22-23% of the shares in Camplify.
- 5.39 We provide at Annexure 7 a list of the parties' competitors, together with additional information about their operations and their contact details.
- 5.40 A list of all trade or industry associations in which one or both of the parties to the Proposed Transaction participate is set out in Annexure 8.

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Customers of *thl* and Apollo

- 5.41 Both *thl* and Apollo supply motorhome rentals to consumers.
- 5.42 In relation to *thl*, consumers can book either directly through *thl*'s own websites or through one of its overseas trade partners. In FY21, [REDACTED] of *thl*'s bookings were made directly through its websites. Historically, as explained earlier, *thl* has also utilised online agents, affiliates (such as the Air New Zealand website), wholesalers.
- 5.43 In FY21, approximately [REDACTED] of Apollo's New Zealand bookings were made directly through its websites. Bookings are otherwise made through online agents, affiliates such as automobile clubs, and wholesalers.
- 5.44 We have therefore not provided the parties' top 5 rental customers because their rental customers are individuals and sales are generally one-off transactions.

6. COMPETITION ASSESSMENT

- 6.1 The Proposed Transaction is unlikely to have the effect of substantially lessening competition in the motorhome rental market because:
- (a) the merged entity would continue to face vigorous competition from a large number of traditional motorhome rental operators, including Jucy, Wenderkreisen and McRent, and privately owned rental platform vehicles;
 - (b) due to COVID-19, there are unprecedented levels of excess capacity in the market which will act as a significant constraint on the merged entity. This is likely to continue in the medium term;
 - (c) the merged entity will continue to be constrained by other accommodation and vehicle options;
 - (d) barriers to entry and/or expansion for both traditional rental operators and peer-to-peer operators are low;
 - (e) wholesalers possess significant countervailing power in relation to international customers; and
 - (f) the Proposed Transaction will not result in any coordinated effects.

Market shares

- 6.2 *thl*'s estimates of market shares for the New Zealand motorhome rental market (by fleet size) for the current financial year are set out in Table 1 below. These are forward estimates that *thl* management expects it, and its competitors', fleet size to be as at 31 December 2022.¹⁷ There is no independent share data available for this market. *thl* considers fleet size to be the best available proxy for market shares given there is no public record of volumes of sales and fleet capacity or utilisation in the industry. The majority of the fleet size estimates in Table 1 represent management's best estimate based on their market experience and knowledge. Because owners may list their motorhomes on more than one peer-to-peer platform, *thl* has applied a 30% discount to

¹⁷ There are two exceptions to this. The first is that the estimates of Apollo's fleet size are Apollo management's estimates of its fleet size as at 31 December 2021. The second is the estimated fleet estimates for Outdoorsy and Camplify for FY22 are based on a review of all current listings of motorhomes on their platforms as at 10 November 2021, discounted by 30% as explained further in this paragraph.

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the total estimated number of motorhomes available on the Outdoorsy and Camplify platforms.¹⁸

Table 1: Estimated motorhome fleet FY22

Operator	Estimated Fleet FY22	Estimated Market Share FY22
<i>thl</i>	[REDACTED]	[REDACTED]
Jucy	[REDACTED]	[REDACTED]
Apollo	[REDACTED]	[REDACTED]
Wenderkreisen	[REDACTED]	[REDACTED]
Escape	[REDACTED]	[REDACTED]
Spaceships	[REDACTED]	[REDACTED]
Tui	[REDACTED]	[REDACTED]
Wicked	[REDACTED]	[REDACTED]
Pacific Horizon	[REDACTED]	[REDACTED]
Lucky Rentals	[REDACTED]	[REDACTED]
TAB	[REDACTED]	[REDACTED]
Mad Campers	[REDACTED]	[REDACTED]
Wilderness	[REDACTED]	[REDACTED]
McRent	[REDACTED]	[REDACTED]
Other traditional rental operators	[REDACTED]	[REDACTED]
Privately owned rental platform vehicles		
- Highway	[REDACTED]	[REDACTED]
- ShareACamper	[REDACTED]	[REDACTED]
- Outdoorsy	141	[REDACTED]
- Camplify	94	[REDACTED]
TOTAL		100.0%

6.3 The Proposed Transaction will combine the current number one and number three motorhome rental market participants. This results in a market share of circa [REDACTED] for motorhomes owned by the merged entity. This is a significantly smaller share than *thl*'s expected market share following its acquisition of Kea and United in 2012 (which was around 45%) and in respect of which the Commission decided to take no action following receipt of a courtesy letter.

6.4 The estimates above are likely to underestimate the available rental fleet in New Zealand. *thl* considers the shares of the other traditional rental operators is a conservative estimate as it is not likely to capture all of the many smaller operators.

¹⁸ *thl* has traditionally seen very few overlaps in listings between Highway and ShareACamper, and therefore no discount has been applied to the estimates for each of these platforms. *thl* estimates that the level of duplicate listings between its platforms and Camplify and Outdoorsy in previous years was significantly less and therefore no discount has been applied to the fleet numbers provided in 2019 and 2020 in Table 2 below.

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- 6.5 As explained earlier, the merged entity will hold 22-23% of the shares in Camplify if the Camplify acquisitions are cleared. It is currently anticipated that the merged entity will have a director on the Camplify Board post-Transaction, although it has no entitlement to a seat on the board. *thl*'s view is that, post-Transaction, the merged entity is unlikely to have an ability to bring real pressure to bear on Camplify's decision making process.¹⁹ While *thl* acknowledges that the merged entity will have some ability to influence Camplify's decisions through its shareholding and potentially a director, that influence will not be substantial.
- 6.6 Further, the proposed ongoing commercial relationship between *thl* and Camplify will not provide *thl* with any ability to influence Camplify's decision making. The relationship, if commercial terms are agreed, will not give *thl* any decision-making rights in relation to Camplify's business and the parties will continue to be incentivised to operate as standalone businesses: [REDACTED].
- 6.7 [REDACTED].
- 6.8 In any event, the relevant competitors for the purposes of the competition analysis are the private owners of the motorhomes listed on peer to peer platforms, not the platforms themselves. Camplify does not set the prices at which an owner lists a vehicle for rent; this is a decision made by the owner alone.

The merged entity will continue to face vigorous competition

- 6.9 A large number of traditional rental operators, both large and small, and privately owned rental platform vehicles will continue to constrain the merged entity.
- 6.10 The next largest market participants, Jucy and Wenderkreisen, would have market shares of approximately [REDACTED] and [REDACTED] respectively. While Jucy went into receivership in November 2020 because of the drop in demand caused by the COVID-19 pandemic, as explained at paragraph 5.33(b) above, its assets were acquired by Polar Capital and it continues to operate as it did prior to its receivership, albeit it now has better access to capital for investment. It, together with Wenderkreisen, will therefore continue to provide a significant competitive constraint on the merged entity.
- 6.11 A large number of smaller traditional motorhome rental operators including Escape, Spaceships, Wicked, Wilderness, Pacific Horizon, Lucky Rentals, Tui and TAB, which collectively make up approximately [REDACTED] of the market, will also continue to constrain the merged entity.
- 6.12 As noted at paragraph 5.14 above, the existing traditional motorhome rental companies have all reduced their fleet sizes as a result of the response to COVID-19 and there is currently an oversupply of rental motorhomes in the market compared to demand. There are also supply-chain issues which are impacting the delivery and supply lead times for new motorhomes.
- 6.13 While it is expected that the tourism industry will continue to be challenging for several years once New Zealand's border reopens to international tourism, each of the traditional motorhome companies could increase their fleet capacity and grow market share, when market conditions allow. In particular, *thl* considers that, as a subsidiary of Thor Industries, McRent (which currently has an estimated share of [REDACTED]) has the financial strength and ability to increase the size of its New Zealand rental fleet and grow market

¹⁹ Commission Merger Guidelines at [2.7].

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share within a relatively short lead time compared to other market participants. McRent entered the New Zealand market in 2017.

- 6.14 As motorhome rentals are generally one-off transactions, there are no customer switching costs. If the merged entity attempted to increase prices or reduce the quality of its service offering, customers could easily switch to one of the many alternative suppliers. Motorhome rental comparison websites such as *Compare and Choose*²⁰ facilitate switching by providing the means for potential customers to compare vehicles' age, price, amenities and availability.
- 6.15 In addition to competition from traditional rental operators, privately owned rental platform vehicles will provide a significant and growing constraint on the merged entity. Vehicles listed by third-party owners on Mighway, SHAREaCAMPER, Outdoorsy and/or Camplify collectively make up approximately [REDACTED] of the market.
- 6.16 Peer-to-peer rental platforms are of increasing importance in the New Zealand market. The number of privately owned rental platform vehicles available in New Zealand has more than doubled since 2019 and there are significant prospects for continued growth.
- 6.17 Table 2 below provides *thl* management's fleet size estimates (with the exception of the Apollo data which was provided by Apollo) for some of the relevant market participants for the period 2019 (prior to the impact of COVID-19) to 2022.

Table 2: 2019 - FY22 FLEET SIZE ESTIMATES

Company	2019	2020	2021	FY22
<i>thl</i>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Jucy	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Apollo	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Wenderkreisen	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Tui	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
TAB	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Wilderness	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
McRent	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Privately owned rental platform vehicles	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

²⁰ https://www.compareandchoose.com.au/campervan_hire

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- 6.18 Like many companies, *thl*'s internal estimates of fleet focus on a select group of competitors and therefore *thl* management did not seek to accurately estimate the fleet sizes of all its competitors over this period.
- 6.19 Nevertheless, as Table 2 shows, the major traditional motorhome rental operators have reduced their fleet size compared to 2019. In contrast, there has been growth in both the number of peer-to-peer platforms (Camplify entered the New Zealand market in 2019²¹) and an increase in the number of vehicles available on those platforms since 2019.
- 6.20 This trend is expected to continue post-acquisition as, consistent with other sectors in the tourism industry, consumers increasingly prefer to book their travel and accommodation online rather than booking through more traditional channels, such as travel agents. While initially traditional rental operators had an advantage over peer-to-peer operators because traditional operators provided other services and support such as roadside assistance/on-road care, one ways etc which were not provided for customers who booked a rental through a peer-to-peer platform, this is slowly being eroded by peer-to-peer operators expanding their services to include equivalent support and services. As explained at paragraph 5.14 above, to reduce costs and save jobs, *thl* and other traditional motorhome rental companies reduced their fleet size by selling ex-rental motorhomes to private individuals. This has both increased the supply of motorhomes listed on peer-to-peer platforms and the available market for peer to peer listings.
- 6.21 It is expected that, once New Zealand's borders reopen and private motorhome owners have greater travel options open to them, the supply of motorhomes listed on peer-to-peer platforms will further increase. Globally the term "*pandemic buyer*" in the RV category has been established to identify those customers who purchased a motorhome in 2020/2021 and had not been in the market prior to borders closing. These owners will be much more likely to make their vehicle (which is the same or similar to the operator's fleet from whom they purchased it) available for rent in the future when international travel resumes.
- 6.22 Peer-to-peer platforms present a significant competitive threat and constraint to traditional motorhome rental operators. Owners on peer-to-peer platforms tend to price lower than commercial rental operators during peak seasons but also keep prices low when demand decreases due to the motorhome being essentially 'sunk' capital and the absence of fixed overheads. Given the owner of the vehicle is typically not operating a business, they are also better able to weather challenging economic conditions such as COVID-19. Since 2019, the number and size of peer-to-peer platforms globally has increased substantially.
- 6.23 It is estimated that there are more than [REDACTED] privately owned motorhomes in New Zealand. The motorhomes on peer-to-peer platforms are less than [REDACTED] of this number which provides significant opportunity for growth by peer-to-peer platforms. Global peer-to-peer platform operators, such as Outdoorsy, have the funding to pursue an aggressive growth strategy and, as shown in the case of Camplify, investors are prepared to support such a strategy. Further, entities such as the New Zealand Motor Caravan Association Inc, which has more than 25,000 members, could readily seek to enter the market with a peer-to-peer offering.

Excess capacity will provide a significant competitive constraint in the medium term

²¹ <https://www.camplify.co.nz/about>

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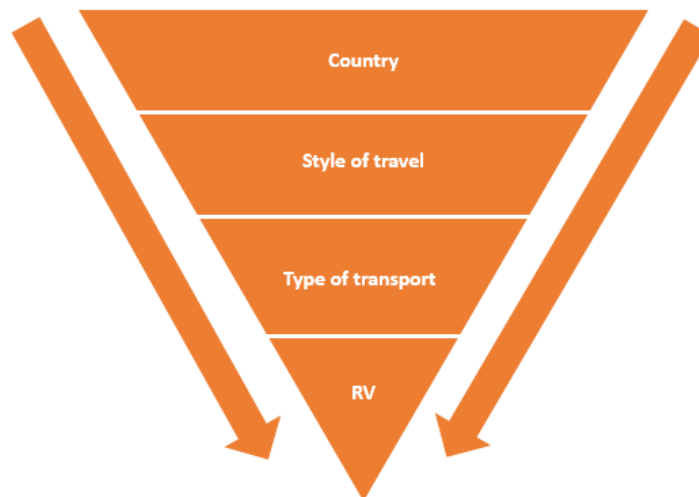
6.24 As explained earlier, despite traditional motorhome rental operators reducing the size of their fleets in response to COVID-19, there remains an oversupply in motorhome rentals relative to demand. This will provide a significant competitive constraint on the merged entity. It is expected that the New Zealand tourism market will continue to face challenges for several years and therefore the current excess capacity in the market is also likely to continue for some time.

Other services provide significant competitive constraint

6.25 Motorhomes combine travel with accommodation for tourists. There are several decision points for tourists that act as a constraint on the New Zealand motorhome rental market.

6.26 Diagram 1 below is the decision-making process that tourists generally proceed through before they decide to book a motorhome rental.

Diagram 1: Tourist decision-making process



6.27 The first decision that a tourist must make is the country they wish to visit. Prior to COVID-19, New Zealand had around 0.3%²² market share of global tourism. If New Zealand pricing (of which the motorhome component is the largest portion of the holiday, being transport and accommodation) is uncompetitive, *thl's* expectation is that demand for tourism in New Zealand will drop (including from domestic tourists who could in future elect to travel internationally instead).

6.28 The second decision that a tourist must make is the style of travel. Consumers need to decide whether they do a cruise, bus tour, resort (one location), or an independent travel option. The motorhome sector is a very small proportion of leisure travel in New Zealand (estimated at less than 2%²³). There is a strong price constraint on independent travel from these other categories. Cruises are a particularly strong competitor from a pricing perspective.

6.29 If a tourist elects independent travel, then the next decision is the mode of travel. Tourists have many options when travelling through New Zealand, including a wide

²² UNWTO estimates there were 1.5 billion international tourist arrivals globally in 2019. That year there were circa 3.85 million in New Zealand (Stats NZ).

²³ <http://nzdotstat.stats.govt.nz/wbos/Index.aspx?DataSetCode=TABLECODE7575>

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range of accommodation and travel options. For example, in terms of accommodation, tourists can choose between hotels, motels, hostels, B&Bs, rental homes, holiday parks and many other fixed accommodation options. In terms of transport options, tourists can choose from, for example, their own car (for domestic tourists), rental car, plane, bus, bicycle, rail and RV. There were in excess of 25,000 rental cars available in New Zealand before the COVID-19 pandemic. Websites such as Drive Now (<https://www.drivenow.com.au/>) and VroomVroomVroom (<https://www.vroomvroomvroom.co.nz/>) allow tourists to easily compare the cost of hiring a motorhome with the cost of car rental.

- 6.30 Consumers compare the cost of travel by motorhome to the cost of alternative transport and accommodation options (particularly a rental car and motel/hotel package) before selecting their travel option. For example, a search for 'motorhomes vs motels NZ' on Google, returns the following results.

The screenshot shows a Google search for "motorhome vs motels nz". The search results include:

- Search Results:** About 835,000 results (1.33 seconds).
- Result 1:** <https://www.wilderness.co.nz> › blog › the-best-way-to-s...
The Best Way to See New Zealand: A Motorhome vs Rental ...
 31/07/2017 — The most popular options for exploring New Zealand by road are either hiring a rental car or hotels. This post highlights the pros and cons ...
- People also ask:**
 - Can you stop anywhere in a motorhome in New Zealand?
 - Can you live in a motorhome permanently NZ?
 - Which is better campervan or motorhome?
 - Can you live in a motorhome permanently?
- Result 2:** <https://www.tripadvisor.co.nz> › ShowTopic-g255104-i1...
Motorhome vs. Hotel/Airbnb - New Zealand Forum - Tripadvisor
 With only 9 days you're better off using a rental car and hotels. Using a camper van means your travel times are increased by about 20%, higher costs in the ...
 6 answers · Top answer: Welcome to TA. What time of year are you coming? How long do you...
- Result 3:** <https://guestnewzealand.com> › travelling-new-zealand-...
Travelling New Zealand: A Motorhome or a Rental Car?
 Home Travel Blogs Accommodation Travelling New Zealand: A Motorhome or a Rental Car?
 April 8th, 2019. New Zealand has long been a driver's paradise with its ...
- Result 4:** <https://www.tripadvisor.com.au> › ShowTopic-g255104-...
Motorhome or motels ? - New Zealand Forum - Tripadvisor
 11/05/2019 — 225 reviews. 302 helpful votes. Motorhome or motels ? 2 years ago. Save.
 Flying from UK to Auckland arriving on 9th of Dec. Leave Auckland on 2nd of Jan.
 7 answers · Top answer: We are coming from the UK for amonth Jan to Feb. Just 2 of us thoug...

Campervan or hotels ...	7 answers	1 Nov 2018
Motorhome or Car	5 answers	8 Jan 2018

 More results from www.tripadvisor.com.au
- Result 5:** <https://www.detournz.com> › Eng › selfdrive
Travel | Motorhome or Self-drive | New Zealand - Detour NZ
 How to choose between a self drive trip or motorhome. ... has a means of transport, usually a car, and has reserved accommodation throughout the stay.
- Result 6:** <https://nzpocketguide.com> › rent-campervan-car-new-z-...
Should You Rent a Campervan or Car in New Zealand? - NZ ...
 What type of accommodation do I want to stay in? Are you travelling alone or with how many others? How easy do you need the driving to be? How big is your ...
- Result 7:** <https://www.freedomwanderers.com> › blog › car-vs-ca...
Should You Rent a Car or Campervan for your New Zealand ...
 2/08/2019 — In this article, I will share with you the pros and cons of both Campervans and ...

- 6.31 Finally, once a tourist has elected to travel around New Zealand in an RV, tourists must then select the type of RV to rent. As shown in Annexure 1, there are a range of motorised and towable RV options available in the New Zealand market. All these RV options combine travel with accommodation in a similar manner to motorhomes and are readily substitutable for motorhomes. Camper trailers in particular are growing in popularity in New Zealand. Go Rentals, a New Zealand car rental company introduced a camper trailer product in late 2017 and also rents vehicles that have towing capability.
- 6.32 For all these reasons, the different accommodation and transport options available to tourists will constrain the merged entity's ability to increase price or reduce quality of service.

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Barriers to entry or expansion are low

- 6.33 There are low barriers to entry and expansion in the motorhome rental market. The ease which new operators can enter the market and existing operators can expand, will continue to constrain the merged entity's ability to increase price or reduce quality post-Transaction.
- 6.34 There are no specific legislative or regulatory requirements to set up a motorhome rental business and vehicles can be purchased new or second hand. Historically, new motorhomes have been readily available. *thl* expects that any supply chain issues due to the COVID-19 pandemic will [REDACTED].
- 6.35 While the current market conditions mean that de novo entry of a substantial operator is unlikely in the first quarter of 2022, a new entrant can readily start up on a small scale with one or two vehicles (either new or used) in one or a limited number of locations once market conditions improve. The cost of setting up a webpage is low and small operators are able to create an online presence equal in quality to larger market participants. Through the use of Google Ads paid search, and advertising placement, small operators can secure a premium position for online enquiries.
- 6.36 Further, a new entrant could readily enter the motorhome rental market by first acting as a sales agent and leveraging partnerships with existing operators, before then building their own fleet. For example, TAB entered the New Zealand market initially as a sales agent for Escape, before investing in its own motorhome fleet in New Zealand.
- 6.37 Another way a party can enter the motorhome rental market is by establishing an online agency platform. For instance, GlobalCampers initially entered the market as an online agency for booking motorhomes for a number of operators, including *thl*. It then started acquiring its own vehicles and marketing them through its platform alongside (and in priority to) vehicles owned by other operators. In addition to potential entry from small local operators, there are many large overseas motorhome rental operators who could potentially enter the New Zealand motorhome rental market, including:
- (a) TRIGANO (ticker:TRI): TRIGANO has a motorhome rentals business in Europe. TRIGANO is listed on the French Stock Exchange and has very high operating cashflow and access to capital.
 - (b) Camping World (ticker:CWH): Camping World has recently started an RV rentals business again in the USA. Historically, it owned a RV rentals business and is now a P2P rental platform operator. Camping World is a constant growth company announcing several transactions per annum and *thl* expects it will look globally for other opportunities.
 - (c) Cruise America: Cruise America is the North American market leader (USA and Canada) and was investigating the Australia market for a number of years before COVID-19. It has a very strong balance sheet and publicly stated goal of competing with both *thl* and Apollo in the Australian and New Zealand markets.
- 6.38 Barriers to entry are particularly low for car rental companies and existing RV dealers. RV dealers already own the vehicles and have physical branches, and therefore very little capital investment would be required to start offering RV rental services. It is common in other markets, such as the US, for RV dealers to also offer RV rentals. Car rental companies already have physical branches and an established booking platform. Large international rental car companies such as Hertz, Thrifty, Avis and Europcar have

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all offered motorhome rentals in other markets. All of these rental companies have a New Zealand presence and could easily expand their offerings to motorhomes.

- 6.39 Finally, barriers to entry and expansion are also very low for existing peer-to-peer platforms operating in overseas markets, as demonstrated by the entry of Outdoorsy and Camplify into the New Zealand market. Other than the requirement for a rental service transport licence (which is merely a procedural requirement and costs only \$450 to obtain), there are no specific legislative or regulatory requirements to set up a motorhome rental platform: peer-to-peer platform operators do not own the vehicles that are rented through their platform. All that is required for an existing platform to enter the New Zealand market is a modification to its website to allow consumers to search for vehicles in New Zealand and to meet any specific New Zealand requirements (such as updating terms and condition to reflect local law), and a marketing campaign to attract RV owners to list their vehicles on the platform. For example, Camplify was able to enter the New Zealand market relatively quickly following its establishment in Australia by making simple modifications to its website.
- 6.40 The expansion of peer-to-peer platforms is restrained only by the number of owners of motorhomes who wish to rent them when they are not in use. There has been an explosion in peer-to-peer platform operators globally since the COVID-19 pandemic began. Other peer-to-peer platforms internationally include Yescapa, Goboony, Camptoo, RVShare, RVezy, CNC Hire, Drive My Car and PaulCamper. Each of these platforms could enter the New Zealand market quickly and with very little capital investment. In particular, Camptoo, which was founded in the Netherlands in 2014, expanded into Australia in 2017 and could readily expand into the New Zealand market.

Wholesalers possess significant countervailing power for international tourists

- 6.41 Prior to the closure of New Zealand's borders in 2020, [REDACTED] of *thl* motorhome rentals were generated through international wholesalers and online agents. These wholesalers and online agents generally act as agents for more than one motorhome rental supplier. They possess strong countervailing power; if an agent is not happy with the products, services or its commission from a particular supplier, the agent will either not promote the supplier's products or terminate its agreements with the relevant supplier.
- 6.42 Traditional wholesalers (who pre-purchase rental bookings and then on-sell them as part of a package) will generally list vehicles on their websites from the larger traditional rental operators (i.e. fleets of more than 150 vehicles) but will usually only promote up to four different operators in their printed brochures. *thl* understands that all traditional motorhome operators use online agents in some manner; there is no cost to set up with an online agent.
- 6.43 While there is currently very little wholesale activity as a consequence of COVID-19 and the current focus on domestic tourism, *thl* expects that wholesalers and online agents will continue to exert significant countervailing power on the merged entity once international tourism resumes.

No coordinated effects

- 6.44 The Proposed Transaction does not result in any coordinated effects. It will not enhance the ability of the merged entity and its competitors to coordinate their behaviour, including because:

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- (a) motorhome rentals and associated services are not homogenous. There are differences between rental operators' offerings in terms of the size and features of their vehicles, and the level of service offered;
- (b) there are a large number of motorhome rental operators and the Proposed Transaction will not result in the removal of a particularly aggressive or destabilising competitor;
- (c) there are limited interactions between competitors in the market and volumes of sales and fleet capacity are not transparent;
- (d) there have been significant demand and supply-side shocks since the beginning of COVID-19; and
- (e) peer-to-peer platforms are of increasing importance in the market and additional motorhome owners will seek to rent their motorhomes if prices were to increase, thereby disrupting any potential for coordination.

7. CONFIDENTIALITY

7.1 Confidentiality is requested of the information in this notice that is in bold and contained in square brackets, and the information set out in the Confidential Annexures, on the basis that disclosure would be likely unreasonably to prejudice the commercial position of the parties providing the information.

7.2 Confidential information in this application is highlighted to reflect who the information is confidential to:

- (a) information that is confidential to **thl** is highlighted in pink (i.e., **CONFIDENTIAL**);
- (b) information that is confidential to Apollo is highlighted in blue (i.e., **CONFIDENTIAL**); and
- (c) information that is confidential to both parties is highlighted in teal (ie **CONFIDENTIAL**).

7.3 The applicant requests that it be notified if a request is made to the NZCC under the Official Information Act 1982 for release of the information for which confidentiality has been claimed.

7.4 Confidential and public versions of this Notice have been provided to the NZCC.

DECLARATION

I, Grant Webster, have prepared, or supervised the preparation of, this notice seeking clearance.

To the best of my knowledge, I confirm that:

- a) all information specified by the Commission has been supplied;
- b) if information has not been supplied, reasons have been included as to why the information has not been supplied;
- c) all information known to me that is relevant to the consideration of this notice has been supplied; and
- d) all information supplied is correct as at the date of this notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to the notice.

I understand that it is an offence under the Commerce Act to attempt to deceive or knowingly mislead the Commission in respect of any matter before the Commission, including in these documents.

I am a director/officer of the company and am duly authorised to submit this notice.

Name and title of person authorised to sign:

Grant Webster
Chief Executive Officer

Signature



10 December 2021

Date

CONFIDENTIALITY WAIVER

Background

1. THL Group (Australia) Pty Ltd, a subsidiary of Tourism Holdings Limited, seeks clearance to acquire 100% of the shares in Apollo Tourism & Leisure Ltd (**Apollo**) by way of a scheme of arrangement (**Proposed Transaction**). For the purposes of this waiver, THL Group (Australia) Pty Ltd and Tourism Holdings Limited are referred to collectively as *thl*.
2. An application for informal merger clearance in respect of the Proposed Transaction has recently been lodged with the Australian Competition and Consumer Commission (**ACCC**).
3. The New Zealand Commerce Commission (**NZCC**) will be considering the application pursuant to its powers and obligations under section 66 of the Commerce Act 1986 (**NZCC Purpose**).
4. As part of the proposed application for merger clearance, *thl* has provided, and will continue to provide, the NZCC with confidential information of *thl* and Apollo for the NZCC Purpose (**Confidential Information**).
5. The Confidential Information that is to be provided to the NZCC is subject to confidentiality obligations arising from all relevant statutes, regulations and other laws (including the provisions of the Official Information Act 1982) (**Confidentiality Obligations**).

Waiver

6. *thl* consents to the NZCC sharing the Confidential Information with the ACCC, subject to the conditions set out below (**Confidentiality Waiver**).
7. A corresponding waiver has been provided to the ACCC.

Conditions

8. Prior to disclosing any Confidential Information to the ACCC the NZCC must receive written confirmation from the ACCC that the ACCC will apply the confidentiality protections under all relevant statutes, regulations and other laws that would be applicable if *thl* had provided the documents and information directly to the ACCC.
9. The Confidentiality Waiver granted is limited to Confidential Information given to the NZCC in the course of performing its duties for the NZCC Purpose and does not apply to information obtained in the course of any other review of any case either now or in the future.
10. Where the NZCC has provided Confidential Information to the ACCC in accordance with the terms of this document, a failure by the ACCC to treat that information in the manner described in paragraph 8 above will not give rise to any liability on the part of the NZCC.
11. The Confidentiality Waiver does not constitute a waiver by *thl* or Apollo of their rights under the Confidentiality Obligations with respect to the protection afforded to *thl* and Apollo against the direct or indirect disclosure of information to any third party other than the ACCC.
12. The Confidentiality Waiver does not extend to any materials asserted by *thl* or Apollo to be privileged.

13. The Confidentiality Waiver does not limit the ability of the NZCC to disclose information that it would otherwise be able to disclose in accordance with relevant laws, including the NZCC's ability to provide compulsorily acquired information and investigative assistance to recognised overseas regulators under sections 99B to 99P of the Commerce Act 1986.

Name and title of person authorised to sign:

Grant Webster
Chief Executive Officer



Signature

10 December 2021







Date

ANNEXURES

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Annexure 6	Extract from market update July 2021
Annexure 7	Competitor details
Annexure 8	Trade or industry associations

ANNEXURE 1 – TYPES OF RVS

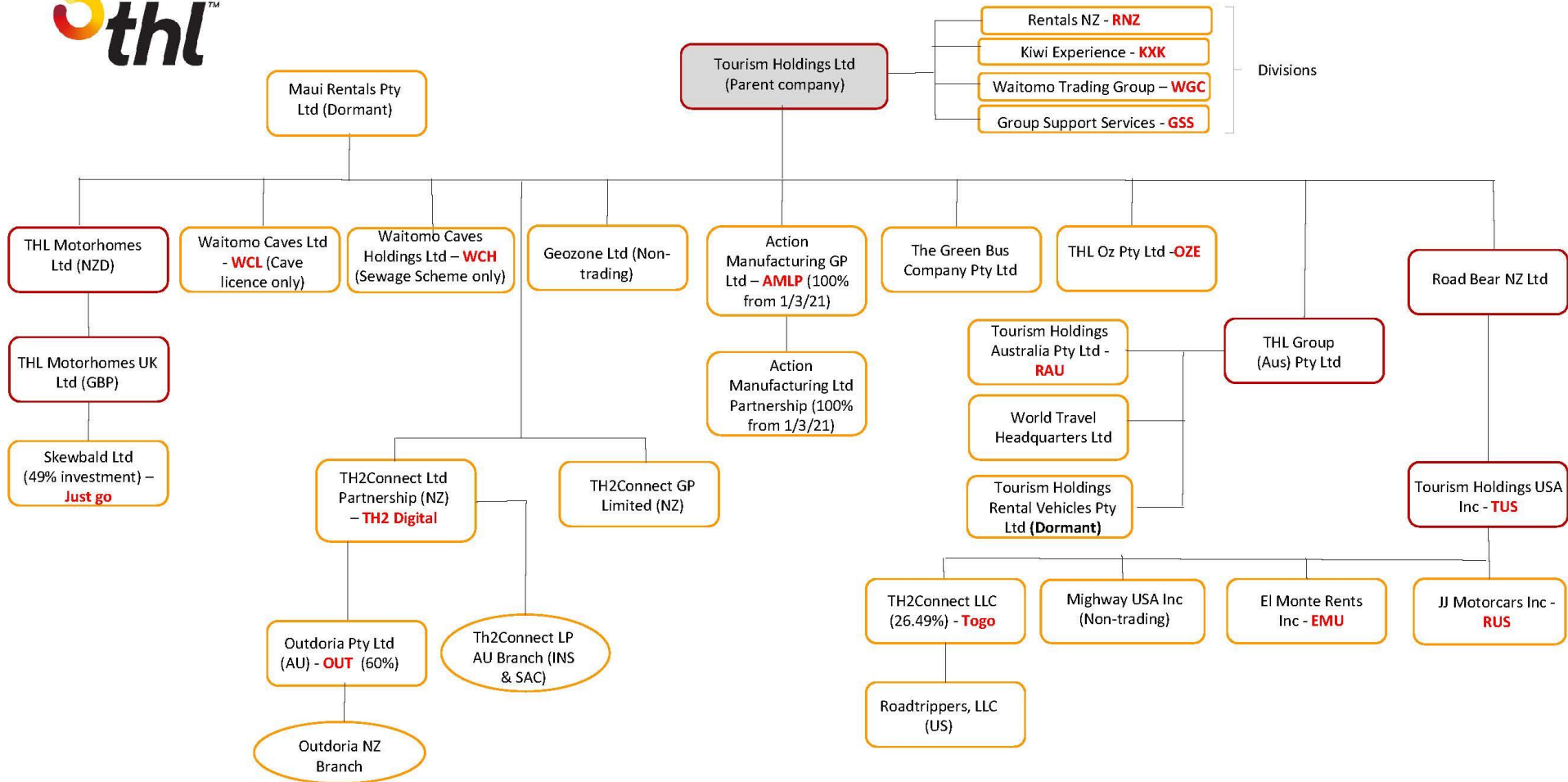
No.	RV Type	Description	Image ²⁴
Motorised Units			
1.	Motorhome	Self-contained vehicles usually built on a truck or bus chassis, with a divide between the cab and living quarters. Depending on the size of the motorhome facilities could include kitchen, toilet and shower facilities. Motorhomes range in size from two to six berths.	
2.	Campervan	Self-contained vehicles that are usually smaller in size than a motorhome. Depending on the size of the campervan, facilities could include kitchen, toilet and shower facilities. Campervans range in size from two to four berths.	
3.	4WD Camper	Vehicles that are typically used for off-roading. 4WD campers include either separate grounded tents or expandable roof top tents. Depending on the size of the 4WD camper, facilities could include kitchen, toilet and shower facilities. 4WD campers range in size from two berths to five berths.	 <p style="text-align: right; margin-right: 20px;">Image source: Safari Land cruiser - 4WD</p> <p style="text-align: center;">Camper Hire Britz Campervans Australia</p>
Towables			
4.	Caravan	Units that are towed behind a vehicle. Depending on the size of the caravan, facilities could include kitchen, toilet and shower facilities. Caravans range in size from two berths to eight berths.	
5.	Camper Trailer	Compact units that are towed behind a vehicle. Camper trailers either have tents that fold onto the ground (referred to as soft-floor campers) or have a fold over lid that becomes the floor (referred to as hard-floor campers). Depending on the size of the camper trailer facilities could include kitchen facilities. Camper trailers range in size from two berths to five berths.	
6.	Tent Trailer	Trailers that are towed behind a vehicle with a section that can be lifted to form a tent and act as a sleeping space. Tent trailers range in size from two berths to four berths.	

²⁴ Images sourced from [RVMAA : Recreational Vehicle Manufacturers Association of Australia \(rvaustralia.com.au\)](http://rvmaa.com.au) unless otherwise stated.

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No.	RV Type	Description	Image ²⁴
7.	5th Wheelers (also known as goose neck trailers)	A type of caravan that attaches to a vehicle using a hitch that is located in the tray of a ute or pick-up truck. The hitch or turntable resembles a wheel, making it the fifth wheel of the caravan.	
Accessories (for example)			
8.	Slide On Camper	Units that are mounted onto the flat tray of a utility vehicle and can be removed at any time. No towing is required to move slide on campers.	
9.	Roof top tent	Units that can be mounted onto the roof of a vehicle to provide sleeping quarters off the ground. Roof top tents are widely available as accessories through RV suppliers, 4WD suppliers and other retailers.	 <p data-bbox="887 790 1399 889">Image source: https://www.kogan.com/au/buy/trsports-mason-taylor-outdoor-black-hard-shell-rooftop-tent-w-mattress-coffee-cloth-rooftop-215blk-cof/</p>

ANNEXURE 2 – thl OWNERSHIP STRUCTURE



ANNEXURE 3 – SCHEME IMPLEMENTATION DEED AND INVESTOR BOOKLET



Execution Version

Scheme Implementation Deed

Apollo Tourism & Leisure Ltd (**ATL**)
Tourism Holdings Rentals Limited ARBN 655 142
028, a foreign company registered in its original
jurisdiction of New Zealand as Tourism Holdings
Limited (**thl**)
THL Group (Australia) Pty. Ltd. (**thl Acquirer**)

Scheme Implementation Deed

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Details

Date 10 December 2021

Parties

Name **Apollo Tourism & Leisure Ltd ACN 614 714 742**
Country of incorporation Australia
ABN 67 614 714 742
Short form name **ATL**
Notice details 698 Nudgee Road, Northgate QLD 4013, Australia
Email: luke@apollocamper.com.au
Attention: Luke Trouchet

Name **Tourism Holdings Rentals Limited ARBN 655 142 028, a foreign company registered in its original jurisdiction of New Zealand as Tourism Holdings Limited**
Country of incorporation New Zealand
Co. No. 248179
NZBN 9429039926081
Short form name ***thl***
Notice details Level 1, 83 Beach Street, Auckland City, Auckland 1140, New Zealand
Email: grant.webster@thlonline.com
Attention: Grant Webster

Name **THL Group (Australia) Pty. Ltd. ACN 055 966 222**
Country of incorporation Australia
ABN 68 055 966 222
Short form name ***thl* Acquirer**
Notice details Level 1, 83 Beach Street, Auckland City, Auckland 1140, New Zealand
Email: grant.webster@thlonline.com
Attention: Grant Webster

Background

- A ATL, *thl* and *thl* Acquirer have agreed to implement the Proposed Transaction on and subject to the terms and conditions of this deed.
- B ATL, *thl* and *thl* Acquirer have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this deed, unless the context otherwise requires, the following words and expressions have meanings as follows:

ACCC means the Australian Competition and Consumer Commission.

Acceptable Confidentiality Deed means a confidentiality deed which contains obligations on the recipient of confidential information which are no less onerous in any material respect than the obligations of *thl* under the Confidentiality Deed.

Adviser means in relation to an entity:

- (a) a financier to the entity in connection with the Proposed Transaction; or
- (b) a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Proposed Transaction by the entity.

Announcement means:

- (a) an announcement by ATL in relation to the Proposed Transaction; or
- (b) an announcement by *thl* in relation to the Proposed Transaction,

as the context requires and, in each case, in the form agreed by ATL and *thl* (both acting reasonably), prior to the execution of this deed.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and ATL was the designated body.

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market known as the Australian Securities Exchange operated by it.

ASX Admission means the admission of *thl* to the official list (as defined in the ASX Listing Rules) of ASX as an ASX foreign exempt listing and the quotation of *thl* Shares on ASX.

ASX Listing Rules means the official listing rules of ASX as amended from time to time.

ATL Board means the board of directors of ATL (or any committee of the board of directors of ATL constituted to consider the Proposed Transaction on behalf of ATL).

ATL Break Fee has the meaning given to that term in clause 13.3(a).

ATL Data Room means the Project Artemis – ATL data room hosted by Ansarada at the URL address <https://dataroom.ansarada.com/mvc/Dr.Project.Artemis%7C83273/>.

ATL Director means a director of ATL.

ATL Group means ATL and its Subsidiaries. A reference to a member of the **ATL Group** or an **ATL Group Member** is a reference to ATL or any of its Subsidiaries.

ATL Information means information to be included by ATL in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the *Corporations Regulations 2001* (Cth), and any other information that is material to the making of a decision by the Independent Shareholders as to whether or not to vote in favour of the Scheme (including any supplementary disclosure in respect of the Scheme), being information that is within the knowledge of the ATL Board and has not previously been disclosed to Independent Shareholders but does not include the *thl* Information, the Independent Expert's Report, the Investigating Accountant's Report and any report or opinion prepared by an

accounting firm in relation to the potential taxation consequences of the Scheme on Scheme Shareholders to be included in, or to accompany, the Explanatory Booklet.

ATL Material Adverse Change means a change, event, circumstance or occurrence (singularly or in combination) which results in or has the effect of (or which with the lapse of time is reasonably likely to result in or have the effect of):

- (a) resulting in the average price for ex-rental vehicles sold by the ATL Group during any two calendar month period ending on the last day of a calendar month between the date of this deed and the Second Court Date in any of:
 - (i) Australia;
 - (ii) New Zealand; or
 - (iii) Canada,being:
 - (iv) 15% or more below the average price for ex-rental vehicles sold by the ATL Group in any relevant region (referred to in paragraphs (i) to (iii) above) over the six calendar month period ending on 30 November 2021; or
 - (v) 10% or more below the average price for ex-rental vehicles sold by the ATL Group in all regions (referred to in paragraphs (i) to (iii) above) over the six calendar month period ending on 30 November 2021;
- (b) materially impacting in an adverse manner on the Financial Indebtedness or debt arrangements of the ATL Group, including where a demand is made for repayment of any Financial Indebtedness or the Financial Indebtedness becomes repayable in advance of its maturity;
- (c) the business of the ATL Group being unable to be carried on in substantially the same manner as it is carried on at the date of this deed, including as a result of an adverse effect on the status or terms of any licences, permits or authorisations from any Governmental Agency applicable to ATL; or
- (d) materially impacting the reputation of the ATL Group, including in relation to its good standing with any Governmental Agency having jurisdiction over the conduct of business of the ATL Group (including any regulatory investigation, legal proceeding or class action),

other than an event, circumstance or occurrence:

- (a) required to be done or procured by ATL under this deed or the Scheme or the transactions contemplated by either;
- (b) to the extent that:
 - (i) it was Fairly Disclosed in the Due Diligence Material (or which ought reasonable to have been expected to arise from a matter, event or circumstance which was so disclosed);
 - (ii) it was consented to in writing by *thi* (in its absolute discretion);
 - (iii) it was Fairly Disclosed in documents that were publicly available prior to the date which is 2 Business Days prior to the date of this deed from public filings of ATL with ASX or ASIC;
 - (iv) it results from a change in generally applicable accounting standards or principles;
 - (v) it results from a change in any applicable law or policy required by law or general economic, political or regulatory conditions in Australia, New Zealand, Canada or the United Kingdom or that otherwise affects or otherwise has an impact on Australia, New Zealand, Canada or the United Kingdom; or
 - (vi) it results from any acts of war or terrorism, natural disaster or pandemic (including COVID-19), or any escalation of the same, affecting businesses like those operated by ATL generally.

ATL Parties means each member of the ATL Group and their respective Authorised Persons.

ATL Prescribed Occurrence means the occurrence of any of the following on or after the date of this deed:

- (a) ATL converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (b) any member of the ATL Group resolves to reduce its share capital in any way;
- (c) any member of the ATL Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the ATL Group issues securities, or grants a performance right, or an option over its securities, or agrees to make such an issue or grant such a right or an option;
- (e) any member of the ATL Group issues, or agrees to issue, convertible notes;
- (f) other than in the ordinary course of business of the ATL Group (as determined by reference to the course of business during the 12 months prior to the date of this deed), any member of the ATL Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property where that business or property represents more than 10% of the equity value of the ATL Group;
- (g) any member of the ATL Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property;
- (h) an Insolvency Event occurs in relation to any member of the ATL Group;
- (i) ATL pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution;
- (j) any member of the ATL Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the ATL Group;
- (k) any member of the ATL Group ceases, or threatens to cease to, carry on the business conducted as at the date of this deed;
- (l) any member of the ATL Group (other than a dormant, non-operating member of the ATL Group) being deregistered as a company or being otherwise dissolved;
- (m) any disposal of shares or securities by a member of the ATL Group in any member of the ATL Group other than to a member of the ATL Group; or
- (n) any member of the ATL Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (m) inclusive above insofar as it applies to the member of the ATL Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

provided that an ATL Prescribed Occurrence will not include any matter:

- (o) required to be done or procured by the ATL Group under this deed or the Scheme;
- (p) required by law or by an order of a court or Governmental Agency;
- (q) to the extent it is Fairly Disclosed in filings of ATL with the ASX in the 24 months prior to the date of this deed;
- (r) to the extent it is Fairly Disclosed in the Due Diligence Material; or
- (s) the undertaking of which *thl* has previously approved in writing.

ATL Register means the register of shareholders maintained by ATL under section 168(1) of the Corporations Act.

ATL Related Person means, in respect of ATL:

- (a) a Related Body Corporate of ATL; and
- (b) any director, officer, member or employee of ATL or of a Related Body Corporate of ATL.

ATL Share means an issued fully paid ordinary share in the capital of ATL.

ATL Shareholder means a person who is registered in ATL Register as a holder of one or more ATL Shares.

ATL Significant Approval Matter means a decision, initiative or other matter relating to the ATL Group that requires the prior approval of the ATL Board or the managing director of ATL under the delegated authority framework for the ATL Group Fairly Disclosed as part of the Due Diligence Material prior to the date of this deed.

ATL Warranties means the representations and warranties of ATL set out in clause 9.4.

AU Accounting Standards means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

Australian Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Authorised Person means, in respect of a person:

- (c) a director, officer or employee of the person;
- (d) an Adviser of the person; and
- (e) a director, officer or employee of an Adviser of the person.

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Brisbane, Queensland, Australia or Auckland, New Zealand.

CCA means the *Competition and Consumer Act 2010* (Cth).

Claim means, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

Cleansing Notice Date means the date on which the Explanatory Booklet is despatched.

Commerce Commission means the New Zealand Commerce Commission.

Companies Act means *Companies Act 1993* (NZ).

Competing Proposal means any offer, proposal or expression of interest, transaction or arrangement (including, by way of takeover bid or scheme of arrangement) under which, if ultimately completed substantially in accordance with its terms, a person or two or more persons who are Associates (other than a member of the *thi* Group) would directly or indirectly:

- (a) acquire a Relevant Interest in, or have a right to acquire, a legal, beneficial or economic interest in, or control of, 20% or more of the ATL Shares or of the share capital of any material ATL Group Member;
- (b) acquire control of ATL, within the meaning of section 50AA of the Corporations Act;
- (c) acquire, obtain a right to acquire, or otherwise obtain an economic interest in, 20% or more by value of the business or property of ATL or any member of the ATL Group (based on the value of the ATL Group's total consolidated assets as at 30 June 2021);
- (d) acquire or merge with ATL or amalgamate with any member of ATL Group, or acquire a significant shareholding or economic interest in ATL or any member of ATL Group or 20% or more by value of the total assets or business of any member of ATL Group;

- (e) result in ATL ceasing to be admitted to the official list of ASX or the ATL Shares ceasing to be officially quoted on the market operated by ASX (except in circumstances where such cessation is as a result of the implementation of the Scheme); or
- (f) require ATL to abandon, or otherwise fail to proceed with, the Proposed Transaction,

whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for ATL or other synthetic merger or any other transaction or arrangement. Each successive material modification or variation of a Competing Proposal will constitute a new Competing Proposal.

Conditions means the conditions set out in clauses 3.1 and **Condition** means any one of them.

Confidentiality Deed means the Mutual Confidentiality Agreement between *thl* and ATL dated 11 June 2021.

Control means with respect to any person (other than an individual) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person whether through the ownership of voting securities, by agreement or otherwise and **Controlled** has a corresponding meaning.

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

Counter Proposal has the meaning given to that term in clause 14.8(b).

Court means the Supreme Court of Queensland or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Cut Off Date has the meaning given to that term in clause 14.8(b).

Deed Poll means the deed poll to be executed by *thl* and *thl* Acquirer prior to the First Court Date in relation to the Scheme, in the form set out in Schedule 3 or in such other form as is acceptable to ATL acting reasonably.

Delivery Time means, in relation to the Second Court Date, two hours before the commencement of the hearing or, if the commencement of the hearing is adjourned, two hours before the commencement of the adjourned hearing, of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

Due Diligence Material means the written information disclosed by or on behalf of ATL and its Subsidiaries (including any management presentations and all written responses provided in response to written questions or requests for information) to *thl*, or any of its Authorised Persons prior to the date of this deed in the ATL Data Room, as evidenced by the documents in the ATL Data Room as at 11.59pm, on the day immediately preceding the date of this deed.

Effective means, when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

Effective Date means the date on which the Scheme becomes Effective.

End Date means:

- (a) 29 April 2022, unless the only Conditions that must still be satisfied or waived prior to the Second Court Date on that date are one or more of the Conditions in clauses 3.1(a)(ii) (ACCC), 3.1(a)(iii) (Commerce Commission) and 3.1(a)(iv) (FIRB) in which case it is 30 June 2022; or
- (b) such other date and time agreed in writing between *thl* and ATL.

Exclusivity Period means the period commencing on the date of this deed and ending on the earliest of:

- (a) the End Date;
- (b) the Effective Date of the Scheme; and
- (c) the date this deed is terminated in accordance with its terms.

Explanatory Booklet means the explanatory booklet to be prepared by ATL in respect of the Proposed Transaction in accordance with the terms of this deed and to be dispatched to Independent Shareholders.

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

Financial Indebtedness means any debt or other monetary liability (whether actual or contingent) in respect of monies borrowed or raised or any financial accommodation including under or in respect of any:

- (a) borrowing from any bank or other financial institution;
- (b) bill, bond, debenture, note or similar instrument;
- (c) acceptance, endorsement or discounting arrangement;
- (d) guarantee;
- (e) finance or capital lease;
- (f) swap, hedge arrangement, option, futures contract, derivative or analogous transaction;
- (g) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or business;
- (h) agreement for the deferral of a purchase price or other payment in relation to the provision of services other than in the ordinary course of business of the ATL Group; or
- (i) obligation to deliver goods or provide services paid for in advance by any financier.

Financial Reporting Act means the *Financial Reporting Act 2013* (NZ).

FIRB means the Australian Foreign Investment Review Board.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

FMCR means the *Financial Markets Conduct Regulations 2014* (NZ).

Foreign Scheme Shareholder means a Scheme Shareholder whose address as shown in the ATL Register (as at the Scheme Record Date) is located outside of:

- (a) Australia and its external territories;
- (b) New Zealand;
- (c) United Kingdom; and
- (d) any other jurisdictions as may be agreed in writing by ATL and *thl*,

unless *thl* determines (in its absolute discretion), that *thl* is permitted to allot and issue *thl* Consideration Shares to that Scheme Shareholder by the laws of that place either unconditionally or after compliance with conditions that *thl* considers are not unduly onerous or impracticable.

Governmental Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, FIRB, ACCC, Australian Takeovers Panel, Financial Markets Authority, NZX, Commerce Commission, NZ Takeovers Panel and any regulatory organisation established under statute or any stock exchange.

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of Independent Shareholders present and voting, either in person or by proxy.

Implementation Date means, with respect to the Scheme, the later of:

- (a) the fifth Business Day following the Scheme Record Date (as relevant); and
- (b) such other Business Day as the parties agree.

Independent Expert means an expert, independent of the parties, engaged by ATL in good faith to prepare the Independent Expert's Report.

Independent Expert's Report means the report from the Independent Expert commissioned by ATL for inclusion in the Explanatory Booklet, which includes a statement or opinion from the Independent Expert on whether the Scheme is in the best interests of ATL Shareholders and includes any update of that report by the Independent Expert.

Independent Shareholders means all ATL Shareholder except for the *th/* Entities.

Insolvency Event means in relation to a person:

- (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 person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements**: the entry by the person into a scheme of arrangement (other than the Scheme) or composition with its creditors or takes similar actions as a result of which the entity's assets are, or are proposed to be, submitted to the control of its creditors;
- (c) **winding up**: the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments**: the person suspends or threatens to suspend payment of its debts as and when they become due on the basis that it is unable to pay its debts or being or becoming otherwise insolvent;
- (e) **ceasing business**: the person ceases or threatens to cease to carry on all or a substantial part of its business;
- (f) **insolvency**: the person 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 person being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement**: the person executing a deed of company arrangement;
- (i) **person as trustee or partner**: the person 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 person 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 person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person'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 person under the laws of a foreign jurisdiction,

and a person shall be **Insolvent** if any event specified in paragraphs (a) to (j) inclusive occurs in respect of that person.

Interest Rate means the Bank Bill Swap Reference Rate as published as at the relevant due date for payment by the Australian Financial Markets Association.

Investigating Accountant means the accounting firm appointed by ATL to prepare the Investigating Accountant's Report.

Investigating Accountant's Report means the report to be prepared by the Investigating Accountant in relation to the pro forma financial information regarding the Merged Group from information provided by ATL and *thl* for inclusion in the Explanatory Booklet.

Material Contracts means the contracts identified as material contracts as agreed in writing by the parties on or before the date of this deed.

Merged Group means the *thl* Group including the ATL Group following implementation of the Scheme.

NZ Accounting Standards means:

- (a) accounting standards approved under the Companies Act and the Financial Reporting Act and their requirements about the preparation and contents of accounts; and
- (b) generally accepted accounting principles, policies, practices and procedures in New Zealand.

NZ Takeovers Panel means the Takeovers Panel established by section 5(1) of the *Takeovers Act 1993* (NZ).

NZX means, where the context requires, NZX Limited (Co. No. 1266120) or NZX Regulation Limited (Co. No. 8072017) and, where the context requires, the main board financial market that these entities operate.

NZX Listing Rules means the NZX Listing Rules for the NZX Main Board.

Proposed Transaction means:

- (a) the proposed acquisition by *thl* in accordance with the terms and conditions of this deed, of all of the ATL Shares from the Scheme Shareholders through the implementation of the Scheme; and
- (b) all associated transactions and steps contemplated by this deed.

Refinancing Agreement has the meaning given in clause 3.1(l).

Regulatory Approvals means the approvals set out in clause 3.1(a).

Related Body Corporate of a person, means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted.

Relevant Interest has the meaning given in the Corporations Act.

Relevant Notice has the meaning given to that term in clause 14.8(a)(iv)(A).

RG 60 means Regulatory Guide 60 issued by ASIC in September 2020.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between ATL and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 2 or in such other form as the parties agree in writing, subject to any alterations or conditions that are:

- (a) agreed to in writing by ATL and *thl*, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by each party.

Scheme Consideration means 1 *thl* Consideration Share per 3.680818 Scheme Shares.

Scheme Meeting means the meeting of the Independent Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Record Date means, in respect of the Scheme, 7.00pm on the second Business Day (or such other Business Day as *thl* and ATL in writing) following the Effective Date.

Scheme Share means an ATL Share on issue as at the Scheme Record Date, other than an ATL Share held by a *thl* Entity.

Scheme Shareholder means a person who holds one or more Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard.

Senior Manager means the managing director and chief executive officer, the chief financial officer and any executive director of ATL.

Share Splitting means the splitting by a holder of ATL Shares into two or more parcels of ATL Shares whether or not it results in any change in beneficial ownership of the ATL Shares.

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

Superior Proposal means a bona fide Competing Proposal which in the determination of the ATL Board acting in good faith in order to satisfy what the ATL Board considers to be its fiduciary or statutory duties (after having taken advice from their legal and financial advisers):

- (a) is reasonably capable of being completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the proposing party to consummate the transactions contemplated by the Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to ATL Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the Competing Proposal, including consideration, conditionality, funding, certainty and timing.

Tax means any tax, levy, charge, impost, fee, deduction, offset (including research and development tax offsets), goods and services tax, payroll tax, superannuation guarantee, fringe benefits tax, compulsory loan, PAYG instalment and withholding, that is assessed, levied, imposed or collected by any Governmental Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above, but excludes stamp duty or any duties of a similar nature.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), or both as the context requires.

thl Board means the board of directors of *thl* (or any committee of the board of directors of *thl* constituted to consider the Proposed Transaction on behalf of *thl*).

thl Break Fee has the meaning given to that term in clause 13.4.

thl Consideration Share means a *thl* Share to be issued under the terms of the Scheme as Scheme Consideration.

thl Data Room means the Project Artemis – THL data room hosted by Ansarada at the URL address https://dataroom.ansarada.com/_mvc/de9rdoagu9%7C78910/4353936/spa/documents.

thl Due Diligence Material means the written information disclosed by or on behalf of *thl* and its Subsidiaries (including any management presentations and all written responses provided to written questions or requests for information) to ATL, or any of its Authorised Persons prior to the date of this deed in the *thl* Data Room, as evidenced by the documents in the *thl* Data Room as at 11.59pm, on the day immediately preceding the date of this deed.

thl Entities means:

- (a) *thl*; and
- (b) any other entity that is Controlled by *thl* that holds ATL Shares.

thl Group means *thl* and each of its Subsidiaries (excluding, at any time, ATL and its Subsidiaries to the extent that ATL and its Subsidiaries are Subsidiaries of *thl* at that time). A reference to a member of the *thl* Group or a *thl* Group Member is a reference to *thl* or any such Subsidiary.

th/Information means such information regarding the **th/** Group and the Merged Group that is provided by or on behalf of **th/**, or any of their Advisers, to ATL, the Investigating Accountant and the Independent Expert:

- (a) to enable the Explanatory Booklet (or any supplementary disclosure in respect of the Scheme) to be prepared and completed in compliance with all applicable laws and regulations;
- (b) to enable applications for Regulatory Approvals to be made; and
- (c) otherwise in compliance with **th/**'s obligations under clause 6.2(a),

but does not include the ATL Information (or any information provided by or on behalf of ATL contained, or used, in the preparation of information on the Merged Group), the Independent Expert's Report, the Investigating Accountant's Report and any report or opinion prepared by an accounting firm in relation to the potential taxation consequences of the Scheme on Scheme Shareholders to be included in, or to accompany, the Explanatory Booklet.

th/ Material Adverse Change means a change, event, circumstance or occurrence (singularly or in combination) which results in or has the effect of (or which with the lapse of time is reasonably likely to result in or have the effect of):

- (a) resulting in the average price for ex-rental vehicles sold by the **th/** Group during any two calendar month period ending on the last day of a calendar month between the date of this deed and the Second Court Date in any of:
 - (i) Australia;
 - (ii) New Zealand; or
 - (iii) United States of America,being:
 - (iv) 15% or more below the average price for ex-rental vehicles sold by the **th/** Group in any relevant region (referred to in paragraphs (i) to (iii) above) over the six calendar month period ending on 30 November 2021; or
 - (v) 10% or more below the average price for ex-rental vehicles sold by the **th/** Group in all regions (referred to in paragraphs (i) to (iii) above) over the six calendar month period ending on 30 November 2021;
- (b) materially impacting in an adverse manner on the Financial Indebtedness or debt arrangements of the **th/** Group, including where a demand is made for repayment of any Financial Indebtedness or the Financial Indebtedness becomes repayable in advance of its maturity;
- (c) the business of the **th/** Group being unable to be carried on in substantially the same manner as it is carried on at the date of this deed, including as a result of an adverse effect on the status or terms of any licences, permits or authorisations from any Governmental Agency applicable to **th/**; or
- (d) materially impacting the reputation of the **th/** Group, including in relation to its good standing with any Governmental Agency having jurisdiction over the conduct of business of the **th/** Group (including any regulatory investigation, legal proceeding or class action),

other than an event, circumstance or occurrence:

- (a) required to be done or procured by **th/** under this deed or the Scheme;
- (b) to the extent that:
 - (i) it was Fairly Disclosed in the **th/** Due Diligence Material (or which ought reasonable to have been expected to arise from a matter, event or circumstance which was so disclosed);
 - (ii) it was consented to in writing by ATL (in its absolute discretion);

- (iii) it was Fairly Disclosed in documents that were publicly available prior to the date which is 2 Business Days prior to the date of this deed from public filings of **thl** with the NZX;
- (iv) it results from a change in generally applicable accounting standards or principles;
- (v) it results from a change in any applicable law or policy required by law or general economic, political or regulatory conditions in Australia, New Zealand, the United Kingdom or the United States of America or that otherwise affects or otherwise has an impact on Australia, New Zealand, the United Kingdom or the United States of America; or
- (vi) it results from any acts of war or terrorism, natural disaster or pandemic (including COVID-19), or any escalation of the same, affecting businesses like those operated by the **thl** Group generally.

thl Parties means the members of the **thl** Group and their respective Authorised Persons.

thl Prescribed Occurrence means the occurrence of any of the following on or after the date of this deed:

- (a) **thl** converts all or any of its shares into a larger or smaller number of shares;
- (b) **thl** resolves to reduce its share capital in any way;
- (c) **thl**:
 - (i) enters into a buy-back agreement in relation to its shares; or
 - (ii) resolves to approve the terms of a buy-back agreement in relation to its shares;
- (d) any member of the **thl** Group issues securities, or grants a performance right, or an option over its securities, or agrees to make such an issue or grant such a right or an option other than:
 - (i) under the valid exercise of an option or performance right on issue immediately before the date of this deed; or
 - (ii) an issue or grant of a security or a performance right under an employee incentive scheme in place as the date of this deed, where the occurrence of such issue or grant has been Fairly Disclosed in the **thl** Due Diligence Material;
- (e) any member of the **thl** Group issues, or agrees to issue, convertible notes;
- (f) other than in the ordinary course of business of the **thl** Group (as determined by reference to the course of business during the 12 months prior to the date of this deed), any member of the **thl** Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property where that business or property represents more than 10% of the equity value of the **thl** Group;
- (g) any member of the **thl** Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property;
- (h) an Insolvency Event occurs in relation to any member of the **thl** Group;
- (i) **thl** pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution;
- (j) any member of the **thl** Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the **thl** Group;
- (k) any member of the **thl** Group ceases, or threatens to cease to, carry on the business conducted as at the date of this deed;
- (l) any member of the **thl** Group (other than a dormant, non-operating member of the **thl** Group) being deregistered as a company or being otherwise dissolved;
- (m) any disposal of shares or securities by a member of the **thl** Group in any member of the **thl** Group other than to a member of the **thl** Group; or

- (n) any member of the *thl* Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (m) inclusive above insofar as it applies to the member of the *thl* Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

provided that a *thl* Prescribed Occurrence will not include any matter:

- (o) required to be done or procured by the *thl* Group under this deed or the Scheme;
- (p) required by law or by an order of a court or Governmental Agency;
- (q) to the extent it is Fairly Disclosed in filings of *thl* with NZX in the 24 months prior to the date of this deed;
- (r) to the extent it is Fairly Disclosed in the *thl* Due Diligence Material; or
- (s) the undertaking of which ATL has previously approved in writing.

***thl* Share** means an issued fully paid ordinary share in the capital of *thl*.

***thl* Significant Approval Matter** means a decision, initiative or other matter relating to the *thl* Group that requires the prior approval of the *thl* Board or the chief executive officer of *thl* under the delegated authority framework for the *thl* Group Fairly Disclosed as part of the Due Diligence Material prior to the date of this deed.

***thl* Warranties** means the representations and warranties of *thl* set out in clause 9.1.

Timetable means the indicative timetable in relation to the Proposed Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.

Trouchet Shareholders means Eastglo Pty Ltd as trustee for the Trouchet Super Fund, Barmil Enterprises Pty Ltd as trustee for Lurk Investment Trust, KRLG Pty Ltd as trustee for the KL Trust and any other person or entity holding Scheme Shares for or on behalf of Luke Trouchet or Karl Trouchet.

1.2 Interpretation

In this deed, except where the context requires otherwise:

- (a) the singular includes the plural, and the converse also applies;
- (b) a gender includes other genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) a reference to **NZ\$, \$NZ, NZD\$** or **NZD** is to New Zealand currency;
- (h) a reference to time is to Brisbane, Queensland, Australia time;
- (i) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (j) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (k) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (l) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act unless it is otherwise defined in this deed;

- (m) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (n) the meaning of general words is not limited by specific examples introduced by **including**, **for example** or similar expressions;
- (o) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (q) a reference to **Fairly Disclosed** means disclosed to a party or any of their respective Authorised Persons to a sufficient extent and in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Proposed Transaction to identify the nature and scope of the relevant matter, event or circumstance.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.5 Consents or approvals

If the doing of any act, matter or thing under this deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless provided otherwise.

1.6 Listing requirements included as law

A listing rule or operating rule of a financial market or of a clearing and settlement facility will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.7 Reasonable endeavours

Any provision of this deed which requires a party to use reasonable endeavours or best endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Governmental Agency; or
 - (b) to commence any legal action or proceeding against any person,
- except where that provision specifies otherwise.

2. Agreement to propose and implement Scheme

2.1 ATL to propose Scheme

ATL agrees to propose the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.

2.2 *thl* Acquirer to acquire Scheme Shares

The parties agree that *thl* Acquirer will acquire the Scheme Shares under the Scheme and that *thl* Acquirer will procure the provision by *thl* of (and *thl* will provide at the request of *thl* Acquirer) the Scheme Consideration in the manner and amount contemplated by this deed and the terms of

the Scheme. The parties must procure that the Scheme Shares transferred under the Scheme are transferred to *thl* Acquirer.

2.3 Agreement to implement Scheme

The parties agree to implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.

2.4 Delivery of information

- (a) ATL must provide a USB evidencing the contents of the ATL Data Room, or a link from which the contents of the ATL Data Room can be downloaded, to *thl* as soon reasonably practicable following the execution of this deed.
- (b) *thl* must provide a USB evidencing the contents of the *thl* Data Room, or a link from which the contents of the *thl* Data Room can be downloaded, to ATL as soon reasonably practicable following the execution of this deed.

3. Conditions precedent and pre-implementation steps

3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(Regulatory Approvals):**
 - (i) **(ASIC, ASX, NZ Takeovers Panel and NZX)** before the Delivery Time on the Second Court Date, ASIC, ASX, NZ Takeovers Panel and NZX issue or provide such consents, approvals or waivers as are necessary or which ATL and *thl* agree are necessary or desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;
 - (ii) **(ACCC)** before the Delivery Time on the Second Court Date:
 - (A) *thl* has received notification from the ACCC that:
 - (I) based on the information before it, the ACCC does not propose to intervene in the Proposed Transaction pursuant to section 50 of the CCA (whether or not the notification also states that the ACCC reserves its position if other material information emerges); or
 - (II) based on the information provided to the ACCC and the acceptance by the ACCC of written undertakings (pursuant to section 87B of the CCA) provided or agreed to be provided to the ACCC, the ACCC does not propose to intervene in the Proposed Transaction pursuant to section 50 of the CCA (whether or not the notification also states that the ACCC reserves its position if other material information emerges);
 - (B) the ACCC, or the Australian Competition Tribunal (**Tribunal**) on review of an ACCC decision, has granted authorisation of the Proposed Transaction under Part VII of the CCA either unconditionally or on terms and conditions that are acceptable to *thl* and ATL acting reasonably, and no application to the Federal Court of Australia has been made for judicial review of the decision of the ACCC or the Tribunal within the prescribed period; or
 - (C) the Federal Court of Australia declares or makes orders that the Proposed Transaction will not contravene section 50 of the CCA or *thl* successfully defends proceedings in the Federal Court of Australia alleging that the Proposed Transaction contravenes section 50 of the CCA (and, in either

case, the declaration or decision of the Federal Court of Australia has been finally determined);

- (iii) **(Commerce Commission)** before the Delivery Time on the Second Court Date, *thl* has received from the Commerce Commission, either unconditionally or on terms and conditions that are acceptable to *thl* and ATL acting reasonably:
 - (A) a notice in writing under section 66 of the *Commerce Act 1986* (NZ) giving clearance for the Proposed Transaction; or
 - (B) in response to *thl* filing an informal notification to the Commerce Commission, notice that the Commerce Commission has no objection to, and does not intend to take any action to prevent or oppose, the Proposed Transaction;
 - (iv) **(FIRB)** Before the Delivery Time on the Second Court Date, either:
 - (A) *thl* has received a written notice under FATA from the Treasurer (or his delegate) stating that, or to the effect that, the Commonwealth of Australia does not object to the Proposed Transaction, either without conditions or on terms that are acceptable to *thl* and ATL (acting reasonably); or
 - (B) following notice of the Proposed Transaction having been given by *thl* to the Treasurer under FATA, the Treasurer ceases to be empowered to make any order under Part 3 of FATA;
 - (v) **(ASX Admission)** Before the Delivery Time on the Second Court Date, *thl* has received approval from ASX for ASX Admission, subject only to customary conditions, the Scheme becoming Effective and any other conditions acceptable to the parties (acting reasonably); and
 - (vi) **(Other Governmental Authorities)** before the Delivery Time on the Second Court Date, each other relevant Governmental Agency other than ASIC, ASX, NZ Takeovers Panel, NZX, ACCC, Commerce Commission and FIRB (if any) issue or provide such consents, waivers or approvals which both *thl* and ATL consider are necessary or desirable to implement the Scheme (noting that if such consents, waivers and/or approvals are subject to conditions those conditions must be acceptable to the parties (each acting reasonably)) and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;
- (b) **(No ATL Prescribed Occurrence)** no ATL Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;
 - (c) **(No *thl* Prescribed Occurrence)** no *thl* Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;
 - (d) **(ATL Warranties)** the ATL Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;
 - (e) **(*thl* Warranties)** the *thl* Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;
 - (f) **(No ATL Material Adverse Change)** no ATL Material Adverse Change occurs between the date of this deed and the Delivery Time on the Second Court Date;
 - (g) **(No *thl* Material Adverse Change)** no *thl* Material Adverse Change occurs between the date of this deed and the Delivery Time on the Second Court Date;
 - (h) **(No restraining orders)** no judgment, order, decree, statute, law, ordinance, rule of regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Governmental Agency of competent jurisdiction in Australia or New Zealand remains in effect as at the Delivery Time on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Scheme;
 - (i) **(Third party consents – Material Contracts)** all consents, approvals or waivers of rights by parties other than ATL under any Material Contracts which are necessary or desirable

in the reasonable opinion of **thl** are obtained in a form and subject to conditions acceptable to **thl** and ATL (acting reasonably), and such consents, approvals or waivers have not been withdrawn, cancelled or revoked before the Delivery Time on the Second Court Date;

- (j) (**Trouchet escrow arrangements**) Unless it is indicated by the Court when hearing an application for an order under section 411(1) of the Corporations Act directing ATL to convene the Scheme Meeting that such arrangements would mean the Trouchet Shareholders will be a separate class for the purposes of the Scheme, the entry by the Trouchet Shareholders into arrangements with **thl** on terms and conditions acceptable to **thl** and ATL (acting reasonably) documented in a deed under which:
 - (i) 90% of the **thl** Consideration Shares received by them will be escrowed for 12 months after the Implementation Date; and
 - (ii) 50% of the **thl** Consideration Shares received by them on implementation of the Scheme will be escrowed for 24 months after the Implementation Date;
- (k) (**Independent Expert's Report**) The Independent Expert issues the Independent Expert's Report, which concludes that the Scheme is in the best interests of the Independent Shareholders and the Independent Expert does not change, withdraw or qualify its conclusion in any written update to its Independent Expert's Report or withdraw the Independent Expert's Report prior to the Delivery Time on the Second Court Date;
- (l) (**Refinancing**) the **thl** Group entering into an agreement with new or existing financiers, and obtaining all necessary approvals in respect of the entry into that agreement, to refinance either its existing debt facilities or the debt facilities of all or part of the Merged Group on and with effect from the Implementation Date on terms and conditions that are acceptable to **thl** and ATL (acting reasonably) (**Refinancing Agreement**), and all conditions to drawdown under the Refinancing Agreement (other than the Scheme becoming Effective) have either been satisfied or waived prior to the Delivery Time on the Second Court Date or **thl** and ATL are satisfied (acting reasonably) that any remaining conditions will be satisfied on or prior to the Implementation Date;
- (m) (**Consent from ATL financiers or refinancing**) all consents, approvals, confirmations, agreements or waivers of rights from any financier of the ATL Group (except as agreed in writing between the parties or to the extent arrangements with those financiers are addressed by the terms of the Refinancing Agreement) which are in the opinion of ATL or **thl** necessary or desirable in connection with (i) the Proposed Transaction or (ii) the ongoing funding of the Merged Group following the implementation of the Proposed Transaction are obtained in a form and subject to conditions acceptable to **thl** and ATL, and such consents, approvals, confirmations or waivers have not been withdrawn, cancelled or revoked nor have any condition to such consents, approvals, confirmations or waivers become incapable of being satisfied before the Delivery Time on the Second Court Date;
- (n) (**Shareholder approval**) the Scheme is approved by the Independent Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (o) (**Court approval**) the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon either party (acting reasonably);
- (p) (**Order lodged with ASIC**) An office copy of the Court order approving the Scheme under section 411(4)(b) of the Corporations Act is lodged with ASIC; and
- (q) (**D&O insurance**) **thl** obtaining, before the Delivery Time on the Second Court Date, confirmation from its insurers that **thl's** existing Directors and Officers insurance policy is extended to include the Scheme. **thl** confirms that its existing insurers have confirmed that, in principle, they can provide that confirmation subject to receiving updated underwriting information with respect to the Scheme and approving final terms for that insurance.

3.2 Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 3.1(a) (Regulatory Approvals), 3.1(h) (No restraining orders), 3.1(k) (Independent Expert's Report), 3.1(l) (Refinancing) and 3.1(m) (Consent from ATL financiers or refinancing) are for the benefit of each party and any breach or non-fulfilment of it may only be waived (if capable of waiver) with the written consent of both parties, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 3.1(b) (No ATL Prescribed Occurrences), 3.1(d) (ATL Warranties), 3.1(f) (No ATL Material Adverse Change), 3.1(i) (Third party consents – Material Contracts), 3.1(j) (Trouchet escrow arrangements) and 3.1(q) (D&O Insurance) are for the sole benefit of **thl** and any breach or non-fulfilment of them may only be waived by **thl** giving its written consent.
- (c) The Conditions in clauses 3.1(c) (No **thl** Prescribed Occurrences), 3.1(e) (**thl** Warranties), and 3.1(g) (no **thl** Material Adverse Change) are for the sole benefit of ATL and any breach or non-fulfilment of them may only be waived by ATL giving its written consent.
- (d) A party entitled to waive a Condition under this clause 3.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the Condition applies must take place on or prior to the Delivery Time on the Second Court Date. The Conditions in clauses 3.1(n) (Shareholder approval), 3.1(o) (Court approval) and 3.1(p) (Order lodged with ASIC) are for the benefit of both **thl** and ATL but cannot be waived.
- (e) If a party waives the breach or non-fulfilment of any of the Conditions in clause 3.1, that waiver will not preclude it from suing the other parties for any breach of this deed including a breach that resulted in the non-fulfilment of the Condition that was waived.

3.3 Reasonable endeavours

- (a) ATL and **thl** will use their respective reasonable endeavours to procure that each of the Conditions for which they are responsible is satisfied as soon as reasonably practicable after the date of this deed or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require). The Conditions for which each of ATL and **thl** are responsible for the purposes of this clause are:
 - (i) ATL – the Conditions in clauses 3.1(b) (No ATL Prescribed Occurrences), 3.1(d) (ATL Warranties) and 3.1(f) (No ATL Material Adverse Change), 3.1(i) (Third party consents – Material Contracts), 3.1(j) (Trouchet escrow arrangements), 3.1(k) (Independent Expert's Report), 3.1(m) (Consent from ATL financiers or refinancing), 3.1(n) (Shareholder Approval), 3.1(o) (Court approval) and 3.1(p) (Order lodged with ASIC);
 - (ii) **thl** – the Conditions in clauses 3.1(a)(ii) (ACCC), 3.1(a)(iii) (Commerce Commission), 3.1(a)(iv) (FIRB), 3.1(a)(v) (ASX Admission), 3.1(c) (No **thl** Prescribed Occurrences), 3.1(e) (**thl** Warranties) and 3.1(g) (no **thl** Material Adverse Change), 3.1(l) (Refinancing) and 3.1(q) (D&O Insurance); and
 - (iii) ATL and **thl** – the Conditions in clauses 3.1(a)(i) (ASIC, ASX, NZ Takeovers Panel and NZX), 3.1(a)(vi) (Other Governmental Authorities) and 3.1(h) (No restraining orders).
- (b) Without limiting clauses 3.4 and 3.5 below, each of ATL and **thl** must:
 - (i) consult and co-operate fully with the other party in relation to the satisfaction of the Conditions, including in relation to all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (ii) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals and all material communications with any Governmental Agency in relation to Regulatory Approvals;
 - (iii) take all the steps for which it is responsible as part of the Regulatory Approvals process;

- (iv) respond to all requests for information in respect of the applications for Regulatory Approvals as soon as reasonably practicable;
- (v) provide the other party with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals; and
- (vi) so far as it is reasonable to do so, allow the other party and its Authorised Persons the opportunity to be present and make submissions at any meetings with any regulatory body relating to the Regulatory Approvals in respect of the Scheme,

provided that:

- (vii) the party applying for a Regulatory Approval may withhold or redact information or documents from the other party if and to the extent that they are either confidential to a third party or commercially sensitive and confidential to the applicant; and
- (viii) neither party is required to consent to the disclosure by the other party of materially commercially sensitive information of the first mentioned party to any Governmental Agency.

3.4 Notifications

Each of *thl* and ATL must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other party in writing if it becomes aware that any Condition has been satisfied, in which case the notifying party must provide reasonably evidence to the other party that the Condition has been satisfied if requested by the other party; and
- (c) promptly notify the other party in writing if it becomes aware that any Condition is or has become incapable of being satisfied in accordance with its terms (having regard to the respective obligations of each party under clause 3.3).

3.5 Certificate

At or promptly after the Delivery Time on the Second Court Date, in respect of the Scheme:

- (a) *thl* and ATL will provide a joint certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(a)(i) (ASIC, ASX, NZ Takeovers Panel and NZX), 3.1(a)(vi) (Other Governmental Authorities), 3.1(h) (No restraining orders), 3.1(l) (Refinancing) and 3.1(m) (Consent from ATL financiers or refinancing) have been satisfied or waived in accordance with the terms of this deed;
- (b) ATL will provide a certificate to the Court confirming whether or not the Conditions set out in 3.1(b) (No ATL Prescribed Occurrence), 3.1(d) (ATL Warranties), 3.1(f) (No ATL Material Adverse Change), 3.1(i) (Third party consents – Material Contracts), 3.1(k) (Independent Expert's Report) and 3.1(n) (Shareholder Approval) have been satisfied or waived in accordance with the terms of this deed;
- (c) *thl* will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(a)(ii) (ACCC), 3.1(a)(iii) (Commerce Commission), 3.1(a)(iv) (FIRB), 3.1(a)(v) (ASX Admission), 3.1(c) (No *thl* Prescribed Occurrence), 3.1(e) (*thl* Warranties), 3.1(g) (no *thl* Material Adverse Change), 3.1(j) (Trouchet escrow arrangements) and 3.1(q) (D&O Insurance) have been satisfied or waived in accordance with the terms of this deed;
- (d) ATL will provide a certificate to *thl* confirming whether or not ATL has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches; and
- (e) *thl* will provide a certificate to ATL confirming whether or not *thl* has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches.

3.6 Court approval

If the Court's approval for the Scheme in accordance with section 411(4) of the Corporations Act would impose any terms or conditions other than those set out in the Scheme then each such term or condition must be approved in writing by *thl* and ATL (both acting reasonably) prior to the Court granting the final orders and, if not so agreed, the Condition in clause 3.1(o) (Court approval) will not be satisfied.

3.7 Scheme voted down because of Headcount Test

If the Scheme is not approved by the Independent Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and *thl* or ATL considers, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then ATL must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as counsel engaged by ATL to represent it in Court proceedings related to the Scheme, in consultation with *thl*, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

3.8 Conditions not capable of being fulfilled

- (a) If:
 - (i) any Condition is not satisfied or (where capable of waiver) waived by the date specified in this deed for its satisfaction (or an event occurs which would or is likely to prevent a condition precedent being satisfied by the date specified in this deed);
 - (ii) a circumstance occurs with the result that a Condition is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 3.2 the party does not waive the Condition within 5 Business Days after the occurrence of the circumstance; or
 - (iii) it becomes more likely than not that the Scheme will not become Effective by the End Date,

then ATL and *thl* must consult in good faith with a view to determining whether:

- (iv) the Scheme may proceed by way of alternative means or methods;
 - (v) to extend the relevant time or date for satisfaction of the Condition;
 - (vi) to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties;
 - (vii) to extend the End Date; or
 - (viii) do all, or any combination of, the matters listed in clauses 3.8(a)(iv) to 3.8(a)(vii) (inclusive).
- (b) Subject to clause 3.8(c), if a Condition becomes incapable of being satisfied before the End Date and ATL and *thl* are unable to reach agreement under clause 3.8(a) within 10 Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:
 - (i) in relation to the Conditions in clauses 3.1(a) (Regulatory Approvals), 3.1(h) (No restraining orders), 3.1(k) (Independent Expert's Report), 3.1(n) (Shareholder Approval), 3.1(o) (Court approval), 3.1(l) (Refinancing) and 3.1(m) (Consent from ATL financiers or refinancing), either *thl* or ATL may terminate this deed by giving

the other notice without any liability to any party by reason of that termination alone;

- (ii) in relation to the Conditions in clauses 3.1(b) (No ATL Prescribed Occurrence), 3.1(d) (ATL Warranties), 3.1(f) (No ATL Material Adverse Change), 3.1(i) (Third party consents), 3.1(j) (Trouchet escrow arrangements) and 3.1(q) (D&O Insurance), *thl* may terminate this deed by giving ATL notice without any liability to any party by reason of that termination alone; and
 - (iii) in relation to the Conditions in clauses 3.1(c) (No *thl* Prescribed Occurrence), 3.1(e) (*thl* Warranties) and 3.1(g) (No *thl* Material Adverse Change), ATL may terminate this deed by giving *thl* notice without any liability to any other party by reason of that termination alone.
- (c) A party will not be entitled to terminate this deed under clause 3.8(b) if the relevant Condition has not been satisfied as a result of:
- (i) a breach of this deed by that party; or
 - (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

3.9 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:

- (a) in the case of a Condition relating to a Regulatory Approval – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and
- (b) in all other cases – there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

4. Scheme Structure

4.1 Scheme

- (a) ATL must, as soon as reasonably practicable after the date of this deed and substantially in compliance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, all of the Scheme Shares will be transferred to *thl* Acquirer and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Scheme Record Date, the Scheme Consideration.
- (b) ATL must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of the Scheme without the prior written consent of *thl*.

4.2 Scheme Consideration

Subject to this deed and the Scheme, each of *thl* and *thl* Acquirer covenants in favour of ATL (in ATL's own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to *thl* Acquirer of the Scheme Shares under the terms of the Scheme, on the Implementation Date, *thl* Acquirer will:

- (a) accept that transfer; and
- (b) provide or procure as set forth in clause 4.3 the provision to each Scheme Shareholder of the Scheme Consideration,

in accordance with the Scheme.

4.3 Allotment and issue of *thl* Consideration Shares

- (a) Subject to clause 4.3(c) and the Scheme becoming Effective, *thl* Acquirer must procure *thl* to, and *thl* must:

- (i) in accordance with the Deed Poll, issue the **thl** Consideration Shares to the Scheme Shareholders in accordance with the Scheme on terms that each **thl** Consideration Share will rank equally in all respects with each other **thl** Share then on issue;
 - (ii) ensure that on issue each **thl** Consideration Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the constitution of **thl**); and
 - (iii) use all reasonable endeavours to ensure that such **thl** Consideration Shares are listed for trading on NZX and ASX, and that trading in the **thl** Consideration Shares commences as soon as practicable after the Implementation Date.
- (b) To facilitate the issue of the **thl** Consideration Shares to Scheme Shareholders, ATL must provide to **thl**, or procure the provision to **thl** of, a complete copy of the ATL Register as at the Scheme Record Date (which must include the name, address and registered holding of each Scheme Shareholder as at the Scheme Record Date), within one Business Day after the Scheme Record Date. The details and information to be provided under this clause must be provided in such form as **thl**, its Advisers or share registry may reasonably require.
- (c) **thl** and **thl** Acquirer have no obligation to issue (or to procure the issue), and must not issue, any **thl** Consideration Shares to Foreign Scheme Shareholders, and instead:
- (i) **thl** will issue the **thl** Consideration Shares that would otherwise have been issued to the Foreign Scheme Shareholders to a nominee appointed by **thl**;
 - (ii) **thl** will procure that, as soon as reasonably practicable after the Implementation Date (and, in any event, not more than 15 Business Days after the Implementation Date), the nominee:
 - (A) sells, or procures the sale, of those **thl** Consideration Shares on-market and in the ordinary course of trading on NZX in such manner, at such price and on such other terms as the nominee determines in good faith; and
 - (B) remits the proceeds from that sale (after deducting any brokerage, duty and other selling costs, taxes and charges) to **thl**; and
 - (iii) as soon as practicable after the last sale of **thl** Consideration Shares in accordance with clause 4.3(c)(ii)(A) and remittance of the proceeds of that sale in accordance with clause 4.3(c)(ii)(B), **thl** will pay the proceeds it receives to the Foreign Scheme Shareholders in accordance with their entitlement in full satisfaction of the Foreign Scheme Shareholders' entitlement to the relevant **thl** Consideration Shares. No assurances will be given to Foreign Scheme Shareholders as to the price that will be achieved for the sale of **thl** Consideration Shares in accordance with this clause and the sale of the **thl** Consideration Shares will be at the risk of the Foreign Scheme Shareholder.
- (d) Any fractional entitlement of the Scheme Shareholder to a part of a **thl** Consideration Share will be rounded as follows:
- (i) if the fractional entitlement is less than 0.5, it will be rounded down to zero **thl** Consideration Shares; and
 - (ii) if the fractional entitlement is equal to or more than 0.5, it will be rounded up to one **thl** Consideration Shares.
- (e) In the case of Scheme Shares held in joint names, any certificates or uncertificated holding statements for **thl** Consideration Shares to be issued to Scheme Shareholders will be issued in the names of the joint holders and will be forwarded to the holder whose name appears first in the ATL Register on the Scheme Record Date.

4.4 ASX Admission

As soon as reasonably practicable after the date of this deed, **thl** must prepare all documents required by ASX to apply for ASX Admission and use all reasonable endeavours to ensure that the ASX grants approval for ASX Admission on or before the Delivery Time on the Second Court

Date, subject only to customary conditions, the Scheme becoming Effective and any other conditions acceptable to the parties (each acting reasonably), and *thl* must use reasonable endeavours to procure that trading in *thl* Consideration Shares commences on NZX and ASX on a normal trading basis by the Implementation Date or as soon as practicable thereafter.

4.5 Deed Poll

thl and *thl* Acquirer covenant in favour of ATL (in ATL's own right and separately as trustee for each of the Scheme Shareholders) to execute and deliver the Deed Poll no later than the Business Day prior to the First Court Date.

5. Recommendation, intentions and announcements

5.1 ATL Board Recommendation and Voting Intention

- (a) Subject to clause 5.2, ATL must ensure that the Announcement and the Explanatory Booklet state that each ATL Director:
- (i) considers the Scheme to be in the best interests of the Independent Shareholders and recommends that the Independent Shareholders vote in favour of the Scheme (**Recommendation**); and
 - (ii) intends to cause any ATL Shares in which they have a Relevant Interest to be voted in favour of the Scheme (**Voting Intention**),
- in each case qualified only by words to the effect of:
- (iii) *'in the absence of a Superior Proposal'*; and
 - (iv) other than in respect of the Explanatory Booklet, *'subject to the Independent Expert concluding that the Scheme is in the best interests of the Independent Shareholders'* and in respect of the Explanatory Booklet and any public document issued after the Explanatory Booklet, *'subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of the Independent Shareholders'*.
- (b) Subject to clause 5.2, ATL must ensure that the ATL Board collectively, and the members of the ATL Board individually, do not change, withdraw or modify any Recommendation or Voting Intention unless:
- (i) other than as a result of a breach of clause 14, a Superior Proposal is received by ATL or announced by a third party and the ATL Board, acting in good faith and after having taken advice from ATL's legal advisers (who must be reputable advisers experienced in transactions of this nature), determines that maintaining the Recommendation and Voting Intention would constitute a breach of the fiduciary duties or statutory obligations of any member of the ATL Board to ATL; or
 - (ii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interests of the Independent Shareholders,
- and ATL has complied with its obligations under clause 14 (including ensuring that all of *thl*'s rights under clause 14.8 have been exhausted).

5.2 Exclusion from Recommendation

The obligation of ATL under clause 5.1 to ensure that each ATL Director provides and maintains the Recommendation is qualified to the extent that any ATL Director considers, acting reasonably (including after having taken legal advice from reputable and independent external legal advisers experienced in transactions of this nature) and in good faith, that the ATL Director should not provide or continue to maintain any recommendation (positive or adverse) because that ATL Director has an interest in the Scheme that is so materially different from other Independent Shareholders which would properly preclude or render it inappropriate for the ATL Director to provide any such recommendation.

5.3 Confirmation

ATL represents and warrants to *thl* that each ATL Director has confirmed the ATL Director's agreement not to do anything inconsistent with their Recommendation and Voting Intention (including withdrawing, changing or in any way qualifying the ATL Director's Recommendation or Voting Intention) other than in the circumstances referred to in clause 5.1(b).

5.4 Promotion of Scheme

During the Exclusivity Period, ATL must procure that the Senior Managers, as reasonably requested by *thl* and as agreed by ATL, participate in efforts to promote the merits of the Scheme, including:

- (a) meeting with key Independent Shareholders;
- (b) communicating with ATL's employees, customers and suppliers and the employees, customers and suppliers of ATL's Related Bodies Corporate; and
- (c) communicating with the public to promote the merits of the Scheme, subject only to:
 - (i) the Independent Expert not having concluded in the Independent Expert's Report (or any subsequent update of the report) that the Scheme is not in the best interests of the Independent Shareholders; and
 - (ii) there being no Superior Proposal.

6. Proposed Transaction – parties' respective implementation obligations

6.1 ATL's obligations

ATL must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme as soon as reasonably practicable and after the date of this deed and substantially in accordance with the Timetable, including without limitation taking each of the following steps:

- (a) **(Explanatory Booklet)** prepare the Explanatory Booklet in accordance with clause 6.3;
- (b) **(Independent Expert)** promptly:
 - (i) if not already done prior to the date of this deed, appoint the Independent Expert to prepare the Independent Expert's Report; and
 - (ii) provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (c) **(Investigating Accountant's Report)** appoint the Investigating Accountant to prepare the Investigating Accountant's Report and promptly provide all assistance and information reasonably requested by the Investigating Accountant in connection with the preparation of the Investigating Accountant's Report;
- (d) **(review of draft Independent Expert's Report)** on receipt from the Independent Expert, provide *thl* with the draft report received from the Independent Expert for factual accuracy review (noting in each case that any draft of the Independent Expert's Report provided to *thl* for review will not include those sections containing the Independent Expert's opinion), and promptly give to the Independent Expert any comments that *thl* provides ATL in relation to factual matters regarding *thl* in any draft of the Independent Expert's Report;
- (e) **(approval of draft for ASIC and ASX)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC and ASX, procure that a meeting of the ATL Board, or of a committee of the ATL Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and to ASX for its review and approval for the purposes of Appendix 7A to the ASX Listing Rules;

- (f) **(liaison with ASIC and ASX)** as soon as reasonably practicable after the date of this deed and otherwise in accordance with the Timetable:
- (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 6.1(e) and 6.2(f), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and to ASX for its review and approval for the purposes of Appendix 7A to the ASX Listing Rules; and
 - (ii) liaise with ASIC and ASX during the period of their respective consideration of that draft of the Explanatory Booklet and keep *thl* reasonably informed of any matters raised by ASIC or ASX in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with *thl*, to resolve any such matters (provided that, where any matters relate to *thl* Information, ATL must not take any steps to address them without the prior written consent of *thl*, not to be unreasonably withheld or delayed);
- (g) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the reviews by ASIC and ASX of the Explanatory Booklet, procure that a meeting of the ATL Board, or of a committee of the ATL Board appointed for the purpose, is held to consider approving the Explanatory Booklet for dispatch to the Independent Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (h) **(section 411(17)(b) statements)** apply to ASIC for the production of statements in writing under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (i) **(confirmation of no objection from ASX)** request ASX to confirm that it has no objection to the draft Explanatory Booklet;
- (j) **(first Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approvals in clauses 6.1(g) and 6.2(g) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing ATL to convene the Scheme Meeting;
- (k) **(registration of explanatory statement)** request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (l) **(information):**
- (i) provide reasonable information about the Scheme and the ATL Shareholders to *thl* and its Related Bodies Corporate, which *thl* requests and reasonably requires in order to:
 - (A) facilitate the provision by, or on behalf of, *thl* of the Scheme Consideration; or
 - (B) review the tally of proxy appointments and directions received by ATL before the Scheme Meeting;
 - (ii) within 5 Business Days after the date of this deed, provide *thl* with:
 - (A) a copy of the ATL Register as at the date of this deed to the extent doing so does not breach applicable privacy laws; and
 - (B) the most recently available information in ATL's possession regarding the beneficial ownership of ATL Shares including a copy of the most recent beneficial ownership analysis report received by ATL (which may be as at a date prior to the date of this deed); and
 - (iii) provide *thl*, as soon as practicable after receiving a request from *thl*:
 - (A) a copy of the latest ATL Register; and
 - (B) the most recently available information in ATL's possession regarding the beneficial ownership of ATL Shares including a copy of the most recent beneficial ownership analysis report received by ATL;

- (m) (**convene Scheme Meeting**) subject to the Court granting orders under section 411(1) of the Corporations Act directing ATL to convene the Scheme Meeting, take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the ATL Shareholders and convening and holding the Scheme Meeting;
- (n) (**Court approval application if parties agree that conditions are capable of being satisfied**) if the resolution submitted to the Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act (or, where clause 3.7 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and, if necessary, the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the proposed Second Court Date, apply to the Court for orders approving the Scheme;
- (o) (**appeal process**) if the Court refuses to make any orders directing ATL to convene the Scheme Meeting or approving the Scheme, ATL and *thl* must:
 - (i) consult with each other in good faith as to whether to appeal the Court's decision; and
 - (ii) must appeal the Court's decision unless the parties agree otherwise or an independent senior counsel from the Queensland bar gives written advise to a party that, in senior counsel's opinion, an appeal would have no reasonable prospects of success;
- (p) (**implementation of Scheme**) if the Scheme is approved by the Court:
 - (i) subject to the ASX Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) determine entitlements to the Scheme Consideration as at the Scheme Record Date in accordance with the Scheme;
 - (iii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to *thl* on the Implementation Date; and
 - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (q) (**Regulatory notifications**) in relation to the Regulatory Approvals, lodge with any Governmental Agency within the relevant periods all documentation and filings required by law to be so lodged by ATL in relation to the Proposed Transaction;
- (r) (**thl Information**) without the prior written consent of *thl*, not use the *thl* Information for any purposes other than those contemplated by this deed or the Scheme;
- (s) (**Documents**) consult with *thl* in relation to the content of the documents required for the purpose of the Scheme including by sharing drafts of the originating process, affidavits, submissions, minutes of Court orders and other documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme and consider in good faith, for the purpose of amending those drafts, comments from *thl* on those drafts prior to filling those documents with the Court;
- (t) (**Shareholder support**) in consultation with *thl*, and subject to these arrangements being appropriately disclosed to the Court, encourage the Independent Shareholders to vote on the Scheme and, if requested to do so by *thl*, engage a proxy solicitation firm to assist in soliciting proxy votes (and ATL may independently decide to appoint a proxy solicitation firm after consulting in good faith with *thl*);
- (u) (**ASX Admission**) promptly provide reasonable assistance to *thl* to enable *thl* to prepare all documents required by ASX to apply for ASX Admission;
- (v) (**quotation of ATL Shares and ASX listing**) apply to ASX:

- (i) to have trading in ATL Shares suspended from the close of trading on the Effective Date;
- (ii) to have ATL removed from the official list of ASX from:
 - (A) the close of trading on the Business Day immediately following the Implementation Date; or
 - (B) subject to approval by ASX, such other later date after the Implementation Date to be determined by *thf*, and
- (w) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

6.2 *thf*'s obligations

thf must take all steps reasonably necessary to assist ATL to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including, without limitation, taking each of the following steps:

- (a) **(*thf* Information)** promptly provide to ATL, in a form appropriate for inclusion in the Explanatory Booklet, all *thf* Information that is required by all applicable law, the ASX Listing Rules, Australian Takeovers Panel policy and guidance notes and ASIC Regulatory Guides for inclusion in the Explanatory Booklet, which information must without limiting the above:
 - (i) contain all information necessary to enable ATL to ensure that the Explanatory Booklet complies with the requirements of RG 60;
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Explanatory Booklet; and
 - (iii) be updated by all such further or new material information which may arise after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(Regulatory notifications)** in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by *thf* in relation to the Proposed Transaction;
- (c) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (d) **(Investigating Accountant's Report)** provide all assistance and information reasonably requested by the Investigating Accountant in connection with the preparation of the Investigating Accountant's Report;
- (e) **(review of Explanatory Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by ATL and provide comments on those drafts in good faith;
- (f) **(approval of draft for ASIC and ASX)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC and ASX, procure that a meeting of the appropriate representatives of *thf* is held to consider approving those sections of that draft that relate to *thf*, including the *thf* Information, as being in a form appropriate for provision to ASIC and ASX for review;
- (g) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC and ASX of the Explanatory Booklet, procure that a meeting of the appropriate representatives of *thf* is held to consider approving those sections of the Explanatory Booklet that relate to *thf* as being in a form appropriate for dispatch to Independent Shareholders, subject to approval of the Court;

- (h) (**Deed Poll**) deliver the Deed Poll executed by *thl* and *thl* Acquirer to ATL in accordance with clause 4.5;
- (i) (**ASX Admission**) apply to ASX for ASX Admission in accordance with clause 4.4;
- (j) (**consent**) provide a consent and use all reasonable endeavours to obtain consents from third parties in such form as ATL reasonably requires to the form and content in which the *thl* Information appears in the Explanatory Booklet;
- (k) (**Representation**) procure that *thl* is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (l) (**Cleansing notice**) lodging with NZX on the Cleansing Notice Date, the notice contemplated by, and complying with the content and lodgement requirements set out in, clause 20 of Schedule 8 of the FMCR;
- (m) (**promote the Proposed Transaction**) if requested by ATL, participate in reasonable efforts to promote the merits of the Proposed Transaction and the Scheme Consideration;
- (n) (**ATL Information**) without the prior written consent of ATL, not use ATL Information for any purposes other than those contemplated by this deed and the Scheme; and
- (o) (**Compliance with laws**) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

6.3 Explanatory Booklet – preparation principles

- (a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, ATL must prepare the Explanatory Booklet in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act, RG 60, Australian Takeovers Panel policy and guidance notes and the ASX Listing Rules; and
 - (ii) this clause 6.3.
- (b) The Explanatory Booklet will include:
 - (i) letter from the ATL chairman;
 - (ii) letter from the *thl* chairman;
 - (iii) the terms of the Scheme;
 - (iv) the notice of Scheme Meeting and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with proxy forms for the Scheme Meeting and for any ancillary meeting;
 - (v) the ATL Information;
 - (vi) the *thl* Information;
 - (vii) a copy of this deed;
 - (viii) a copy of the executed Deed Poll;
 - (ix) a copy of the Investigating Accountant's Report;
 - (x) a report or opinion prepared by an accounting firm in relation to the potential taxation consequences of the Scheme on Scheme Shareholders; and
 - (xi) a copy of the Independent's Expert Report.
- (c) The Explanatory Booklet must include a statement, in a form to be agreed by the parties, to the effect that:
 - (i) other than the *thl* Information, the Investigating Accountant's Report, the report or opinion prepared by an accounting firm in relation to the potential taxation consequences of the Scheme on Scheme Shareholders and the Independent Expert's Report, the Explanatory Booklet has been prepared by ATL and is the

responsibility of ATL, and that *thl* assumes no responsibility for the accuracy or completeness of the Explanatory Booklet (other than *thl* Information); and

- (ii) the *thl* Information in the Explanatory Booklet has been provided by *thl* and is the responsibility of *thl* (other than any information provided by ATL to *thl* or obtained from ATL's public filings on ASX regarding the ATL Group contained in, or used in, the preparation of the information regarding the combined group following the implementation of the Scheme), and ATL assumes no responsibility for the accuracy or completeness of the *thl* Information.
- (d) ATL must make available to *thl* drafts of the Explanatory Booklet (excluding any part of the draft of the Independent Expert's Report which contains the Independent Expert's opinion), consult with *thl* in relation to the content of those drafts (other than the *thl* Information), and consider in good faith, for the purpose of amending those drafts, comments from *thl* on those drafts. *thl* acknowledges and agrees that ATL has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as provided in this deed with respect to the *thl* Information.
- (e) ATL must seek approval from *thl* for the form and context in which the *thl* Information appears in the Explanatory Booklet, which approval *thl* must not unreasonably withhold or delay, and ATL must not lodge the Explanatory Booklet with ASIC until such approval is obtained from *thl*.
- (f) If *thl* determines (acting reasonably), having regard to advice from a qualified tax advisor, that *thl* is either:
 - (i) required by law to withhold an issue of *thl* Consideration Shares (or a combination) to a Scheme Shareholder; or
 - (ii) liable to pay an amount to the Commissioner of Taxation under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) in respect of the acquisition of Scheme Shares from a Scheme Shareholder,

(either of the above being the **Relevant Amount**),

then:

- (iii) *thl* must provide written notice, and any reasonable information request by ATL in connection to the advice received by *thl*, to ATL as soon as reasonably practicable following receipt of the advice; and
- (iv) *thl* and ATL will use best endeavours to ensure that:
 - (A) the Explanatory Booklet includes information on *thl*'s withholding obligations of the Relevant Amount; and
 - (B) relevant Independent Shareholders are provided with an opportunity to provide a declaration form to ATL regarding either their tax residency status or interest in ATL Shares.
- (g) If ATL and *thl* disagree on the form or content of the Explanatory Booklet, they must consult in good faith to try to settle an agreed form of the Explanatory Booklet. If complete agreement is not reached after reasonable consultation, then:
 - (i) if the disagreement relates to the form or content of any information appearing in the Explanatory Booklet other than the *thl* Information, the ATL Board will, acting in good faith, decide the final form or content of the disputed part of the Explanatory Booklet; and
 - (ii) if the disagreement relates to the form or content of the *thl* Information, ATL will make such amendments to the form or content of the disputed part of the *thl* Information as *thl* reasonably requires.
- (h) ATL must take all reasonable steps, including by undertaking appropriate verification processes, to ensure that the Explanatory Booklet (other than the *thl* Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is dispatched to the Independent Shareholders.

- (i) **thl** must take all reasonable steps, including by undertaking appropriate verification processes, to ensure that the **thl** Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is dispatched to the Independent Shareholders.
- (j) ATL must provide to **thl** all such further or new information of which ATL becomes aware that arises after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Explanatory Booklet continues to comply with the Corporations Act, RG 60, Australian Takeovers Panel policy and guidance notes and the ASX Listing Rules.
- (k) **thl** must provide to ATL all such further or new information of which **thl** becomes aware that arises after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the **thl** Information continues to comply with the Corporations Act, RG 60, Australian Takeovers Panel policy and guidance notes and the ASX Listing Rules.
- (l) ATL and **thl** each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of the Independent Shareholders and **thl** and that they will use all reasonable endeavours and utilise all reasonably necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 6.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

7. Conduct of business before the Implementation Date

7.1 Conduct of ATL business

- (a) Subject to clause 7.2(a), from the date of this deed up to and including the Implementation Date, ATL must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:
 - (i) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;
 - (ii) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
 - (iii) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the ATL Group is a party, and with laws, authorisations and licences applicable to each member of the ATL Group; and
 - (iv) not take or fail to take any action that constitutes an ATL Prescribed Occurrence or that could reasonably be expected to result in an ATL Prescribed Occurrence.
- (b) Without limiting clause 7.1(a) but subject to clause 7.2(a), ATL must not, and must procure that its Subsidiaries do not, from the date of this deed up to and including the Implementation Date, do any of the following (or agree or offer to do any of the following):
 - (i) incur any additional Financial Indebtedness (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the ATL Group, other than in the usual and ordinary course of business and consistent with past practice;
 - (ii) other than as approved in writing by **thl** (not to be unreasonably withheld or delayed), amend or take any action that:
 - (A) seeks or causes a financier (or person acting on its behalf) to consent to or waive (whether or not such consent or waiver is conditioned) any provision under; or

(B) would be reasonably likely to give rise to a financier (or person acting on its behalf) being capable of exercising a right that would pose a risk to the continuity of,

any Financial Indebtedness to which one or more members of the ATL Group are a party;

- (iii) make any change to its constitution;
- (iv) (except as required by law or as provided in an existing contract in place as at the date of this deed) enter into or make any material change to the terms of employment of (including increasing the remuneration or compensation of), any person, including an officer, director, executive or other employee, where the relevant action is an ATL Significant Approval Matter (**Key Person**);
- (v) increase the remuneration or compensation of any person, including an officer, director, executive or other employee of the ATL Group where the relevant action is an ATL Significant Approval Matter, other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Material;
- (vi) amend the terms of any option, performance right, incentive or share plan or accelerate the rights of any of their employees to compensation or benefits of any kind (including under any option, performance right, incentive or share plan);
- (vii) rescind the suspension of ATL's STI Plan (or adopt any alternative short term incentive plan);
- (viii) offer to any employee the right to participate in the STI Plan (or any other alternative short term incentive plan);
- (ix) implement the LTI Plan or offer to any employee the right to participate in the LTI Plan;
- (x) terminate or encourage the resignation of a Key Person, except for cause (acting reasonably) in accordance with contractual arrangements in effect on the date of this deed or otherwise in accordance with current personnel practices;
- (xi) pay any of its officers, directors, executives or other employees a bonus payment, a severance, termination or retention payment where the relevant action is an ATL Significant Approval Matter, other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Material;
- (xii) make any concession or acknowledgment in respect of, or vary any pattern of work of, any employee or group of employees that is reasonably expected to give rise to a future potential claim, dispute or liability for the ATL Group where the relevant action is an ATL Significant Approval Matter;
- (xiii) settle or compromise any dispute, audit or inquiry in relation to tax or duty or amends any tax return, other than in the ordinary course of its business;
- (xiv) commence, threaten in writing, settle or offer to settle any legal proceedings, claim, dispute, investigation, arbitration or other like proceeding where the relevant action is an ATL Significant Approval Matter;
- (xv) (except under contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the Due Diligence Material) enter into any enterprise bargaining agreement or similar collective employment agreement;
- (xvi) in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, real property, entity or undertaking, where the relevant action is an ATL Significant Approval Matter;
- (xvii) incur or enter into commitments involving capital expenditure where the relevant action is an ATL Significant Approval Matter;

- (xviii) enter into, vary or terminate any contract, joint venture, partnership or commitment where the relevant action is an ATL Significant Approval Matter;
- (xix) enter into any new financing arrangement, agreement or otherwise provide financial accommodation other than with members of the ATL Group (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument;
- (xx) write-down any of its material assets other than in accordance with the AU Accounting Standards;
- (xxi) enter into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this deed;
- (xxii) pay, incur or agree to pay or incur transaction costs (being any investment banking, financial adviser, legal, accounting, share registry and other costs payable to other advisers or third party service providers, and any payments to employees that relate directly to the Proposed Transaction such as deal or retention bonuses) other than in accordance with arrangements Fairly Disclosed in the Due Diligence Material prior to the date of this deed;
- (xxiii) issue, or agree to issue, or grant an option to subscribe for, debentures (as defined in section 9 of the Corporations Act) other than under an existing financing arrangement which has been Fairly Disclosed in the Due Diligence Material;
- (xxiv) alter in any material respect any accounting policy of any member of the ATL Group other than any change required by the AU Accounting Standards; or
- (xxv) amend in a material respect or terminate any existing shareholders agreement, joint venture agreement or other similar investor agreements or arrangements, or enter into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement.

7.2 Permitted activities by ATL

- (a) The obligations of ATL under clause 7.1 do not apply in respect of any matter:
 - (i) undertaken by a member of the ATL Group in conducting its businesses in the usual and ordinary course and consistent with past practice as Fairly Disclosed in the Due Diligence Materials;
 - (ii) required to be done or procured by ATL or its Subsidiaries under, or which is otherwise contemplated by, this deed or the Scheme;
 - (iii) required by law or by an order of a court or Governmental Agency;
 - (iv) subject to clause 7.2(b), Fairly Disclosed in the Due Diligence Material or in documents that were publicly available in the 24 months prior to the date of this deed from public filings of ATL with ASX, ASIC or public registers as being actions that the ATL Group may carry out between the date of this deed and the Implementation Date;
 - (v) the undertaking of which *thl* has approved in writing (which approval must not be unreasonably withheld or delayed);
 - (vi) required in order to comply with any law relating to Tax, including to pay any Tax when due; or
 - (vii) which, in the reasonable opinion of ATL, is a reasonable and prudent response to an emergency or disaster (including, but not limited to an epidemic or pandemic (including COVID-19) or the impact arising from such an event or a situation giving

rise to a risk of personal injury or damage to property), or any escalation of the same, and it is impractical to seek the approval of *thl* prior to giving effect to the response.

- (b) ATL must, in respect of any matter referred to in clause 7.2(a)(iv) above that it proposes to undertake, promptly provide *thl* with any information regarding the matter reasonably requested by *thl*.
- (c) Clause 7.2(b) does not operate to provide *thl* with a veto right in respect of any matter referred to in clause 7.2(a)(iv).

7.3 Conduct of *thl*/business

- (a) Subject to clause 7.4(a), from the date of this deed up to and including the Implementation Date, *thl* must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:
 - (i) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;
 - (ii) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
 - (iii) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the *thl* Group is a party, and with laws, authorisations and licences applicable to each member of the *thl* Group; and
 - (iv) not take or fail to take any action that constitutes a *thl* Prescribed Occurrence or that could reasonably be expected to result in a *thl* Prescribed Occurrence.
- (b) Without limiting clause 7.3(a) but subject to clause 7.4(a), *thl* must not, and must procure that its Subsidiaries do not, from the date of this deed up to and including the Implementation Date, do any of the following (or agree or offer to do any of the following):
 - (i) incur any additional Financial Indebtedness (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the *thl* Group, other than in the usual and ordinary course of business and consistent with past practice;
 - (ii) other than as approved in writing by ATL (not to be unreasonably withheld or delayed), amend or take any action that:
 - (A) seeks or causes a financier (or person acting on its behalf) to consent to or waive (whether or not such consent or waiver is conditioned) any provision under; or
 - (B) would be reasonably likely to give rise to a financier (or person acting on its behalf) being capable of exercising a right that would pose a risk to the continuity of,
any Financial Indebtedness to which one or more members of the *thl* Group are a party;
 - (iii) make any change to its constitution;
 - (iv) (except as required by law or as provided in an existing contract in place as at the date of this deed) enter into or make any material change to the terms of employment of (including increasing the remuneration or compensation of), any person, including an officer, director, executive or other employee where the relevant action is a *thl* Significant Approval Matter (**Key Person**);
 - (v) increase the remuneration or compensation of any person, including an officer, director, executive or other employee of the *thl* Group where the relevant action is a *thl* Significant Approval Matter, other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the *thl* Due Diligence Material,

- (vi) amend the terms of any option, performance right, incentive or share plan;
- (vii) accelerate the rights of any of their employees to compensation or benefits of any kind (including under any option, performance right, incentive or share plan);
- (viii) terminate or encourage the resignation of a Key Person, except for cause (acting reasonably) in accordance with contractual arrangements in effect on the date of this deed or otherwise in accordance with current personnel practices;
- (ix) pay any of its officers, directors, executives or other employees a bonus payment, a severance, termination or retention payment where the relevant action is a **thl** Significant Approval Matter, other than pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the **thl** Due Diligence Material;
- (x) make any concession or acknowledgment in respect of, or vary any pattern of work of, any employee or group of employees that is reasonably expected to give rise to a future potential claim, dispute or liability for the **thl** Group where the relevant action is a **thl** Significant Approval Matter;
- (xi) settle or compromise any dispute, audit on inquiry in relation to tax or duty or amends any tax return, other than in the ordinary course of its business;
- (xii) commence, threaten in writing, settle or offer to settle any legal proceedings, claim, dispute, investigation, arbitration or other like proceeding where the relevant action is a **thl** Significant Approval Matter;
- (xiii) (except under contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the **thl** Due Diligence Material) enter into any enterprise bargaining agreement or similar collective employment agreement;
- (xiv) in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, real property, entity or undertaking where the relevant action is a **thl** Significant Approval Matter;
- (xv) incur or enter into commitments involving capital expenditure where the relevant action is a **thl** Significant Approval Matter;
- (xvi) enter into, vary or terminate any contract, joint venture, partnership or commitment where the relevant action is a **thl** Significant Approval Matter;
- (xvii) enter into any new financing arrangement, agreement or otherwise provide financial accommodation other than with members of the **thl** Group (irrespective of what form that accommodation takes);
- (xviii) write-down any of its material assets other than in accordance with the NZ Accounting Standards;
- (xix) enter into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this deed;
- (xx) pay, incur or agree to pay or incur transaction costs (being any investment banking, financial adviser, legal, accounting, share registry and other costs payable to other advisers or third party service providers, and any payments to employees that relate directly to the Proposed Transaction such as deal or retention bonuses) other than in accordance with arrangements Fairly Disclosed in the **thl** Due Diligence Material prior to the date of this deed;
- (xxi) issue, or agree to issue, or grant an option to subscribe for, debentures other than under an existing financing arrangement which has been Fairly Disclosed in the **thl** Due Diligence Material;

- (xxii) alter in any material respect any accounting policy of any member of the **thl** Group other than any change required by the NZ Accounting Standards; or
- (xxiii) amend in a material respect or terminate any existing shareholders agreement, joint venture agreement or other similar investor agreements or arrangements, or enter into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement.

7.4 Permitted activities by thl

- (a) The obligations of **thl** under clause 7.3 do not apply in respect of any matter:
 - (i) undertaken by a member of the **thl** Group in conducting its businesses in the usual and ordinary course and consistent with past practice;
 - (ii) required to be done or procured by **thl** or its Subsidiaries under, or which is otherwise contemplated by, this deed or the Scheme;
 - (iii) required by law or by an order of a court or Governmental Agency;
 - (iv) subject to clause 7.4(b), Fairly Disclosed in the **thl** Due Diligence Material or in documents that were publicly available in the 24 months prior to the date of this deed from public filings of **thl** with NZX or public registers as being actions that the **thl** Group may carry out between the date of this deed and the Implementation Date;
 - (v) the undertaking of which ATL has approved in writing (which approval must not be unreasonably withheld or delayed);
 - (vi) required in order to comply with any law relating to Tax, including to pay any Tax when due; or
 - (vii) which, in the reasonable opinion of **thl**, is a reasonable and prudent response to an emergency or disaster (including, but not limited to an epidemic or pandemic (including COVID-19) or the impact arising from such an event or a situation giving rise to a risk of personal injury or damage to property), or any escalation of the same, and it is impractical to seek the approval of **thl** prior to giving effect to the response.
- (b) **thl** must, in respect of any matter referred to in clause 7.4(a)(iv) above that it proposes to undertake, promptly provide ATL with any information regarding the matter reasonably requested by ATL.
- (c) Clause 7.4(b) does not operate to provide ATL with a veto right in respect of any matter referred to in clause 7.4(a)(iv).

7.5 Access

- (a) In the period from the date of this deed to the Implementation Date, ATL and **thl** must:
 - (i) procure that at least two members of ATL's and **thl**'s executive management team meet regularly on at least a weekly basis (unless otherwise agreed by the parties) to assist with, among other things:
 - (A) considering matters relevant to the integration of ATL Group into **thl** Group, including in relation to identifying key ATL employees who will be provided with protective contracts (with the understanding that this will be at least three employees);
 - (B) discussing and planning the implementation of the Scheme;
 - (C) considering any other matters as agreed between ATL and **thl** from time to time;
 - (D) keeping each other fully informed of the matters contemplated by clause 7.5(a)(ii) below; and
 - (E) providing each other with access to information and people it has requested under clause 7.5(a)(iii) below;

- (ii) keep each other fully informed of all material developments relating to each of them and provide to each other monthly management, financial and operational reports provided to their respective boards;
 - (iii) promptly following a reasonable request by ATL or *thl*, provide access to:
 - (A) documents and information relating to it; and
 - (B) directors, executives (including in the case of ATL, the Senior Managers), for the purpose of or in connection with:
 - (C) planning the transition of the ATL Group and other matters relating to the conduct of the ATL Group following the Implementation Date;
 - (D) the financing arrangements in respect of the Proposed Transaction, including any refinancing of existing Financial Indebtedness of the ATL Group;
 - (E) understanding the financial position, businesses and operations of it and its Subsidiaries including the cashflow and working capital position of each of them;
 - (F) holding discussions with third parties, with the consent of ATL (such consent not to be unreasonably withheld or delayed) that *thl* and its Authorised Persons reasonably wish to enter into with respect to the Proposed Transaction prior to the Implementation Date, including procuring that Senior Managers participate in such discussions; and
 - (G) otherwise facilitating the Proposed Transaction;
 - (iv) provide each other with complete copies of monthly accounts prepared by management to the extent such accounts are prepared (which must be prepared in accordance with IFRS, AIFRS or GAAP (as applicable) applied to the entities on a basis consistent with past practice) as soon as reasonably practicable after those materials have been provided to their respective boards.
- (b) Nothing in this clause 7.5 obliges ATL or *thl* to do anything, or to provide any information:
- (i) which would cause undue or unreasonable disruption to the operation of its business in the ordinary course;
 - (ii) concerning the ATL Directors' consideration of the Scheme or any Competing Proposal (without limiting ATL's obligations under clause 14); or
 - (iii) which would breach its constituent documents, any applicable law (including privacy and competition laws), or any obligation of confidentiality to any person or result in the loss of legal professional privilege.
- (c) ATL and *thl* will provide reasonable assistance to each other for the purpose of satisfying their respective obligations under this clause 7.5 but nothing in this clause 7.5 requires ATL or *thl* to provide access to its people or documentation or to take any other action which would involve refreshing or updating the Due Diligence Material or *thl* Due Diligence Material, as applicable, or which would disrupt the usual and ordinary course of ATL's or *thl*'s businesses and operations, as applicable.

7.6 Change of control rights

In respect of Material Contracts:

- (a) the parties will seek to identify any change of control or similar provisions, or any consent, approval or notification requirements in any Material Contract which would be triggered by the implementation of the Proposed Transaction;
- (b) the parties will use their reasonable endeavours to agree a proposed strategy to obtain any approvals or consents required pursuant to clause 7.6(a) and, if agreed, ATL will then contact the relevant counterparties to these contracts to request that they provide any consent required in relation to the Proposed Transaction (including confirmation that they

will not terminate those contracts due to a change in control of ATL as a result of the implementation of the Proposed Transaction);

- (c) ATL must use reasonable endeavours to obtain the consents referred to in clause 7.6(a) in accordance with the agreed strategy as expeditiously as possible and, in any event, prior to the Second Court Date and to ensure that once obtained, the consents are not withdrawn, cancelled or revoked, including by:
 - (i) cooperating with, and doing all things reasonably requested by **thl** or the counterparty to a Material Contract;
 - (ii) promptly provide any information reasonably required by a counterparty to a Material Contract, including providing any information requested by **thl** or those counterparties from ATL or in relation to an ATL Related Person; and
 - (iii) make representatives of ATL available, where necessary, to meet with counterparties to Material Contracts to deal with issues arising in relation to the change of control of ATL;
- (d) **thl** must cooperate with, and provide any assistance (including providing factual information regarding **thl** and attending relevant meetings), reasonably requested by ATL for the purposes of ATL complying with its obligations under this clause 7.6, except that **thl** is not responsible for any costs incurred in connection with any application for or granting of consent from the counterparties to the Material Contracts; and
- (e) ATL must not, without the prior written consent of **thl** which must not be unreasonably withheld or delayed, incur any costs other than reasonable travel and legal expenses in connection with performing its obligations under this clause.

8. Actions on and following Implementation Date

8.1 Reconstitution of the board of **thl** and each member of the ATL Group

- (a) On the Implementation Date, but subject to the Scheme Consideration having been paid in full to ATL or provided by **thl** and receipt by **thl** or ATL (as applicable) of signed consents to act:
 - (i) ATL must take all actions necessary (and in accordance with the constitution of the ATL Group member, the Corporations Act and the ASX Listing Rules) to appoint the persons nominated by **thl** as new ATL Directors and new directors of each Subsidiary; and
 - (ii) **thl** must take all actions necessary (and in accordance with the constitution of **thl**, the Companies Act and the NZX Listing Rules) to appoint:
 - (A) Luke Trouchet (as an executive director); and
 - (B) two other independent directors of ATL as at the Scheme Record Date and nominated in writing by ATL to **thl** before the Implementation Date, as directors of **thl**.
- (b) Without limiting clause 8.1(a), on the Implementation Date, but subject to receipt by ATL of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the ATL Group (without prejudice to any rights they may have under any deed of indemnity, access and insurance or policy of directors' and officers' insurance), ATL must procure that:
 - (i) all outgoing ATL Directors resign from the ATL Board; and
 - (ii) all outgoing directors of each Subsidiary of ATL resign from their office.
- (c) The parties acknowledge that the board of **thl** is currently expected to remain as constituted in accordance with clause 8.1(a)(ii) until the date of **thl**'s 2022 annual general meeting after which point **thl** intends to have a board consisting of a maximum of eight directors.

8.2 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:

- (a) *thl* will issue the Scheme Consideration to relevant Scheme Shareholders in accordance with the Scheme;
- (b) the *thl* Board, the ATL Board and the board of each Subsidiary of ATL will be reconstituted in accordance with clause 8.1;
- (c) *thl* will acquire all of the Scheme Shares in accordance with the Scheme; and
- (d) ATL will apply to ASX to be removed from the official list of ASX (to the extent this has not been done prior to the Implementation Date).

9. Representations and warranties

9.1 *thl* representations regarding *thl* and *thl* Acquirer

thl represents and warrants to ATL (on ATL's own behalf and separately as trustee for each of the other ATL Parties) that, as at the date of this deed and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date):

- (a) each of *thl* and *thl* Acquirer is a validly existing corporation registered under the laws of its place of incorporation;
- (b) *thl* is the sole holder of all issued shares in *thl* Acquirer;
- (c) the execution and delivery of this deed by *thl* and *thl* Acquirer has been properly authorised by all necessary corporate action and *thl* and *thl* Acquirer each have full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
- (d) this deed constitutes legal, valid and binding obligations on *thl* and *thl* Acquirer and this deed does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which *thl* or *thl* Acquirer is a party or is bound;
- (e) the *thl* Information provided to ATL in accordance with clause 6.2(a) for inclusion in the Explanatory Booklet will comply in all material respects with the applicable requirements of the Corporations Act, the ASX Listing Rules, RG 60 and Australian Takeovers Panel policy and guidance notes;
- (f) all information provided by or on behalf of *thl* to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report;
- (g) all information provided by or on behalf of *thl* to the Investigating Accountant to enable the Investigating Accountant's Report to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith and on the understanding that the Investigating Accountant will rely upon that information for the purposes of preparing the Investigating Accountant's Report;
- (h) each member of the *thl* Group has all material licences and permits necessary for it to conduct its business and has complied with the terms of those licences and permits in all material respects;
- (i) as at the date of this deed, each of *thl* and *thl* Acquirer is not aware of any facts or circumstances that will cause a third party, as a result of the entry into this document and the implementation of either the Proposed Transaction to exercise a right to terminate a contract which is material to the business of the *thl* Group or vary the performance of any material obligation of *thl* under any such contract or exercise a right to acquire, or require the disposal of, any material assets of the *thl* Group;

- (j) **thl** has provided all material information relating to the expected availability, terms likely to apply to and any material development that would be reasonably likely to materially adversely affect any Financial Indebtedness or debt arrangements of the **thl** Group, from or after the date of this deed;
- (k) as at the date the Explanatory Booklet is dispatched to the Independent Shareholders, the **thl** Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (l) **thl** will, as a continuing obligation, provide to ATL all such further or new information which may arise after the Explanatory Booklet has been dispatched until the date of the Scheme Meeting which is necessary to ensure that the **thl** Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (m) **thl's** financial statements as disclosed to the NZX have been prepared in accordance with the NZ Accounting Standards on a basis consistent with past practice financial statements and, so far as **thl** is aware, there has not been any event, change, effect or development which would require **thl** to restate its financial statements as disclosed to the NZX;
- (n) during the five year period ending on the date of this deed, no member of the **thl** Group nor, to the **thl** Group's knowledge, any of the officers, directors, employees, agents, intermediaries, representatives, suppliers or joint venture partners of any member of the **thl** Group has, directly or indirectly, in connection with the business of the **thl** Group:
 - (i) requested, received, made, offered, authorised, solicited or promised to make or offer any unlawful payment, loan or transfer of anything of value or advantage to or for the benefit of or from any person, including any government official, candidate for public office, political party or political campaign;
 - (ii) requested, received, paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
 - (iii) requested, received, made, offered or promised to make or offer any unlawful contributions (including political or charitable contributions), gifts, entertainment or other unlawful expenditures;
 - (iv) established or maintained any unlawful fund of corporate monies or other properties;
 - (v) created or caused the creation of any false or inaccurate books and records of any member of the **thl** Group related to any of the foregoing;
 - (vi) otherwise directly or indirectly violated any local or international anti-corruption or anti-bribery law (including, without limitation, the US Foreign Corrupt Practices Act of 1977 as amended and the UK Bribery Act of 2010) applicable to the **thl** Group; or
 - (vii) have sold or purchased goods or services from, or otherwise engaged in any such transaction with, any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine and no such sales, purchases or other transactions are pending or have any outstanding obligations involving any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine;
- (o) during the five year period ending on the date of this deed, no current or former director or officer of any member of the **thl** Group is or was a Sanctioned Person and, so far as **thl** is aware, no member of the **thl** Group or any of their respective current or former employees or their respective intermediaries is or was a Sanctioned Person. For the purposes of this representation, a **Sanctioned Person** means:

- (i) any person listed in any sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, the United Kingdom, Canada, or Australia;
- (ii) any person operating organised or resided in a U.S Sanctioned Country (including Iran, Syria, Sudan, Cuba, the Democratic Republic of Korea, or the Crimea Region of Ukraine); or
- (iii) any person owned or controlled by any such person;
- (p) as at the date of this deed, no shareholder approval of **thl** is required to complete the Proposed Transaction under the Companies Act, the NZX Listing Rules or its constitution;
- (q) except for the Regulatory Approvals contemplated in this deed and approval of the Scheme by the Court, no consents or approvals of or filings or registrations with any Governmental Agency are necessary in connection with:
 - (i) the execution and delivery of this deed by **thl** or **thl** Acquirer; or
 - (ii) the implementation of the Scheme and the Proposed Transaction;
- (r) as at the date of this deed, the total issued capital of **thl** is:
 - (i) 151,963,759 **thl** Shares;
 - (ii) 5,164,999 long-term incentive options;
 - (iii) 985,630 redeemable ordinary shares;
 - (iv) 1,434,439 retention share options; and
 - (v) 1,347,022 retention share rights,

and there are no other **thl** options, warrants, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing that has not been Fairly Disclosed in an announcement by **thl** to NZX or in the **thl** Due Diligence Material);
- (s) the **thl** Shares issued under the Scheme Consideration will, on issue:
 - (i) be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the constitution of **thl**); and
 - (ii) rank equally in all respects with each other **thl** Share then on issue;
- (t) as at the date of this deed, **thl** is not in breach of its continuous disclosure obligations under the NZX Listing Rules and is not relying on the exclusion in NZX Listing Rule 3.1.2 to withhold any information from disclosure (other than in relation to the Proposed Transaction or as disclosed in writing to ATL on or before the date of this deed) that a reasonable person would expect to have a material effect on the price or value of **thl** Shares;
- (u) as at the date of this deed, neither the NZ Takeovers Panel or NZX has made a determination against any member of the **thl** Group for any contravention of the requirements of the Companies Act or the NZX Listing Rules or any rules, regulations or policy statements under the Companies Act or the NZX Listing Rules;
- (v) as at the date of this deed, no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to the knowledge of **thl** and **thl** Acquirer, threatened, which, if adversely decided, could reasonably be expected to give rise to a **thl** Material Adverse Change;
- (w) **thl** currently intends to retain the key ATL brands (being the “Apollo” and “CanaDream” brands) as trading brands for the rental businesses in Australia, New Zealand and Canada, as applicable, noting however the company brand and brand strategies across the **thl** Group will always remain subject to **thl** Board review and that this intention may change after the Implementation Date;

- (x) the **thl** Due Diligence Material has been disclosed in good faith and, so far as the **thl** Board and each of Grant Webster, Nick Judd, Steven Hall and Amir Ansari are aware after due enquiry, the **thl** Due Diligence Material is true, complete and accurate and not misleading or deceptive in any material respect, including by omission;
- (y) as at the date of this deed, no Insolvency Event has occurred or is reasonably likely to occur in the near term in relation to **thl** or another **thl** Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed or under the Scheme; and
- (z) **thl** is not aware of any information relating to the **thl** Group or its respective businesses or operations (having made reasonable enquiries) as at the date of this deed that has or could reasonably be expected to give rise to a **thl** Material Adverse Change that has not been Fairly Disclosed in an announcement by **thl** to NZX or in the **thl** Due Diligence Material.

9.2 **thl/s indemnity**

thl agrees with ATL (on ATL's own behalf and separately as trustee or nominee for each of the other ATL Parties) to indemnify and keep indemnified the ATL Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the ATL Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 9.1.

9.3 **Qualifications on thl/s representations, warranties and indemnities**

The representations and warranties in clause 9.1 and the indemnity in clause 9.2 are each subject to matters which:

- (a) are expressly provided for in this deed;
- (b) have been Fairly Disclosed in:
 - (i) the **thl** Due Diligence Material; and
 - (ii) **thl/s** announcements to NZX in the 24 month period prior to the date of this deed; or
- (c) are within the actual knowledge of ATL as at the date of this deed, which for these purposes is taken to include (and be limited to) the facts, matters and circumstances of which the following individuals are actually aware as at the date of this deed:
 - (i) Luke Trouchet;
 - (ii) Karl Trouchet; and
 - (iii) Kelly Shier.

9.4 **ATL representations**

ATL represents and warrants to **thl** (on its own behalf and separately as trustee for each of the **thl** Parties) that as at the date of this deed and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date):

- (a) ATL is a validly existing corporation registered under the laws of its place of incorporation;
- (b) the execution and delivery of this deed by ATL has been properly authorised by all necessary corporate action and ATL has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
- (c) this deed constitutes legal, valid and binding obligations on ATL and the execution of this deed of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which ATL or any of its Subsidiaries is a party or to which they are bound;

- (d) the ATL Information contained in the Explanatory Booklet will comply in all material respects with the requirements of the Corporations Act, ASX Listing Rules, RG 60 and Australian Takeovers Panel policy and guidance notes;
- (e) except for the Regulatory Approvals contemplated in this deed and approval of the Scheme by the Court, no consents or approvals of or filings or registrations with any Governmental Agency are necessary in connection with:
 - (i) the execution and delivery of this deed by ATL; or
 - (ii) the implementation of the Scheme and the Proposed Transaction;
- (f) as at the date the Explanatory Booklet is dispatched to the Independent Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the *th/* Information, Investigating Accountant's Report, the report or opinion prepared by an accounting firm in relation to the potential taxation consequences of the Scheme on Scheme Shareholders and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (g) as at the date of this deed, ATL is not in breach of its continuous disclosure obligations under the ASX Listing Rules and is not relying on the exclusion in ASX Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Proposed Transaction or as disclosed in writing to *th/* on or before the date of this deed) that a reasonable person would expect to have a material effect on the price or value of ATL Shares;
- (h) as at the date of this deed, the total issued capital of ATL is 186,150,908 ATL Shares and there are no other ATL options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing);
- (i) ATL's Short Term Incentive Plan (as described in ATL's annual report for the year ended 30 June 2021) (**STI Plan**) is suspended and ATL has no obligation to provide any benefits to any employees under the STI Plan in respect of the financial years ending on or prior to 30 June 2021;
- (j) ATL's Share Appreciation Rights Plan (as described in ATL's annual report for the year ended 30 June 2021) (**LTI Plan**) has not been implemented by ATL and ATL has no obligation to provide any benefits to any employees under the LTI Plan in respect of the financial years ending on or prior to 30 June 2021;
- (k) the STI Plan and the LTI Plan are entirely discretionary and may be terminated by ATL at any time and no employee has any contractual or legal right to participate in either Plan (and no employee has been offered a right to participate in the LTI Plan);
- (l) each member of the ATL Group has all material licences and permits necessary for it to conduct its business and has complied with the terms of those licences and permits in all material respects;
- (m) each member of the ATL Group has complied with its obligations under the Material Contracts in all material respects;
- (n) as at the date of this deed, neither ASIC nor ASX (as applicable) has made a determination against any member of the ATL Group for any contravention of the requirements of the Corporations Act or the ASX Listing Rules or any rules, regulations or policy statements under the Corporations Act or the Listing Rules;
- (o) during the five year period ending on the date of this deed, no member of the ATL Group nor, to the ATL Group's knowledge, any of the officers, directors, employees, agents, intermediaries, representatives, suppliers or joint venture partners of any member of the ATL Group has, directly or indirectly, in connection with the business of the ATL Group:
 - (i) requested, received, made, offered, authorised, solicited or promised to make or offer any unlawful payment, loan or transfer of anything of value or advantage to or for the benefit of or from any person, including any government official, candidate for public office, political party or political campaign;

- (ii) requested, received, paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
 - (iii) requested, received, made, offered or promised to make or offer any unlawful contributions (including political or charitable contributions), gifts, entertainment or other unlawful expenditures;
 - (iv) established or maintained any unlawful fund of corporate monies or other properties;
 - (v) created or caused the creation of any false or inaccurate books and records of any member of the ATL Group related to any of the foregoing;
 - (vi) otherwise directly or indirectly violated any local or international anti-corruption or anti-bribery law (including, without limitation, the US Foreign Corrupt Practices Act of 1977 as amended and the UK Bribery Act of 2010) applicable to the ATL Group; or
 - (vii) have sold or purchased goods or services from, or otherwise engaged in any such transaction with, any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine and no such sales, purchases or other transactions are pending or have any outstanding obligations involving any person in Cuba, Iran, the Democratic Republic of Korea, Syria, Sudan or the Crimea Region of Ukraine;
- (p) during the five year period ending on the date of this deed, no current or former director or officer of any member of the ATL Group is or was a Sanctioned Person and, so far as ATL is aware, no member of the ATL Group or any of their respective current or former employees or their respective intermediaries is or was a Sanctioned Person. For the purposes of this representation, a **Sanctioned Person** means:
- (i) any person listed in any sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, the United Kingdom, Canada, or Australia;
 - (ii) any person operating organised or resided in a U.S Sanctioned Country (including Iran, Syria, Sudan, Cuba, the Democratic Republic of Korea, or the Crimea Region of Ukraine); or
 - (iii) any person owned or controlled by any such person;
- (q) ATL's financial statements as disclosed to ASX have been prepared in accordance with the AU Accounting Standards on a basis consistent with past practice financial statements and, so far as ATL is aware, there has not been any event, change, effect or development which would require ATL to restate its financial statements as disclosed to ASX;
- (r) there is no security interest over all or any of its or its Subsidiaries' present or future assets or revenues of its business or its Subsidiaries' businesses that has not been Fairly Disclosed in an announcement by ATL to ASX or in the Due Diligence Material;
- ATL has provided all material information relating to the expected availability, terms likely to apply to and any material development that would be reasonably likely to materially adversely affect any Financial Indebtedness or debt arrangements of the ATL Group, from or after the date of this deed;
- (s) as at the date of this deed, no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to the knowledge of ATL, threatened, which, if adversely decided, could reasonably be expected to give rise to an ATL Material Adverse Change;
- (t) the Due Diligence Material have been disclosed in good faith and, so far as the ATL Board and Kelly Shier are aware after due enquiry, the Due Diligence Material is true, complete and accurate and not misleading or deceptive in any material respect, including by omission;

- (u) as at the date of this deed, ATL is not aware of any facts or circumstances that will cause a third party, as a result of the entry into this document and the implementation of either the Proposed Transaction to exercise a right to terminate a contract which is material to the business of the ATL Group or vary the performance of any material obligation of ATL under any such contract or exercise a right to acquire, or require the disposal of, any material assets of the ATL Group;
- (v) as at the date of this deed, no Insolvency Event has occurred or is reasonably likely to occur in the near term in relation to ATL or another ATL Group Member, nor has any regulatory action of any nature of which it is aware been taken that would reasonably be likely to prevent or restrict its ability to fulfil its obligations under this deed or under the Scheme;
- (w) ATL is not aware of any information relating to the ATL Group or its respective businesses or operations (having made reasonable enquiries) as at the date of this deed that has or could reasonably be expected to give rise to an ATL Material Adverse Change that has not been Fairly Disclosed in an announcement by ATL to ASX or in the Due Diligence Material; and
- (x) (**ATL Shares not indirect Australian real property interests**) the relevant ATL Shares held by each Scheme Shareholders are not, and until (and including) the Implementation Date will not be, indirect Australian real property interests within the meaning of Division 855 of the Tax Act for the Scheme Shareholder.

9.5 ATL's indemnity

ATL agrees with *thl* (on *thl*'s own behalf and separately as trustee for each of the *thl* Parties) to indemnify and keep indemnified the *thl* Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the *thl* Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 9.4.

9.6 Qualifications on ATL's representations, warranties and indemnities

The representations and warranties in clause 9.4 and the indemnity in clause 9.5 are each subject to matters which:

- (a) are expressly provided for in this deed;
- (b) have been Fairly Disclosed in:
 - (i) the Due Diligence Material; and
 - (ii) ATL's announcements to ASX in the 24 month period prior to the date of this deed; or
- (c) are within the actual knowledge of *thl* as at the date of this deed, which for these purposes is taken to include (and be limited to) the facts, matters and circumstances of which the following individuals are actually aware as at the date of this deed:
 - (i) Grant Webster; and
 - (ii) Nick Judd.

9.7 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 9.

9.8 Survival of representations

Each representation and warranty in clauses 9.1 and 9.4:

- (a) is severable;
- (b) will survive the termination of this deed; and

- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

9.9 Survival of indemnities

Each indemnity in this deed (including those in clauses 9.2 and 9.5) will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survive the termination of this deed.

10. Releases

10.1 ATL Parties

- (a) Without limiting *thl*'s rights under clause 9, *thl* (for itself and as agent of every member of the *thl* Group) releases all rights against, and agrees with ATL that it will not make a Claim against, any ATL Party (other than ATL) in connection with:
 - (i) ATL's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of ATL in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any ATL Party including in the Due Diligence Material that contains any statement which is false or misleading whether in content or by omission,

except to the extent the relevant ATL Party has not acted in good faith or has engaged in wilful misconduct.

- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. ATL receives and holds the benefit of this clause as trustee for each other ATL Party.

10.2 *thl* Parties

- (a) Without limiting ATL's rights under clause 9, ATL releases its rights against, and agrees with *thl* that it will not make a Claim against any *thl* Party (other than *thl*) in connection with:
 - (i) *thl*'s execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of *thl* in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any *thl* Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant *thl* Party has not acted in good faith or has engaged in wilful misconduct.

- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. *thl* receives and holds the benefit of this clause as trustee for each other *thl* Party.

10.3 Deeds of indemnity

- (a) Subject to the Scheme becoming Effective, *thl* undertakes in favour of ATL and each other person who is a current or former officer of the ATL Group that it will:
 - (i) subject to clause 10.3(d), for 7 years from the Implementation Date, ensure that the constitutions of ATL and each other member of the ATL Group continue to

contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in that person's capacity as a director or officer of the company to any person other than a member of the ATL Group; and

- (ii) procure that ATL and each other member of the ATL Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.
- (b) The undertakings contained in clause 10.3(a) are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- (c) ATL receives and holds for the benefit of clause 10.3(a), to the extent it relates to the current or former directors and officers of the ATL Group, as trustee for them.
- (d) The undertakings contained in clause 10.3(a) are given:
 - (i) in the case of clause 10.3(a)(i), until the earlier of 7 years from the Implementation Date or the relevant member of the ATL Group ceasing to be part of the *thl* Group; or
 - (ii) in the case of clause 10.3(a)(ii), until the earlier of 7 years from the retirement of each director and officer or the relevant member of the ATL Group ceasing to be part of the *thl* Group.

10.4 Directors' and officers' insurance

thl acknowledges that ATL will in respect of ATL and all other members of the ATL Group:

- (a) prior to the Effective Date, arrange for the cover currently provided under the directors' and officers' insurance policy for ATL and all other members of the ATL Group (**Policy**) to be extended for a further 12 months after consulting in good faith with *thl* regarding the cost and terms of the Policy (including if the cost of the Policy is materially higher than the cost of the Policy currently in effect, consulting in good faith with *thl* regarding possible alternative coverage solutions); and
- (b) prior to the Effective Date, enter into a directors' and officers' run-off insurance policy in respect of the directors and officers of any member of the ATL Group that applies for no less than a 7 year period following the Implementation Date (the **Run-off Policy**) after consulting in good faith with *thl* regarding the cost and terms of the Run-off Policy from a reputable insurer that has a rating that is the same as, or better than, the rating of the insurers for the directors' and officers' insurance policy in place for the current financial year to provide the Run-off Policy on the following basis:
 - (i) the same amount of coverage;
 - (ii) the same deductible or excess; and
 - (iii) otherwise on terms that are no less favourable to the current directors or officers of ATL for the current financial year,

and pay all premiums required so as to ensure that insurance cover is provided under the Run-off Policy on those terms until that date.

10.5 Obligations in relation to directors' and officers' insurance

From the Implementation Date, ATL must not:

- (a) vary or cancel the Policy or the Run-off Policy; or
- (b) unless required under the Policy or the Run-off Policy, commit any act or omission that may prejudice any claim by a director or officer of ATL under the Policy or the Run-off Policy.

11. Confidentiality and announcements

11.1 Confidentiality

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Deed save that the terms of this deed will prevail over the Confidentiality Deed to the extent of any inconsistency.

11.2 Announcements

- (a) Promptly after the execution of this deed each party must issue their respective Announcement to:
 - (i) in the case of ATL, the ASX; and
 - (ii) in the case of *thl*, the NZX.
- (b) Subject to clause 11.2(c), any further public announcements by either of the parties in relation to, or in connection with, the Scheme may only be made in a form approved by the other party in writing (acting reasonably).
- (c) Where a party is required by law, the ASX Listing Rules or the NZX Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with the Proposed Transaction or any other transaction related to this deed or the Scheme, it may do so to the extent legally required and only then after it has given the other parties as much notice as possible and has consulted in good faith to the fullest extent possible in the circumstances with the other parties.

11.3 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clause 11.2 applies to any such statements or disclosures.

12. Termination

12.1 Termination by notice

- (a) *thl* or ATL may, by notice in writing to the other, terminate this deed at any time prior to the Second Court Date:
 - (i) if the other is in material breach of any of its material obligations under this deed (other than the breaching of a party's respective representations and warranties which are regulated by clause 12.2) and the other party has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party to remedy the breach;
 - (ii) in accordance with clause 3.8;
 - (iii) if the Court refuses to make any order directing ATL to convene the Scheme Meeting, provided that both ATL and *thl* have met and consulted in good faith and either party does not wish to proceed with the Scheme; or
 - (iv) if the Effective Date for the Scheme has not occurred on or before the End Date.
- (b) ATL may, by notice in writing to *thl*, terminate this deed at any time prior to the Delivery Time on the Second Court Date if at any time before then each of that number of ATL Directors as constitutes a majority of the ATL Board publicly recommend a Superior Proposal; and
- (c) *thl* may, by notice in writing to ATL, terminate this deed at any time prior to the Delivery Time on the Second Court Date if at any time before then any ATL Director:
 - (i) does not recommend the Scheme in the manner contemplated by this deed;

- (ii) withdraws or adversely revises or adversely modifies the ATL Director's recommendation of the Scheme (other than the qualifications expressly permitted by clause 5.1);
- (iii) makes a public statement indicating that the ATL Director recommends, endorses or supports a Competing Proposal,

other than as a result of the circumstances described in clause 5.2, which will not extend to any ATL Director adversely revising or adversely modifying the ATL Director's recommendation of the Proposed Transaction as a result of, or making a public statement indicating that they recommend, endorse or support, a Competing Proposal.

12.2 Termination for breach of representations and warranties

- (a) *thl* may, by notice in writing to ATL, terminate this deed at any time prior to the Delivery Time on the Second Court Date if:

- (i) ATL is in material breach of an ATL Warranty; or
- (ii) ATL is in breach of the ATL Warranty in clause 9.4(h),

and ATL has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from *thl* setting out details of the relevant circumstance and requesting ATL to remedy the breach.

- (b) ATL may, by notice in writing to *thl*, terminate this deed at any time prior to the Delivery Time on the Second Court Date if:

- (i) *thl* is in material breach of a *thl* Warranty; or
- (ii) *thl* is in breach of the *thl* Warranty in clause 9.1(r),

and *thl* has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from ATL setting out details of the relevant circumstance and requesting *thl* to remedy the breach.

12.3 Effect of termination

- (a) In the event of termination of this deed under clause 3.8 (Conditions not capable of being fulfilled), 12.1 (Termination by notice) or 12.2 (Termination for breach of representations and warranties), this deed will become void and have no effect, except that the provisions of clauses 9.8 (Survival of representations), 9.9 (Survival of indemnities), 12 (Termination), 13 (Break Fees) and 17.3 to 17.15 (inclusive) survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

13. Break Fees

13.1 Background

- (a) ATL and *thl* acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, each of them will incur significant costs including those described in clause 13.2.
- (b) In the circumstances referred to in clause 13.1(a), each party has requested that provision be made for the payments outlined in clauses 13.3 and 13.4, without which they would not have entered into this deed.
- (c) Each party has determined that the Proposed Transaction will provide benefit to *thl*, ATL and the Independent Shareholders and that it is appropriate for the parties to agree to the payments referred to in this clause 13 in order to secure the participation of ATL and *thl* in the Proposed Transaction.

13.2 Costs incurred by the parties

- (a) The fees payable under clauses 13.3 and 13.4 have been calculated to reimburse the relevant party entitled to payment for the following:
- (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction; and
 - (v) any damage to reputation associated with a failed transaction and the implications of those damages if the relevant party seeks to execute alternative acquisitions in the future,
- in each case, incurred by the relevant parties directly or indirectly as a result of having entered into this deed and pursuing the Proposed Transaction.
- (b) The parties acknowledge that:
- (i) the amount of fees, costs and losses referred to in this clause 13.2 is inherently unascertainable and that, even after termination of this deed, the costs will not be able to be accurately ascertained; and
 - (ii) the amount of the costs payable under to a party under clause 13.3 or 13.4 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

13.3 Payment by ATL to *thl*

- (a) ATL agrees to pay to *thl* A\$1,400,000 (inclusive of GST) (**ATL Break Fee**) in any of the following circumstances:
- (i) (**Competing Proposal succeeds**) both of the following occur:
 - (A) a Competing Proposal is publicly announced during the period commencing on the date of this deed and ending on the End Date; and
 - (B) within 12 months from the date of the public announcement of such Competing Proposal:
 - (I) the Competing Proposal is implemented or completed substantially in the terms described in the public announcement; or
 - (II) without limiting clause 13.3(a)(i)(B)(I), the proponent of that Competing Proposal acquires a Relevant Interest in, an economic interest in or voting power of at least 50% of ATL Shares and the Competing Proposal is (or becomes) free of any defeating condition; or
 - (ii) (**Competing Proposal executed**) at any time before termination of this deed, ATL enters into any agreement with a third party in respect of a Competing Proposal under which that third party and ATL agree to undertake or give effect to such Competing Proposal;
 - (iii) (**Change of Recommendation**) at any time prior to the Second Court Date, any director of ATL:
 - (A) withdraws or adversely modifies their recommendation of the Proposed Transaction (other than the qualifications expressly permitted by clause 5.1) or recommends or supports a Competing Proposal;

- (B) does not recommend in the Explanatory Booklet that the Independent Shareholders approve the Scheme; or
- (C) makes any public statement to the effect that the Scheme is not, or is no longer, recommended,

except where this is:

- (D) as a result of the circumstances set out in clause 5.2, which will not extend to any ATL Director adversely revising or adversely modifying the ATL Director's recommendation of the Proposed Transaction as a result of, or making a public statement indicating that they recommend, endorse or support, a Competing Proposal;
 - (E) as a result of the Independent Expert (either in its initial report or any updated, revised or supplemental report) opining that the Scheme is not in the best interests of the Independent Shareholders other than where the reason for that opinion is a Superior Proposal); or
 - (F) in circumstances where ATL is entitled to terminate this deed under clause 12.1(a) or 12.2(b); or
- (iv) **(Material Breach)** *thl* terminates this deed in accordance with (and subject to the cure periods specified in) clause 12.1(a)(i) or 12.2(a).
- (b) ATL must pay *thl* the ATL Break Fee within 10 Business Days of receipt by ATL of a demand for payment from *thl* made after the occurrence of the event referred to in clause 13.3(a).
 - (c) The ATL Break Fee is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
 - (d) The ATL Break Fee is not payable where:
 - (i) ATL has become entitled to the *thl* Break Fee; or
 - (ii) the Scheme becomes Effective.

13.4 Payment by *thl* to ATL

- (a) *thl* agrees to pay to ATL A\$1,400,000 (inclusive of GST) (***thl* Break Fee**) if:
 - (i) ATL terminates this deed in accordance with clauses 12.1(a)(i) or 12.2(b); or
 - (ii) the Scheme becomes Effective but *thl* does not provide the Scheme Consideration in accordance with the terms and conditions of this deed and the Deed Poll.
- (b) *thl* must pay ATL the *thl* Break Fee within 10 Business Days of receipt by *thl* of a demand for payment from ATL made after the occurrence of the event referred to in clause 13.4(a).
- (c) The *thl* Break Fee is not payable where *thl* has become entitled to the ATL Break Fee.

13.5 Limits on Claims

- (a) Subject to clause 13.5(c), the maximum aggregate amount that:
 - (i) ATL is required to pay in relation to this deed (including any breach of this deed) to *thl* and *thl* Acquirer is the ATL Break Fee and in no event will the aggregate liability of ATL to *thl* and *thl* Acquirer in connection with this deed exceed the amount of the ATL Break Fee; and
 - (ii) *thl* and *thl* Acquirer are required to pay in relation to this deed (including any breach of this deed) to ATL is the *thl* Break Fee and in no event will the aggregate liability of *thl* and *thl* Acquirer in connection with this deed exceed the amount of the *thl* Break Fee.
- (b) Notwithstanding any other clause in this document other than clause 13.5(c), if an amount is paid by:

- (i) ATL under clause 13.3, that amount is received by **thl** in complete settlement of any and all Claims that **thl** may have against ATL in respect of the Scheme or in connection with this deed; and
 - (ii) **thl** under clause 13.4, that amount is received by ATL in complete settlement of any and all Claims that ATL may have against **thl** in respect of the Scheme or in connection with this deed.
- (c) This clause 13.5 does not:
- (i) limit any rights or obligations under the Deed Poll;
 - (ii) limit the liability of a party for fraud or wilful material breach of this deed; or
 - (iii) restrict the ability of a party to seek and obtain the remedy of specific performance.

14. Exclusivity

14.1 No existing discussions

Other than in relation to the discussions with **thl** in connection with the Proposed Transaction, ATL represents and warrants to **thl** that, as at the date of this deed:

- (a) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is a party to any agreement with a third party entered into for the purpose of facilitating a Competing Proposal; and
- (b) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is participating in any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, a Competing Proposal.

14.2 No shop restriction

During the Exclusivity Period, except with the prior written consent of **thl**, ATL must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, directly or indirectly:

- (a) solicit, invite, encourage, continue or initiate any Competing Proposal or any enquiries, negotiations or discussions with any third party in relation to, or that may reasonably be expected to encourage or lead to, an actual, proposed or potential Competing Proposal or which may otherwise lead to the Proposed Transaction not being completed; or
- (b) solicit, invite, encourage or initiate approaches, enquiries, discussions or proposals with a view to obtaining any offer, proposal or expression of interest from any person in relation to, or which may reasonably be expected to lead to, an actual, proposed or potential Competing Proposal,

or communicate any intention to do any of those things.

14.3 No talk restriction

Subject to clause 14.5, during the Exclusivity Period, ATL must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, (whether directly or indirectly):

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
- (b) communicate any intention to do any of these things,

in relation to, or that may reasonably be expected to encourage or lead to, an actual or potential Competing Proposal or any agreement, understanding or arrangement that may be reasonably expected to encourage or lead to a Competing Proposal or which may otherwise lead to the Proposed Transaction not being completed, even if:

- (c) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by ATL or any of its Related Bodies Corporate; or
- (d) that person has publicly announced the Competing Proposal.

14.4 No due diligence

- (a) Subject to clause 14.5, during the Exclusivity Period, except with the prior written consent of *thl*, ATL must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:
 - (i) solicit, invite, initiate, or encourage, or (subject to clause 14.5) facilitate or permit, any person (other than *thl*) to undertake due diligence investigations in respect of ATL, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
 - (ii) subject to clause 14.5, make available to any person (other than *thl*) or permit any such person to receive any non-public information relating to ATL, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.
- (b) If ATL proposes that any non-public information be provided to a third party, then:
 - (i) before ATL provides such information, the third party must enter into an Acceptable Confidentiality Deed (which must not contain any cost reimbursement or break fee provisions in favour of the third party); and
 - (ii) any non-public information provided to that third party must also be provided to *thl* (unless the information has already been provided to *thl* or its Authorised Person).

14.5 Exceptions

Clauses 14.3 and 14.4(a) do not apply to the extent that they restrict ATL or the ATL Board from taking or refusing to take any action with respect to a genuine Competing Proposal (in relation to which there has been no contravention of this clause 14) provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the ATL Board considers is of sufficient commercial standing;
- (b) the ATL Board, acting in good faith, determines:
 - (i) where there is a written Competing Proposal, after consultation with its financial advisers, that the Competing Proposal is a Superior Proposal or the steps which the ATL Board proposes to take may reasonably be expected to lead to a Competing Proposal which is a Superior Proposal; and
 - (ii) after receiving written legal advice from ATL's external legal advisers experienced in transactions of this nature, that failing to respond to the Competing Proposal would be likely to constitute a breach of its fiduciary or statutory duties; and
- (c) ATL notifies promptly and in any event within 48 hours *thl* of each action or inaction by ATL or the ATL Board in reliance on this clause 14.5.

14.6 ATL exclusivity warranty and undertakings

- (a) ATL warrants as at the date of this deed:
 - (i) that it has, and its Authorised Persons have, ceased any existing discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal; and
 - (ii) that it has requested, or will as soon as practicable request, the return of ATL's confidential information in accordance with the terms of any relevant confidentiality agreement from all third parties conducting due diligence investigations on the ATL Group prior to the date of this deed in connection with (or contemplation of) a Competing Proposal or potential Competing Proposal.
- (b) During the Exclusivity Period, ATL must:
 - (i) enforce all its rights under each confidentiality agreement entered into in connection with an actual or potential Competing Proposal (before the date of this

deed), including any standstill obligations and its rights to require the return of confidential information as referred to in clause 14.6(a)(ii);

- (ii) as soon as reasonably practicable, ensure that any electronic data room access granted to any third party prior to the date of this deed in connection with an actual or potential Competing Proposal is withdrawn; and
- (iii) not grant any waivers or agree to any amendments under any confidentiality agreements entered into in connection with an actual or potential Competing Proposal (before the date of this deed).

14.7 Notice of Competing Proposal

- (a) During the Exclusivity Period, ATL must promptly notify *thl* in writing of:
 - (i) any approach, inquiry or proposal made by any person to ATL, any of its Related Bodies Corporate or any of their respective Authorised Persons, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a Competing Proposal; and
 - (ii) any request made by any person to ATL, any of its Related Bodies Corporate or any of their respective Authorised Persons, for any information relating to ATL, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of a Competing Proposal,

(Competing Proposal Notice).
- (b) A Competing Proposal Notice must be accompanied by all material details of the relevant event, including (as the case may be):
 - (i) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 14.7(a)(i) or who made the relevant request for information referred to in clause 14.7(a)(ii); and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and any break fee) of any Competing Proposal or any proposed Competing Proposal (to the extent known),

and *thl* agrees that any such information received will constitute “Confidential Information” as defined in the Confidentiality Deed.
- (c) During the Exclusivity Period ATL must also notify *thl* in writing as soon as possible after becoming aware of any material developments in relation to any actual, proposed or potential Competing Proposal, including in respect of any of the information previously notified to *thl* under this clause 14.7.
- (d) For the purposes of this clause 14.7, each successive material modification of any third party expression of interest, offer or proposal in relation to a Competing Proposal will constitute a new Competing Proposal.

14.8 ATL's response to Competing Proposal and *thl*'s right to respond

- (a) If ATL receives a Competing Proposal and as a result, any ATL Director proposes to either:
 - (i) change, withdraw or modify the ATL Director's recommendation of the Scheme; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Competing Proposal with the person who has made the applicable Competing Proposal (other than an Acceptable Confidentiality Deed),

ATL must direct each ATL Director not to do so:

 - (iii) unless the Competing Proposal is bona fide; and
 - (iv) until each of the following has occurred:

- (A) ATL has given *thl* written notice (**Relevant Notice**) of the ATL Director's proposal to take the action referred to in clauses 14.8(a)(i) or 14.8(a)(ii) (subject to *thl*'s rights under clause 14.8(b)), including details of the grounds on which the ATL Directors propose to take such action;
 - (B) ATL has given *thl* all information that would be required by clause 14.7(b) (excluding the operation of clause 14.5), including the identity of the person making the Competing Proposal; and
 - (C) either:
 - (I) *thl* has not announced or provided to ATL a Counter Proposal before the Cut Off Date; or
 - (II) *thl* has announced or provided to ATL a Counter Proposal before the Cut Off Date and the ATL Board has determined, in good faith, that the Counter Proposal would not provide an equivalent or superior outcome to ATL Shareholders as a whole compared with the Competing Proposal and *thl* have been given an opportunity to amend the Counter Proposal in accordance with clause 14.8(e).
- (b) If ATL gives a Relevant Notice to *thl* under clause 14.8(a)(iv)(A), *thl* will have the right, but not the obligation, at any time during the 5 Business Days following the receipt of the Relevant Notice (**Cut Off Date**), to amend the terms of the Proposed Transaction including increasing the amount of consideration offered under the Proposed Transaction or proposing another form of transaction (each a **Counter Proposal**), and if it does so then the ATL Directors must review the Counter Proposal and determine whether, in good faith, the Counter Proposal would provide an equivalent or superior outcome to ATL Shareholders as a whole compared with the Competing Proposal.
 - (c) ATL must procure that the ATL Board promptly, and in any event within 2 Business Days of receiving a Counter Proposal, notifies *thl* of the determination in writing, stating reasons for that determination.
 - (d) If the ATL Directors determine in good faith that the Counter Proposal would provide an equivalent or superior outcome to ATL Shareholders as a whole compared with the Competing Proposal, then ATL and *thl* must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the Counter Proposal, and to enter into an amended agreement to give effect to those amendments and to implement the Counter Proposal, and ATL must use its best endeavours to procure that the ATL Directors recommend the Counter Proposal to the ATL Shareholders and not recommend the applicable Competing Proposal.
 - (e) If the determination is that the Counter Proposal would not provide an equivalent or superior outcome to ATL Shareholders as a whole compared with the Competing Proposal, then *thl* may take steps to amend the Counter Proposal to address the reasons given within a further period of 5 Business Days. If *thl* does so to ATL's satisfaction, then the process in clauses 14.8(c) and 14.8(d) applies to that amended Counter Proposal.
 - (f) For the purposes of this clause 14.8, each successive material modification of any third party expression of interest, offer or proposal in relation to a Competing Proposal will constitute a new Competing Proposal.

14.9 Normal provision of information

Nothing in this clause 14 prevents ATL from;

- (a) providing any information required to be provided by any applicable law (including to satisfy its obligations under the ASX Listing Rules), any Governmental Agency, or any court of competent jurisdiction;
- (b) providing any information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business; and

- (c) making presentations to, or responding to enquiries from, brokers, portfolio investors, analysts and other third parties, and engaging with financiers and potential financiers, in the ordinary course of business in accordance with its usual practices.

15. Modification of ATL Break Fee, *thl*/Break Fee or exclusivity arrangements

15.1 Modifications following regulatory intervention

If any of the following occurs:

- (a) a Governmental Agency finds that all or any part of the payment required to be made under clause 13 or an exclusivity arrangement under clause 14 is unacceptable or unenforceable; or
- (b) as a result of an application to the Australian Takeovers Panel, the Australian Takeovers Panel indicates that, in the absence of a written undertaking under section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth) to modify the amount of the ATL Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 14, it will make a declaration of unacceptable circumstances,

then, subject to clause 15.2:

- (c) the parties must amend clauses 13 and/or 14 to the extent required to give effect to the requirements of the Governmental Agency or the Takeovers Panel (as the case may be) and (in circumstances referred to in clause 15.1(b)) must give the required undertaking(s); and
- (d) neither the occurrence of any of the events referred to in clauses 15.1(a) or 15.1(b) nor the amendment of clauses 13 and/or 14 will be taken to be a breach of, or permit any party to terminate, this deed.

15.2 No requirement to act unless decision final

The parties are only required to take steps under 15.1(c) in relation to any requirement of a Governmental Agency or the Takeovers Panel if:

- (a) no appeal or review proceeding is available from the decision to impose that requirement or the period for lodging an appeal or commencing review proceedings has expired without an appeal having been lodged or review proceedings commenced; or
- (b) *thl* and ATL agree in writing not to appeal or seek review of the decision to impose that requirement (having consulted in good faith on whether to do so).

15.3 Appeals and review of regulatory decisions

Nothing in this deed requires a party to appeal or seek review of any decision of a Governmental Agency or the Takeovers Panel referred to in clause 15.1(a) or 15.1(b). If either *thl* or ATL wishes to appeal or seek review of any such decision then the other party must make submissions in the course of those proceedings supporting the review made by the first party.

15.4 Determination by Governmental Agency

If a Governmental Agency determines that payment of all or any part of the ATL Break Fee is unacceptable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the ATL Board (**Impugned Amount**) and either no appeal from that determination is available or the period for lodging an appeal has expired without having an appeal having been lodged then:

- (a) the obligation of ATL to pay the ATL Break Fee does not apply to the extent of the Impugned Amount; and
- (b) if *thl* has received any part of the Impugned Amount, it must refund it within 5 Business Days after that determination is made or the period for lodging has expired, whichever is later.

16. Notices

Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must be sent to the address for service of the addressee specified in the Details;
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered or posted by prepaid post to the address, or sent to the email address, of the addressee, in accordance with the Details; and
- (e) will be deemed to be received by the addressee:
 - (i) **(in the case of prepaid post)** on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
 - (ii) **(in the case of email)** immediately 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, unless that local time is not a Business Day, or is between 5.00pm and midnight on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day. If delivery is between 12.01am and 8.59am local time on a Business Day, then delivery will be deemed to be received at 9.00am on that Business Day; and
 - (iii) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day. If delivery is between 12.01am and 8.59am local time on a Business Day, then delivery will be deemed to be received at 9.00am on that Business Day.

17. General

17.1 Further acts

Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to give effect to this deed.

17.2 Timetable

The parties agree that the Timetable is indicative only and is not binding on the parties.

17.3 Payments

Unless otherwise provided in this deed, where an amount is required to be paid to a party (**Receiving Party**) by another party under this deed, that amount shall be paid:

- (a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- (b) without deduction, withholding or set-off.

17.4 Interest

- (a) If a party fails to pay any amount payable under this deed on the due date for payment, that party must pay interest on the amount unpaid at the higher of the Interest Rate plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged.

- (b) The interest payable under clause 17.4(a):
 - (i) accrues from day to day from and including the due date for payment up to the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
 - (ii) may be capitalised by the person to whom it is payable at monthly intervals.

17.5 GST

- (a) Any reference in this clause 17.5 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 17.5(c) for that supply (**GST Exclusive Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. This clause 17.5(c) does not apply to any taxable supply under or in connection with this deed that is stated to include GST.
- (d) The amount on account of GST payable in accordance with this clause 17.5 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.
- (e) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.

17.6 Stamp duty

thl must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including without limitation the acquisition or transfer of Scheme Shares under the Scheme).

17.7 Expenses

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this deed and the Explanatory Booklet and the proposed, attempted or actual implementation of this deed and the Scheme.

17.8 Amendments

This deed may only be varied by a document signed by or on behalf of each of the parties.

17.9 Assignment

- (a) Subject to clause 17.9(b) below, a party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.
- (b) *thl* may assign, grant a security interest over, novate or otherwise transfer by way of security, any of its rights or obligations under this deed to a financier or financiers (or a security agent or security trustee thereof).

17.10 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

17.11 Counterparts and electronic execution

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by email to the email address of the other party specified in clause 16, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.
- (d) A party may sign electronically a soft copy of this deed through DocuSign or other electronic means and bind itself accordingly. That will satisfy any statutory or other requirements for it to be in writing and signed by that party. Any soft copy so signed will constitute an executed original counterpart. In addition, it is intended to print it out when so signed, so that the relevant signatures will appear in the printout, and any printout will also be an executed original counterpart.

17.12 Entire agreement

- (a) This deed (including the Scheme and the Deed Poll):
 - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
 - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) Despite clause 17.12(a), the Confidentiality Deed continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this deed prevails.

17.13 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements set out in this deed.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement set out in this deed.

17.14 No merger

The rights and obligations of the parties will not merge on completion of any transaction under this deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

17.15 Governing law and jurisdiction

- (a) This deed is governed by and will be construed according to the laws of Queensland.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts with jurisdiction in Queensland and of the courts competent to determine appeals from those courts and waive any right to object to the venue on any ground.

Schedule 1 – Indicative timetable

Event	Date
Enter into Scheme Implementation Deed	10 December 2021
Lodge Explanatory Booklet with ASIC and ASX for review and comment	Q3 FY2022
First Court Date	Q3 FY2022
Explanatory Booklet registered by ASIC	Q3 FY2022
Dispatch Explanatory Booklet to Independent Shareholders	Q3 FY2022
Scheme Meeting	Q3 FY2022
Second Court Date	Q4 FY2022
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	Q4 FY2022
Scheme Record Date	Q4 FY2022
Implementation Date	Q4 FY2022

Schedule 2 – Scheme

Scheme of Arrangement

Apollo Tourism & Leisure Ltd ABN 67 614 714 742

—

Scheme Shareholders

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Scheme of Arrangement

Apollo Tourism & Leisure Ltd ABN 67 614 714 742

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Details

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth).

Between the parties

Apollo Tourism & Leisure Ltd ABN 67 614 714 742 of 698 Nudgee Road, Northgate QLD 4013, Australia (**ATL**)

and

Each Scheme Shareholder

Agreed terms

1. Defined terms & interpretation

1.1 Definitions

In this Scheme, unless the context requires otherwise:

ACCC means the Australian Competition and Consumer Commission.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ACN 008 624 691, or as the context requires or permits, the financial market known as the Australian Securities Exchange operated by it.

ASX Listing Rules means the official listing rules of ASX as amended from time to time.

ATL Register means the register of shareholders maintained by ATL under section 168(1) of the Corporations Act.

ATL Share means an issued fully paid ordinary share in the capital of ATL.

Australian Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Brisbane, Queensland, Australia or Auckland, New Zealand.

CHESS means the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ABN 49 008 504 532.

CHESS Holding has the meaning given in the Settlement Rules.

Commerce Commission means the New Zealand Commerce Commission.

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

Court means the Supreme Court of Queensland or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Delivery Time means, in relation to the Second Court Date, two hours before the commencement of the hearing or, if the commencement of the hearing is adjourned, two hours before the commencement of the adjourned hearing, of the Court to approve this Scheme in accordance with section 411(4)(b) of the Corporations Act.

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.

Effective Date means the date on which this Scheme becomes Effective.

End Date means the 'End Date' determined in accordance with the Scheme Implementation Deed.

FIRB means the Australian Foreign Investment Review Board.

Foreign Scheme Shareholder means a Scheme Shareholder whose address as shown in the ATL Register (as at the Scheme Record Date) is located outside of:

- (a) Australia or its external territories;
- (b) New Zealand;
- (c) United Kingdom; and
- (d) any other jurisdictions as may be agreed in writing by ATL and *thl*,

unless *thl* determines (in its absolute discretion), that *thl* is permitted to allot and issue *thl* Consideration Shares to that Scheme Shareholder under this Scheme by the laws of that place either unconditionally or after compliance with conditions that *thl* considers are not unduly onerous or impracticable.

Governmental Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, FIRB, ACCC, the Australian Takeovers Panel, Financial Markets Authority, NZX, Commerce Commission, NZ Takeovers Panel and any regulatory organisation established under statute or any stock exchange.

Implementation Date means, with respect to the Scheme, the later of:

- (a) the fifth Business Day following the Scheme Record Date (as relevant); and
- (b) such other Business Day as the parties agree.

Issuer Sponsored Holding has the meaning given in the Settlement Rules.

Market Integrity Rules means any rules made by ASIC under section 798G of the Corporations Act that apply to ASX or any other prescribed financial market on which ATL Shares are quoted.

NZ Takeovers Panel means the Takeovers Panel established by section 5(1) of the *Takeovers Act 1993* (NZ).

NZX means, where the context requires, NZX Limited (Co. No. 1266120) or NZX Regulation Limited (Co. No. 8072017) and, where the context requires, the main board financial market that these entities operate.

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between ATL and the Scheme Shareholders, subject to any alterations or conditions that are:

- (a) agreed to in writing by ATL and *thl* and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by ATL and *thl*.

Scheme Consideration means means 1 *thl* Consideration Share per 3.680818 Scheme Shares.

Scheme Deed Poll means the deed poll dated [*insert*] executed by *thl* and *thl* Acquirer under which *thl* and *thl* Acquirer among other things covenant in favour of the Scheme Shareholders to perform the actions attributed to them respectively under this Scheme, including, in the case of *thl*, providing the Scheme Consideration.

Scheme Implementation Deed means the Scheme Implementation Deed dated [*insert*] between *thl*, *thl* Acquirer and ATL.

Scheme Meeting means the meeting of Scheme Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Record Date means 7.00pm on the second Business Day (or such other Business Day as *thl* and ATL agree in writing) after the Effective Date.

Scheme Share means an ATL Share on issue as at the Scheme Record Date, other than an ATL Share held by a *thl* Entity.

Scheme Shareholder means a person who holds one or more Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

Settlement Rules means the ASX Settlement Operating Rules.

thl means Tourism Holdings Rentals Limited ARBN 655 142 028, a foreign company registered in its original jurisdiction of New Zealand as Tourism Holdings Limited (Co. No. 248179).

thl Acquirer means THL Group (Australia) Pty. Ltd. ACN 055 966 222.

thl Consideration Share means a **thl** Share to be issued under the terms of the Scheme as Scheme Consideration.

thl Entities means:

- (a) **thl**; and
- (b) any other entity that is Controlled by **thl** that holds ATL Shares.

1.2 Interpretation

In this Scheme, except where the context requires otherwise:

- (a) the singular includes the plural, and the converse also applies;
- (b) a gender includes all genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
- (e) a reference to a clause is a reference to a clause of this Scheme;
- (f) a reference to an **agreement** or **document** (including a reference to this Scheme) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Scheme or that other agreement or document, and includes, except to the extent this Scheme expressly provides otherwise the recitals, schedules and annexures to that agreement or document;
- (g) a reference to a party to this Scheme or an agreement or document includes the party's executors, administrators, successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives);
- (h) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (i) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (j) a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind;
- (k) a reference to **dollars** or **\$** is to Australian currency;
- (l) all references to time are to Brisbane, Queensland, Australia time;
- (m) mentioning anything after *includes*, *including*, *for example*, or similar expressions, does not limit what else might be included;
- (n) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act; and
- (o) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Business Day

Where the day on or by which any act, matter or thing under this Scheme is to be done is not a Business Day, that act, matter or thing must be done on or by the next Business Day.

1.5 Listing requirements included as law

A listing rule or operating rule of a financial market and a Market Integrity Rule will be regarded as a law and a reference to legislation (as appropriate), and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

2. Preliminary

2.1 ATL

- (a) ATL is a public company limited by shares, registered in Queensland and admitted to the official list of ASX.
- (b) The ATL Shares are officially quoted on ASX. As at the date of the Scheme Implementation Deed, 186,150,908 ATL Shares were on issue and officially quoted on ASX.

2.2 *thl*

thl is a public company limited by shares, registered in New Zealand and admitted to the official list of NZX.

2.3 *thl* Acquirer

thl Acquirer is a proprietary company limited by shares, incorporated in Australia and registered in New South Wales.

2.4 General

- (a) *thl*, *thl* Acquirer and ATL have agreed by executing the Scheme Implementation Deed to implement this Scheme subject to the terms and conditions of this Scheme.
- (b) This Scheme attributes actions to *thl* and *thl* Acquirer but does not itself impose an obligation on them to perform those actions, as neither *thl* nor *thl* Acquirer are parties to this Scheme. *thl* and *thl* Acquirer have agreed, by executing the Scheme Deed Poll, to perform the actions attributed to each of them under this Scheme (including the provision of the Scheme Consideration to the Scheme Shareholders subject to the terms and conditions of this Scheme).

2.5 Consequence of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) in consideration of the transfer of each Scheme Share to *thl* Acquirer, *thl* will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme; and
- (b) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to *thl* Acquirer on the Implementation Date, and ATL will enter the name of *thl* Acquirer in the Share Register as the holder of the Scheme Shares with the result that ATL will become a subsidiary of *thl* Acquirer.

3. Conditions

- (a) This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:
 - (i) all the conditions precedent in clause 3.1 of the Scheme Implementation Deed (other than the conditions in clauses 3.1(o) (Court approval) and 3.1(p) (Order lodged with ASIC) of the Scheme Implementation Deed) having been satisfied or

waived in accordance with the terms of the Scheme Implementation Deed by no later than the Delivery Time on the Second Court Date;

- (ii) neither the Scheme Implementation Deed nor the Scheme Deed Poll having been terminated in accordance with their terms as at the Delivery Time on the Second Court Date;
 - (iii) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to in writing by *thl, thl* Acquirer and ATL and an office copy of the Court order approving the Scheme under section 411(4)(b) of the Corporations Act is lodged with ASIC;
 - (iv) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are agreed to in writing by *thl, thl* Acquirer and ATL; and
 - (v) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date that *thl, thl* Acquirer and ATL agree in writing).
- (b) The satisfaction of the conditions referred to in clause 3(a) of this document is a condition precedent to the operation of clauses 4.2 and 5.

4. Implementation

4.1 Lodgement of Court orders

Subject to the ASX Listing Rules and all conditions precedent in clause 3(a) of this document (other than the condition precedent in clause 3(a)(v)) being satisfied, ATL must lodge with ASIC office copies of any Court orders under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving this Scheme as soon as reasonably practicable after the Court approves this Scheme and in any event no later than by 5.00pm on the first Business Day after the Court approves this Scheme or such later time as *thl* and ATL agree in writing.

4.2 Transfer of Scheme Shares

On the Implementation Date, subject to the provision of the Scheme Consideration for the Scheme Shares by *thl*, and *thl* confirming in writing to ATL by no later than 12 noon (or such later time as *thl, thl* Acquirer and ATL may agree) on the Implementation Date that the *thl* Consideration Shares have been provided, in the manner contemplated by clause 5.3(a):

- (a) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to *thl* Acquirer, without the need for any further act by any Scheme Shareholder (other than acts performed by ATL or its officers as agent and attorney of the Scheme Shareholders under clause 8.6 or otherwise), by:
 - (i) ATL delivering to *thl* Acquirer a duly completed and executed share transfer form to transfer all the Scheme Shares to *thl* Acquirer, executed on behalf of the Scheme Shareholders by ATL (or any of its officers) as agent and attorney of the Scheme Shareholders; and
 - (ii) *thl* Acquirer duly executing such transfer form and delivering it to ATL for registration; and
- (b) immediately after receipt of the transfer form in accordance with clause 4.2(a)(ii), ATL must enter, or procure the entry of, the name of *thl* Acquirer in the Share Register in respect of the Scheme Shares transferred to *thl* Acquirer in accordance with this Scheme.

5. Scheme Consideration

5.1 Amount of Scheme Consideration

Subject to clause 5.2, each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of the Scheme Shares held by the Scheme Shareholder.

5.2 Foreign Scheme Shareholders

thl and *thl* Acquirer have no obligation to issue (or procure the issue), and must not issue, any *thl* Consideration Shares to Foreign Scheme Shareholders, and instead:

- (a) *thl* will issue the *thl* Consideration Shares that would otherwise have been issued to the Foreign Scheme Shareholders to a nominee appointed by *thl*,
- (b) *thl* will procure that, as soon as reasonably practicable after the Implementation Date (and, in any event, not more than 15 Business Days after the Implementation Date), the nominee:
 - (i) sells, or procures the sale, of those *thl* Consideration Shares on-market and in the ordinary course of trading on NZX in such manner, at such price and on such other terms as the nominee determines in good faith; and
 - (ii) remits the proceeds from that sale (after deducting any brokerage, duty and other selling costs, taxes and charges) to *thl*, and
- (c) as soon as practicable after the last sale of *thl* Consideration Shares in accordance with clause 5.2(a) and remittance of the proceeds of that sale in accordance with clause 5.2(b), *thl* will pay the proceeds it receives to the Foreign Scheme Shareholders in accordance with their entitlement in full satisfaction of the Foreign Scheme Shareholders' entitlement to the relevant *thl* Consideration Shares. No assurances are or will be given to Foreign Scheme Shareholders as to the price that will be achieved for the sale of *thl* Consideration Shares in accordance with this clause and the sale of the *thl* Consideration Shares will be at the risk of the Foreign Scheme Shareholder.

5.3 Provision of Scheme Consideration

- (a) *thl* must before 12 noon (or such later time as *thl* and ATL may agree) on the Implementation Date provide the Scheme Consideration in accordance with this Scheme by procuring that the name of each Scheme Shareholder entitled to receive *thl* Consideration Shares under this Scheme is entered in *thl*'s register of members as the holder of those *thl* Consideration Shares (having the same holding name and address and other details as the holding of the relevant Scheme Shares).
- (b) On or before the date that is five Business Days after the Implementation Date, *thl* must send or procure the sending of a share certificate or holding statement (or equivalent document) to each Scheme Shareholder entitled to receive *thl* Consideration Shares under this Scheme, reflecting the issue of such *thl* Consideration Shares.

5.4 Foreign resident capital gains withholding

- (a) If *thl* determines (acting reasonably), having regard to advice from a qualified tax advisor, that *thl* is either:
 - (i) required by law to withhold an issue of *thl* Consideration Shares (or a combination) to a Scheme Shareholder; or
 - (ii) liable to pay an amount to the Commissioner of Taxation under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) in respect of the acquisition of Scheme Shares from a Scheme Shareholder,(either of the above being the **Relevant Amount**),

then *thl* is entitled to reduce the number of *thl* Consideration Shares issued by a number calculated by the following factor, RA/VS, rounded up to the nearest whole number of *thl* Consideration Shares, where:

- (A) **RA** means the Relevant Amount; and
- (B) **VS** means the value (as reasonably assessed by *thl*) of one *thl* Consideration Shares; and

and issue of the reduced number of *thl* Consideration Shares and payment of the Relevant Amount to the relevant taxation authority pursuant to clause 5.4(b) shall be taken to be full payment of the Relevant Amount for the purposes of this Scheme, including clause 5.3.

- (b) *thl* must pay any Relevant Amount so withheld to the relevant taxation authority within the time permitted by law, and, if requested in writing by the relevant Scheme Shareholder, provide a receipt or other appropriate evidence (or procure the provision of such receipt or other evidence) of such payment to the relevant Scheme Shareholder.

5.5 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any *thl* Consideration Shares comprised in the Scheme Consideration are to be registered in the names of the joint holders; and
- (b) any other document required to be sent under this Scheme will be forwarded to the holder whose name appears first in the Share Register as at the Scheme Record Date or to the joint holders.

5.6 Fractional entitlements

- (a) Any fractional entitlement of the Scheme Shareholder to a part of a *thl* Consideration Share will be rounded as follows:
 - (i) if the fractional entitlement is less than 0.5, it will be rounded down to zero *thl* Consideration Shares; and
 - (ii) if the fractional entitlement is equal to or more than 0.5, it will be rounded up to one *thl* Consideration Shares.
- (b) If *thl* is of the reasonable opinion that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.6) have, before the Scheme Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding or shareholding splitting or division, *thl* may give notice to those Scheme Shareholders:
 - (i) setting out their names and addresses as shown in the ATL Register as at the Scheme Record Date;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

and, after such notice has been given, the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares will, for the purposes of the other provisions of this Scheme, be taken to hold all of those Scheme Shares and each of the other Scheme Shareholders whose names and addresses as set out in the ATL Register on the Scheme Record Date are set out in the notice will, for the purposes of the other provisions of this Scheme, be taken to hold no Scheme Shares. *thl*, in complying with the other provisions of this Scheme relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of this Scheme.

5.7 Status of *thl* Consideration Shares

Subject to this Scheme becoming Effective, *thl* must:

- (a) in accordance with the Deed Poll, issue the *thl* Consideration Shares to the Scheme Shareholders in accordance with the Scheme on terms that each *thl* Consideration Share will rank equally in all respects with each other *thl* Share then on issue;
- (b) ensure that on issue each *thl* Consideration Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the constitution of *thl*); and
- (c) do everything reasonably necessary to ensure that trading in the *thl* Consideration Shares commences on NZX and ASX on a normal trading basis by the Implementation Date or as soon as practicable thereafter.

5.8 Definition of *sending*

For the purposes of clause 5, the expression *sending* means, in relation to each Scheme Shareholder:

- (a) sending by ordinary pre-paid post or courier to the address of that Scheme Shareholder as set out in the ATL Register at the Scheme Record Date; or
- (b) delivery to the address of that Scheme Shareholder as set out in the ATL Register at the Scheme Record Date by any other means at no cost to the recipient.

6. Dealings in Scheme Shares

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Scheme Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Share Register as the holder of the relevant Scheme Shares on or before 7.00pm on the Scheme Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before 5.00pm on the day on which the Scheme Record Date occurs at the place where the Share Register is kept,

and ATL will not accept for registration, nor recognise for any purpose (except a transfer to *thl* Acquirer under this Scheme and any subsequent transfer by *thl* Acquirer or its successors in title or by the *thl* Entities), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

- (a) **(Registration of transfers)** ATL must register registrable transmission applications or transfers of the kind referred to in clause 6.1(b) by or as soon as reasonably practicable after the Scheme Record Date.
- (b) **(No registration after Scheme Record Date)** ATL will not accept for registration or recognise for any purpose any transmission application or transfer in respect of ATL Shares received after 5.00pm on the day on which the Scheme Record Date occurs, other than to *thl* Acquirer in accordance with this Scheme and any subsequent transfer by *thl* Acquirer or its successors in title or by the *thl* Entities.
- (c) **(Maintenance of Share Register)** For the purpose of determining entitlements to the Scheme Consideration, ATL must maintain the Share Register in accordance with the provisions of this clause until the Scheme Consideration has been delivered to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) **(No disposal after Scheme Record Date)** From the Scheme Record Date until registration of *thl* Acquirer in respect of all Scheme Shares under clause 4, no Scheme Shareholder may dispose or otherwise deal with Scheme Shares (or purport to do so) in any way except as set out in this Scheme and any attempt to do so will have no effect and ATL shall be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Scheme Record Date)** All statements of holding for ATL Shares will cease to have effect from the Scheme Record Date as documents of title in respect of those shares. As from the Scheme Record Date, each entry current at that date on the Share Register (other than entries in respect of the *thl* Entities) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the ATL Shares relating to that entry.
- (f) **(Provision of Scheme Shareholder details)** As soon as practicable on or after the Scheme Record Date and in any event within one Business Day after the Scheme Record

Date, ATL will ensure that details of the names, addresses set out in the ATL Register at the Scheme Record Date and holdings of ATL Shares for each Scheme Shareholder are available to *thl* Acquirer in the form *thl* Acquirer reasonably requires.

7. Suspension and delisting

- (a) ATL will apply to ASX to suspend trading on the ASX in ATL Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by ATL, and to take effect only after the transfer of the Scheme Shares has been registered in accordance with clause 4.2(b), ATL will apply:
 - (i) for termination of the official quotation of ATL Shares on ASX; and
 - (ii) to have itself removed from the official list of ASX.

8. General Scheme provisions

8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) ATL may, by its counsel or solicitors, consent on behalf of all persons concerned to those alterations or conditions to which ATL has consented in writing; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions to which counsel or the solicitors for ATL have consented.

8.2 Binding effect of Scheme

This Scheme binds ATL and all Scheme Shareholders (including those who did not attend the Scheme Meeting, those who did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of ATL.

8.3 Scheme Shareholders' agreements and acknowledgment

Each Scheme Shareholder:

- (a) acknowledges the binding effect of the Scheme as described in clause 8.2;
- (b) agrees to the transfer of their ATL Shares together with all rights and entitlements attaching to those ATL Shares in accordance with this Scheme;
- (c) who holds their ATL Shares in a CHESS Holding agrees to the conversion of those ATL Shares to an Issuer Sponsored Holding and irrevocably authorises ATL to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion;
- (d) agrees to any variation, cancellation or modification of the rights attached to their ATL Shares constituted by or resulting from this Scheme;
- (e) agrees to, on the direction of *thl*, destroy any holding statements or share certificates relating to their ATL Shares;
- (f) agrees to become a shareholder of *thl*, have their name and address entered in *thl*'s register of members (and other details as the holding of the relevant Scheme Shares), and to be bound by its constitution; and
- (g) acknowledges and agrees that this Scheme binds ATL and all Scheme Shareholders (including those who did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that Scheme Meeting).

8.4 Warranties by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to ATL, in its own right and for the benefit of *thl* and *thl* Acquirer (and is deemed to have authorised ATL to give such

warranties to *thl* and *thl* Acquirer in accordance with clause 8.4(b)), that as at the Implementation Date:

- (i) all of its Scheme Shares which are transferred to *thl* Acquirer under this Scheme, including any rights and entitlements attaching to those Scheme Shares, will, at the time of transfer, be free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any “security interests” within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;
 - (ii) all of its ATL Shares which are transferred to *thl* Acquirer under this Scheme will, on the date on which they are transferred to *thl* Acquirer, be fully paid;
 - (iii) it has full power and capacity to transfer its ATL Shares to *thl* Acquirer together with any rights attaching to those shares; and
 - (iv) it has no existing right to be issued any ATL Shares, options exercisable into ATL shares, ATL convertible notes or any other ATL securities.
- (b) ATL undertakes that it will provide the warranties in clause 8.4(a) to *thl* and *thl* Acquirer as agent and attorney of each Scheme Shareholder.

8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any “security interests” within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.
- (b) On and from the Implementation Date, subject to the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 5.3(a), *thl* Acquirer will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by ATL of *thl* Acquirer in the Share Register as the holder of the Scheme Shares.

8.6 Authority given to ATL

- (a) Scheme Shareholders will be deemed to have authorised ATL to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary for or incidental to the implementation of this Scheme, including executing and delivering, as agent and attorney of each Scheme Shareholder:
- (i) a share transfer or transfers in relation to Scheme Shares as contemplated by clause 4.2; and
 - (ii) any deed or document required by *thl* or ATL that causes each Scheme Shareholder entitled to *thl* Consideration Shares to be bound by the constitution of *thl*.
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints ATL and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of:
- (i) on the Effective Date, enforcing the Scheme Deed Poll against *thl* and *thl* Acquirer and ATL accepts such appointment; and
 - (ii) on the Implementation Date, executing any document necessary to give effect to this Scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares,
- and ATL accepts such appointment.

8.7 Appointment of sole proxy

Immediately after the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.3(a) until ATL registers *thl* Acquirer as the holder of all ATL Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed *thl* Acquirer as its attorney and agent (and directed *thl* Acquirer in such capacity) to appoint an officer or agent nominated by *thl* Acquirer as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings of ATL, exercise the votes attaching to the Scheme Shares registered in its name and sign any shareholders' resolution;
- (b) undertakes not to otherwise attend Shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than pursuant to clause 8.7(a);
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as *thl* Acquirer reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.7(a), *thl* Acquirer and any officer or agent nominated by *thl* Acquirer under clause 8.7(a) may act in the best interests of *thl* Acquirer as the intended registered holder of the Scheme Shares.

8.8 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Governmental Agency), all instructions, notifications or elections by a Scheme Shareholder to ATL binding or deemed binding between the Scheme Shareholder and ATL relating to ATL or ATL Shares (including any email addresses, instructions relating to communications from ATL, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from ATL) will be deemed from the Implementation Date (except to the extent determined otherwise by *thl* and in its sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to *thl*, and will be accepted by *thl* until that instruction, notification or election is revoked or amended in writing addressed to *thl* at the relevant registry, provided that any such instructions or notifications accepted by *thl* will apply to and in respect of the issue of *thl* Consideration Shares as part of the Scheme Consideration only to the extent that they are not inconsistent with the other provisions of the Scheme.

9. General

9.1 Stamp duty

thl or *thl* Acquirer must pay all stamp duty payable in connection with the transfer of the Scheme Shares to *thl* Acquirer pursuant to this Scheme.

9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to ATL, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at ATL's registered office or at the office of the registrar of ATL Shares.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Scheme Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.3 Further assurances

- (a) ATL must do anything necessary (including executing agreements and documents) or incidental to give full effect to this Scheme and the transactions contemplated by it.
- (b) Each Scheme Shareholder consents to ATL doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws of Queensland.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Queensland and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme.

9.5 No liability when acting in good faith

None of *thl*, *thl* Acquirer or ATL nor any of their directors, officers, secretaries or employees, will be liable for anything done or omitted to be done in the performance of this Scheme or the Scheme Deed Poll in good faith.

Schedule 3 – Deed Poll



Deed poll

relating to a proposed scheme of arrangement between
Apollo Tourism & Leisure Ltd ABN 67 614 742 and its
members

—

Tourism Holdings Rentals Limited ARBN 655 142
028, a foreign company registered in its original
jurisdiction of New Zealand as Tourism Holdings
Limited (**thl**)
THL Group (Australia) Pty. Ltd. (**thl Acquirer**)

—

Deed poll

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Details

Date

Parties

Name **Tourism Holdings Rentals Limited ARBN 655 142 028, a foreign company registered in its original jurisdiction of New Zealand as Tourism Holdings Limited (Co. No. 248179)**

Country of incorporation New Zealand

NZBN 9429039926081

Short form name ***thl***

Notice details Level 1, 83 Beach Street, Auckland City, Auckland 1140, New Zealand

Email: grant.webster@thlonline.com

Attention: Grant Webster

Name **THL Group (Australia) Pty. Ltd. ACN 055 966 222**

Country of incorporation Australia

ABN 68 055 966 222

Short form name ***thl* Acquirer**

Notice details Level 1, 83 Beach Street, Auckland City, Auckland 1140, New Zealand

Email: grant.webster@thlonline.com

Attention: Grant Webster

Background

- A On *[insert]*, *thl*, *thl* Acquirer and ATL entered into the Scheme Implementation Deed to provide for (among other matters) the implementation of the Scheme.
- B The effect of the Scheme will be to transfer all Scheme Shares to *thl* Acquirer in return for the Scheme Consideration.
- C *thl* and *thl* Acquirer enter this deed poll to covenant in favour of Scheme Shareholders to perform the actions attributed to each of them under the Scheme.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this document:

Scheme Implementation Deed means the Scheme Implementation Deed dated [*insert*] between *thl*, *thl* Acquirer and ATL.

ATL means Apollo Tourism & Leisure Ltd ACN 614 714 742 as trustee for the Scheme Shareholders.

1.2 Terms defined in Scheme Implementation Agreement

Words and phrases defined in the Scheme Implementation Deed have the same meaning in this deed poll unless the context requires otherwise.

1.3 Incorporation by reference

The provisions of clauses 1.2, 1.3 and 1.4 of the Scheme Implementation Deed form part of this deed poll as if set out at length in this deed poll but with *deed poll* substituted for *deed* and with any reference to *party* being taken to include the Scheme Shareholders (as the context requires or permits).

2. Nature of this deed poll

This deed poll is given jointly and severally by *thl* and *thl* Acquirer in favour of the Scheme Shareholders and *thl* and *thl* Acquirer each agree that this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not a party to it.

3. Conditions precedent and termination

3.1 Conditions

The obligations of *thl* and *thl* Acquirer under this deed poll are subject to the Scheme becoming Effective.

3.2 Termination

This deed poll and the obligations of *thl* and *thl* Acquirer under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective on or before the End Date or any later date as the Court, with the consent of *thl*, *thl* Acquirer and ATL, may order,

unless *thl*, *thl* Acquirer and ATL otherwise agree in writing.

3.3 Consequences of termination

If this deed poll terminates under clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to Scheme Shareholders:

- (a) *thl* and *thl* Acquirer are released from their obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against *thl* and *thl* Acquirer in respect of any breach of this deed poll which occurred before it terminated.

4. Performance of obligations

4.1 Generally

Subject to clause 3, *thl* and *thl* Acquirer covenants in favour of Scheme Shareholders to perform the actions attributed to it under, and otherwise comply with, the Scheme as if *thl* and *thl* Acquirer were parties to the Scheme.

4.2 Provision of Scheme Consideration

- (a) Subject to clause 3, *thl* undertakes in favour of each Scheme Shareholder to provide or procure the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme.
- (b) The obligations of *thl* Acquirer under clause 4.2(a) will be satisfied if, in respect of the Scheme Consideration:
 - (i) no later than 12.00 noon (or such later time as *thl*, *thl* Acquirer and ATL may agree) on the Implementation Date, *thl* procures that the name of each Scheme Shareholder entitled to receive *thl* Consideration Shares under the Scheme is entered in *thl*'s register of members as the holder of those *thl* Consideration Shares (having the same holding name and address and other details as the holding of the relevant Scheme Shares) and *thl* provides ATL with written confirmation that *thl* has done so; and
 - (ii) on or before the date that is five Business Days after the Implementation Date, *thl* sends or procures the sending of a share certificate or holding statement (or equivalent document) to each Scheme Shareholder entitled to receive *thl* Consideration Shares under the Scheme, reflecting the issue of such *thl* Consideration Shares,

in each case, in accordance with, and subject to, the provisions of the Scheme.

4.3 *thl* Consideration Shares to rank equally

thl undertakes in favour of each Scheme Shareholder that all *thl* Consideration Shares issued as Scheme Consideration to each Scheme Shareholder will, upon their issue:

- (a) rank equally with all other *thl* ordinary shares on issue; and
- (b) be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the constitution of *thl*).

5. Warranties

thl and *thl* Acquirer each represent and warrant to each Scheme Shareholder that:

- (a) **(status)** it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) **(power)** it has the power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **(corporate authorisations)** it has taken all necessary corporate action to authorise the entry into and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(documents binding)** this deed poll is its valid and binding obligation enforceable in accordance with its terms;
- (e) **(transactions permitted)** the execution and performance by it of this deed poll and each transaction contemplated by this deed poll did not and will not violate in any respect a provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree of a Governmental Agency binding on it;
 - (ii) its constitution or other constituent documents; or
 - (iii) any other document which is binding on it or its assets; and

- (f) (**solvency**) it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

6. Continuing Obligations

6.1 Deed poll irrevocable

This deed poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) *thl* and *thl* Acquirer having fully performed its obligations under this deed poll; and
- (b) termination of this deed poll under clause 3.2.

6.2 Variation

A provision of this deed poll may not be varied or amended unless:

- (a) before the Second Court Date, the variation or amendment is agreed to in writing by ATL (on behalf of each Scheme Shareholder but without the need for to refer the variation or amendment to any Scheme Shareholder) and, if required, approved by the Court; or
- (b) on or after the Second Court Date, the variation or amendment is agreed to in writing by ATL (on behalf of each Scheme Shareholder but without the need for to refer the variation or amendment to any Scheme Shareholder) and is approved by the Court,

and *thl* and *thl* Acquirer enter into a further deed poll in favour of each Scheme Shareholder giving effect to the variation or amendment.

7. Notices

Any notice, demand or other communication (a **Notice**) to *thl* or *thl* Acquirer in respect of this deed poll:

- (a) must be in writing and signed by the sender or a person duly authorised by it;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand, email or to the address or email address specified in the Details;
- (c) will be conclusively taken to be duly given or made:
 - (i) (**in the case of delivery in hand**), when delivered at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or is made after 5.00pm on a Business Day, in which case that Notice will be deemed to be received at 9.00am on the next Business Day;
 - (ii) (**in the case of delivery by post**), on the third Business Day after the date of posting (if posted to an address within Australia) or the fifth Business Day after the date of posting (if posted to an address outside Australia); or
 - (iii) (**in the case of email**), on the earlier of:
 - (A) when the sending party's email system confirms delivery of the email by way of a delivery notification; or
 - (B) when the recipient party confirms receipt to the sending party via email or telephone.

8. General Provisions

8.1 Assignment

- (a) The rights and obligations of *thl*, *thl* Acquirer, ATL and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged, encumbered or otherwise dealt with at law or in equity without the prior written consent of *thl*, *thl* Acquirer and ATL.
- (b) Any purported dealing in contravention of clause 8.1(a) is invalid.

8.2 Cumulative rights

The rights, powers and remedies of *thl*, *thl* Acquirer, ATL and each Scheme Shareholder under this deed poll are cumulative with and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

8.3 No waiver

- (a) *thl* or *thl* Acquirer may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) If a Scheme Shareholder does not exercise a right arising from a breach of this deed poll at a given time, it may, unless it has waived that right in writing, exercise the right at a later point in time.
- (c) No Scheme Shareholder may rely on words or conduct of *thl* or *thl* Acquirer as a waiver of any right unless the waiver is in writing and signed by *thl* or *thl* Acquirer.
- (d) The meanings of the terms used in this clause 8.4 are set out below.

conduct includes delay in the exercise of a right.

right means any right arising under or in connection with this deed poll and includes the right to rely on this clause.

waiver includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

8.4 Stamp duty

thl must:

- (a) must pay or procure the payment of all stamp duty (if any) any related fines, penalties and interest in respect of the Scheme and this deed poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this deed poll and each transaction effected by or made under or pursuant to the Scheme and this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from a failure to comply with clause 8.4(a).

8.5 Further assurances

thl and *thl* Acquirer must, at their own expense, do all things reasonably required of them to give full effect to this deed poll.

8.6 Governing law and jurisdiction

- (a) This deed poll is governed by and will be construed according to the laws of Queensland.
- (b) *thl* and *thl* Acquirer irrevocably submit to the non-exclusive jurisdiction of the courts with jurisdiction in Queensland and of the courts competent to determine appeals from those courts and waive any right to object to the venue on any ground.

Signing page

EXECUTED and delivered as a deed poll.

**Executed by Tourism Holdings Rentals Limited
ARBN 655 142 028, a foreign company
registered in its original jurisdiction of New
Zealand as Tourism Holdings Limited** in
accordance with section 180 of the *Companies Act
1993*

Signature of director

Name of director (print)

Signature of director

Name of director (print)

Executed by THL Group (Australia) Pty. Ltd. in
accordance with Section 127 of the *Corporations
Act 2001*

Signature of director

Name of director (print)

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

Name of director/company secretary (print)

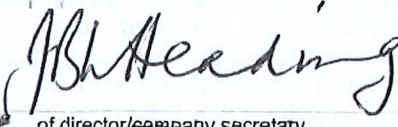
By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.

Signing page

EXECUTED as a deed.

Executed by Apollo Tourism & Leisure Ltd in accordance with Section 127 of the Corporations Act 2001


Signature of director


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

SOPHIA ADELE MITCHELL
Name of director (print)

JAMES BRETT LOCHRAN HEADING
Name of director/~~company secretary~~ (print)

By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.

Executed by Tourism Holdings Rentals Limited ARBN 655 142 028, a foreign company registered in its original jurisdiction of New Zealand as Tourism Holdings Limited in accordance with section 180 of the Companies Act 1993


Signature of director

Robert Campbell

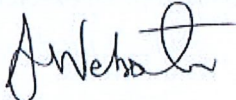
Name of director (print)


Signature of director

Cathy Quinn

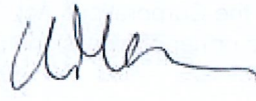
Name of director (print)

Executed by THL Group (Australia) Pty. Ltd. in accordance with Section 127 of the Corporations Act 2001


Signature of director

Grant Webster

Name of director (print)


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

Kate Meldrum

Name of director/company secretary (print)

By signing above, each director or secretary (as applicable) consents to electronic execution of this document (in whole or in part), represents that they hold the position or are the person named with respect to their execution and authorises any other director or secretary (as applicable) to produce a copy of this document bearing his or her signature for the purpose of signing the copy to complete its execution under section 127 of the Corporations Act. The copy of the signature appearing on the copy so executed is to be treated as his or her original signature.



TOURISM &
LEISURE LTD

Proposed merger of *thl* and Apollo

10 December 2021

Disclaimer



IMPORTANT NOTICES

This presentation has been prepared by Tourism Holdings Limited (**thl**) in connection with the proposed merger between **thl** and Apollo Tourism & Leisure Ltd ACN 614 714 742 (**ATL**) by way of scheme of arrangement (**Scheme**) under Part 5.1 of the *Corporations Act 2001* (Cth) (**Corporations Act**). A copy of the Scheme Implementation Deed dated 10 December 2021 relating to the Scheme is available on the NZX website at www.nzx.com.

SUMMARY INFORMATION

This presentation contains summary information and statements about **thl**, ATL and their respective related bodies corporate, businesses and activities as at the date of this presentation.

The information in this presentation is general in nature and does not purport to be exhaustive.

No representation or warranty, express or implied, is made as to the fairness, accuracy, completeness or correctness of the information, opinions and conclusions contained in this presentation. To the maximum extent permitted by law, none of **thl**, ATL nor their respective directors, employees, agents or advisers, or any other person, accepts any liability, including, without limitation, any liability arising from fault or negligence on the part of any of them or any other person, for any loss arising from the use of this presentation or its contents or otherwise arising in connection with it.

This presentation should be read in conjunction with **thl**'s other periodic and continuous disclosure announcements lodged with the NZX, which are available on the NZX website (at www.nzx.com), the **thl**'s website at <https://www.thlonline.com>.

thl notes that further information about the Scheme (including key risks for ATL shareholders) will be provided by ATL to its shareholders (other than **thl** and its related entities) (**Independent Shareholders**) and released to ASX in due course, in the form of an explanatory statement (as that term is defined in section 412 of the *Corporations Act*) and notice of meeting (**Scheme Booklet**). The Scheme Booklet will be released by **thl** to NZX at the same time it is released by ATL to ASX. The Scheme Booklet will also include or be accompanied by an independent expert's report that will opine on whether the Scheme is in the best interests of Independent Shareholders.

FORWARD LOOKING STATEMENTS

This presentation contains forward-looking statements concerning **thl**, ATL and the merger group following implementation of the Scheme (**Combined Group**) which are made as at the date of this presentation unless otherwise specified, including statements about intentions, beliefs and expectations, plans, strategies and objectives of **thl**, ATL and the Combined Group, the anticipated timing for and outcome and effects of the Scheme (including expected benefits to shareholders of **thl** and ATL), indications of and guidance on synergies, future earnings or financial position or performance, expectations for the ongoing development and growth potential of the Combined Group and the future operation of **thl**, ATL and the Combined Group.

Forward-looking statements are not statements of historical fact and actual events and results may differ materially from those contemplated by the forward-looking statements as a result of a variety of risks, uncertainties and other factors, many of which are outside the control of **thl**, ATL and the Combined Group. Such factors may include, among other things, risks relating to funding requirements, COVID-19 impacts including border closures and travel restrictions, competition and market risks, regulatory restrictions and risks associated with general economic conditions. Any forward-looking statements, as well as any other opinions and estimates and statements regarding synergies, market and industry trends, provided in this presentation are based on assumptions and contingencies which are subject to change without notice and may prove ultimately to be materially incorrect. Synergy estimates are based on fixed foreign exchange rates across its operating geographies at the time of calculation. Variations in foreign exchange rates will impact the degree to which synergies are able to be realised or how they are reflected in the Combined Group's reporting currency.

There can be no assurance that the Scheme will be implemented or that the plans for the Combined Group will proceed as currently expected or will ultimately be successful. You are cautioned not to place undue reliance on forward-looking statements, including in respect of the financial or operating outlook for **thl**, ATL or the Combined Group (including the realisation of any expected synergies), particularly in light of the current economic climate and the significant volatility, uncertainty and disruption caused by the ongoing COVID-19 pandemic.

Except as required by law or the NZX or ASX listing rules, ATL and **thl** assume no obligation to provide any additional or updated information or to update any forward-looking statements, whether as a result of new information, future events or results, or otherwise. Nothing in this presentation will, under any circumstances (including by reason of this presentation remaining available and not being superseded or replaced by any other presentation or publication with respect to **thl**, ATL or the Combined Group, or the subject matter of this presentation), create an implication that there has been no change in the affairs of **thl**, ATL since the date of this presentation.

PAST PERFORMANCE

You should note that past performance metrics and figures (including any data about past share price performance of **thl** and ATL) in this presentation are given for illustrative purposes only and cannot be relied upon as an indicator of (and provide no guidance as to) future performance, including future share price performance of the Combined Group.

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Other Notes to Materials

EFFECT OF ROUNDING

A number of figures, amounts, percentages, estimates, calculations of value and fractions in this presentation are subject to the effect of rounding. The actual calculation of these figures may differ from the figures set out in this presentation.

FINANCIAL DATA

All dollar values are in New Zealand dollars (NZ\$) unless stated otherwise. To the extent an exchange rate is used to convert foreign currency to New Zealand dollars, the assumed exchange rate has been shown in this presentation.

This presentation may contain a number of non-GAAP financial measures, including Earnings Before Interest and Tax (**EBIT**). Because they are not defined by NZ GAAP or IFRS, *thl's* calculation of these measures may differ from similarly titled measures presented by other companies and they should not be considered in isolation from, or construed as an alternative to, other financial measures determined in accordance with NZ GAAP. You are cautioned, therefore, not to place undue reliance on any such financial information included in this presentation

REGULATORY BODIES REFERRED TO IN MATERIALS

Australian Competition and Consumer Commission (**ACCC**)

Australian Foreign Investment Review Board (**FIRB**)

New Zealand Commerce Commission (**NZCC**)



Transaction Summary (1 / 2)

Transaction overview

- Tourism Holdings Limited (NZX:THL) (**thl**) and Apollo Tourism & Leisure (ASX:ATL) (**Apollo**) have today entered into a conditional Scheme Implementation Deed to merge through an Australian Scheme of Arrangement whereby **thl** acquires all shares in Apollo
- Apollo and **thl** are two highly complementary businesses which together will create a diversified, leading RV travel company across the key markets of Australia, New Zealand, North America, Europe and the United Kingdom. The rental operations of the Combined Group will be complemented by **thl**'s existing New Zealand tourism and manufacturing businesses
- Significant anticipated cost out synergies are expected to deliver a steady-state¹ EBIT benefit of \$17m to \$19m per annum, with expected one-off implementation costs to realise synergies in the order of \$4m to \$7m, and fleet rationalisation is expected to generate in excess of \$40m of net debt benefit
- Apollo will become a wholly-owned subsidiary of **thl**, and **thl** will apply to be listed on the Australian Securities Exchange (ASX) as a foreign-exempt listing
- As consideration, **thl** will issue **1 new ordinary thl share for every 3.680818 ordinary Apollo shares** held by Apollo shareholders (excluding **thl**)²
- The merger will result in Apollo shareholders owning approximately 25% of the Combined Group and **thl** shareholders owning approximately 75% of the Combined Group^{3,4}. The Trouchet Family (who currently hold 53.4% of Apollo) will become 13.4% shareholders of the Combined Group

Overview of Apollo

- Established in 1985, Apollo is a leading Australian RV company with operations in Australia, New Zealand, North America, Germany, the United Kingdom and Ireland
- The company is highly focused on its core functions of manufacturing, rental, sales and distribution of a range of RVs including motorhomes, campervans and caravans

1) Steady-state refers to post COVID recovery period

2) The consideration shares of shareholders with an address other than in Australia, New Zealand, the United Kingdom or other jurisdictions agreed by ATL and **thl** will be issued to a nominee and sold with the proceeds paid to the shareholder

3) **thl** currently holds 898,150 ordinary shares in Apollo, representing 0.5% of Apollo ordinary shares on issue as at the date of the Scheme Implementation Deed. As such whilst the share of the Combined Group attributable to all Apollo shareholders including **thl** is 25.0%, the share of the Combined Group attributable to Apollo shareholders excluding **thl** is 24.9% and the share of the Combined Group attributable to **thl** shareholders is 75.1% - see page 34 for further details

4) Based on the respective ordinary shares on issue for **thl** and Apollo as at the date of the Scheme Implementation Deed. The total number of **thl** ordinary shares on issue may change prior to completion of the Scheme in the event that any shares vest under existing LTI schemes

Transaction Summary (2 / 2)

Merger ratio

- The merger ratio of **1 new ordinary thl share for every 3.680818 ordinary Apollo shares** takes into account:
 - The relative market capitalisations of the two businesses
 - The expected synergy realisation available to the Combined Group and how this is generated
 - The relative NTA contribution to the Combined Group and the different funding structures
 - The relative historical earnings contribution to the Combined Group
 - The level at which the Trouchet Family as 53.4% shareholders of Apollo would be supportive of the transaction
- The merger ratio implies an equity value per Apollo share of A\$0.7358 (equivalent to a total equity value for Apollo of A\$137m) based on the last close price for **thl** of NZ\$2.85 and an exchange rate of 0.9503NZD/AUD¹ on 9 December 2021. This represents:
 - A 32.6% premium based on the last close price of Apollo of A\$0.555 per share on 9 December 2021
 - A 12.1% premium based on the 2-month VWAP between 10 October 2021 and 9 December 2021 of A\$0.6566 per share for Apollo

Process update

- The Scheme is subject to a number of conditions (as set out in more detail on page 33), including:
 - Regulatory approvals including ACCC, NZCC and FIRB
 - Shareholder approval from Apollo shareholders
 - Approval of the Supreme Court of Queensland
 - The receipt of an independent expert report which concludes the Scheme is in the best interests of Apollo shareholders
 - Refinancing the debt facilities of **thl** and/or the Combined Group with new or existing financiers with effect from the implementation of the Scheme (including obtaining all necessary approvals for the refinancing), and all consents and waivers being obtained from any continuing financiers of Apollo
- The current indicative timetable expects the First Court date occurring in Q3 FY22 and the Scheme taking effect from Q4 FY22²
- There is no intention to raise equity for this transaction

1) Source: RBNZ

2) This timetable is indicative only subject to change. It assumes there are no delays or complications with respect to any of the court and regulatory approvals

Strategic Rationale

Highlight	Description	Refer page
Synergy opportunity	<ul style="list-style-type: none">• Significant anticipated cost-out synergies are expected to deliver a steady-state EBIT benefit of \$17m to \$19m per annum, with expected one-off implementation costs to realise synergies in the order of \$4m to \$7m• Fleet rationalisation expected to generate in excess of \$40m of net debt benefit	22, 23
Enhanced ability to navigate COVID recovery	<ul style="list-style-type: none">• Large portion of anticipated synergies are fixed in nature providing significant downside protection against a slower than expected COVID recovery phase – synergies become proportionally larger relative to the standalone earnings levels if the operating environment becomes more challenged	22, 23
Asset acquisition	<ul style="list-style-type: none">• The merger represents an opportunity for thl to significantly increase its fleet base at a lower cost than through purchasing new RVs directly – made even more compelling against a constrained RV supply chain through the COVID recovery phase• This also allows a continuation of greater vehicle sales volumes in the current environment at higher than historical margins (in part driven by current RV supply constraints)	16 – 19
Geographic diversification	<ul style="list-style-type: none">• Combined Group will benefit from greater business resilience through geographic diversification and additional locations in the Northern Hemisphere	16 – 19
Canada	<ul style="list-style-type: none">• Apollo’s Canadian business is expected to perform strongly as a standalone business (as it does currently) – Canada is a market that has interested thl for some time• Highly complementary to thl's existing US business and creates a broader North American presence	18

Global RV Leader – Snapshot of Combined Group



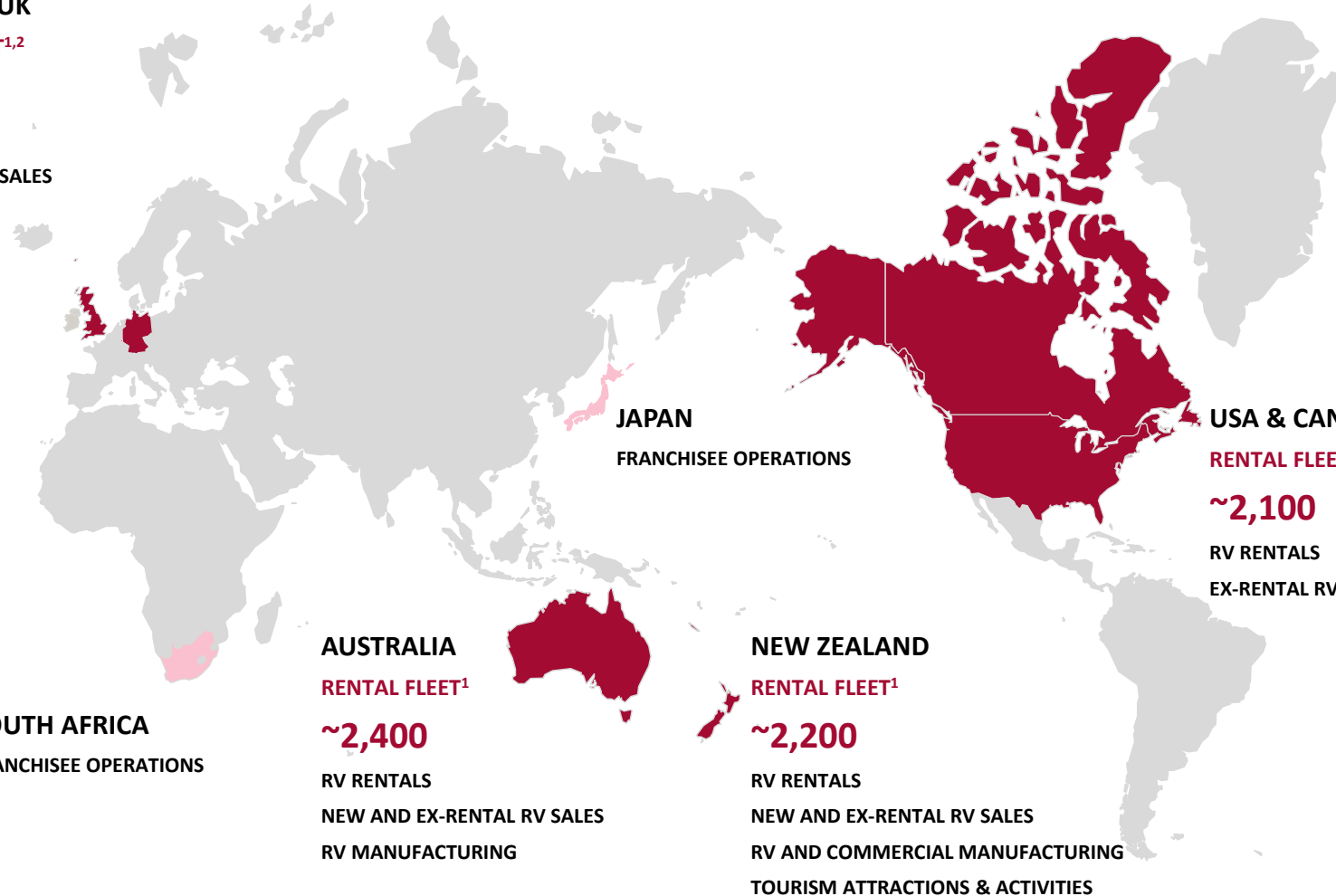
EUROPE & UK

RENTAL FLEET^{1,2}

~300

RV RENTALS

EX-RENTAL RV SALES



JAPAN

FRANCHISEE OPERATIONS

USA & CANADA

RENTAL FLEET¹

~2,100

RV RENTALS

EX-RENTAL RV SALES

AUSTRALIA

RENTAL FLEET¹

~2,400

RV RENTALS

NEW AND EX-RENTAL RV SALES

RV MANUFACTURING

NEW ZEALAND

RENTAL FLEET¹

~2,200

RV RENTALS

NEW AND EX-RENTAL RV SALES

RV AND COMMERCIAL MANUFACTURING

TOURISM ATTRACTIONS & ACTIVITIES

SOUTH AFRICA

FRANCHISEE OPERATIONS



NZ\$577m

Market Cap³



NZ\$788m

Enterprise Value³



NZ\$1.0bn

FY21 Total Assets⁴



NZ\$445m

FY21 Net Assets⁴

1. Rental fleet sizes represent fleet sizes as at 30 June 2021

2. Europe & UK fleet excludes thl fleet from its 49% joint venture Just go

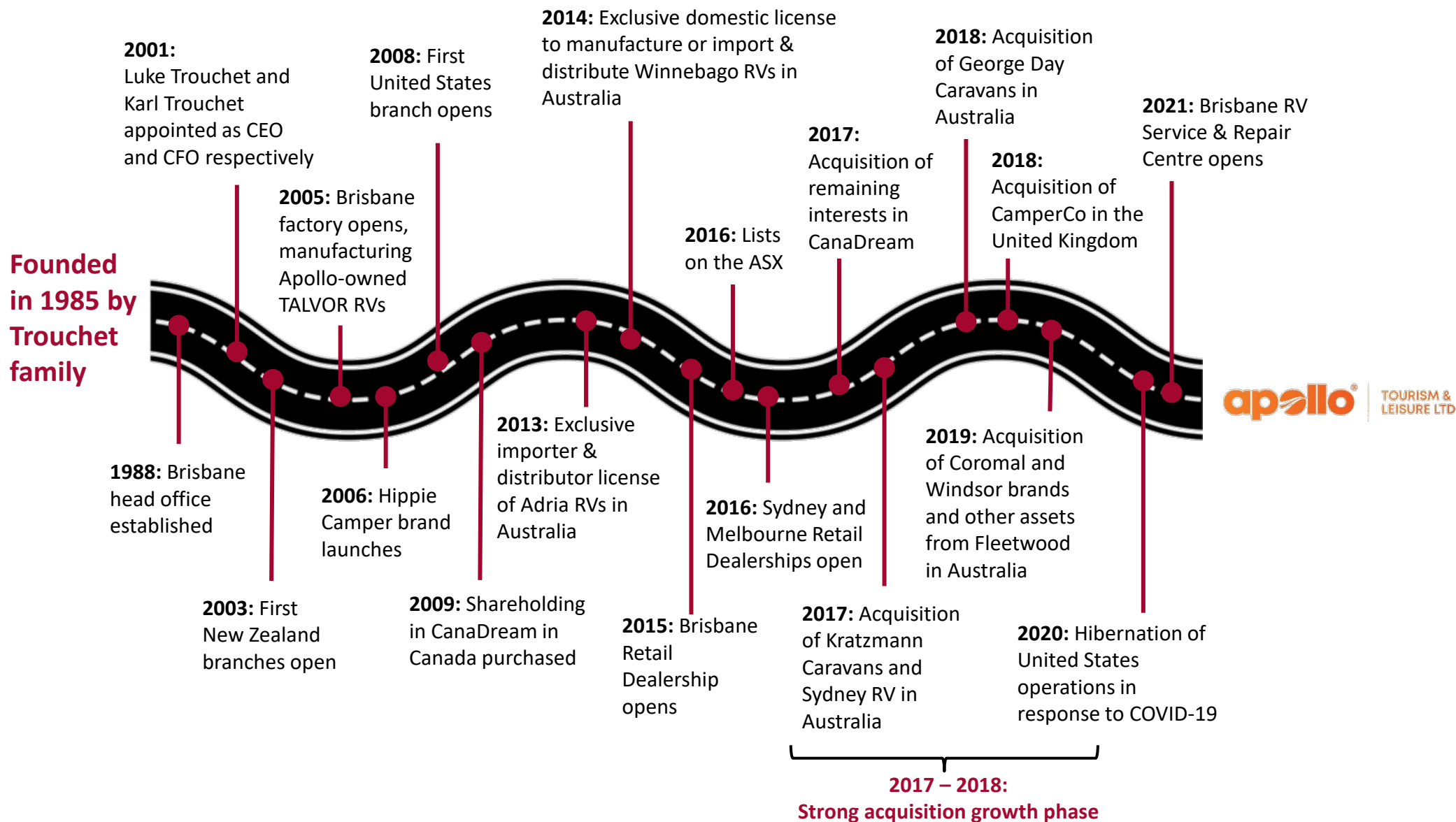
3. Combined Group Market Cap calculated as total thl shares outstanding of 151,963,759 plus thl shares issued to Apollo shareholders as consideration of 50,329,236 multiplied by thl's last close price of NZ\$2.85 as at 9 December 2021. Combined Group Enterprise Value calculated as the Combined Group Market Cap, plus Combined Group net debt of NZ\$211m as at 31 October 2021 (shown on page 26) and excludes non-fleet IFRS 16 lease liabilities

4. FY21 Combined Group figures refer to pro forma consolidated balance sheet, as shown on page 27

Overview of Apollo



History of Apollo



Trouchet Family

Brothers Luke and Karl Trouchet, whose parents founded Apollo in 1985 and who are currently the respective CEO & Managing Director and Executive Director (Strategy & Special Projects) of Apollo, will remain actively engaged in the Combined Group with a 13.4% shareholding

- Gus and Carolyn Trouchet established Apollo in Brisbane in 1985, having developed a love for campervans during a family holiday in New Zealand. Both Luke and Karl Trouchet grew up in the family business and since taking over from their parents in 2001, have led Apollo on its next phase of growth as it evolved into a multi-national RV rental and sales company
- In the Combined Group, Luke Trouchet will move into the role of Executive Director – M&A and Global Transitions. As the majority shareholder of Apollo, the Trouchet family will continue to be actively engaged with a 13.4% stake in the Combined Group
- The Trouchet family have proposed to enter into voluntary escrow terms, the terms are outlined on page 24
- **thl** has a proud history of ongoing engagement with owner operators. Continuing with the business today are:
 - Former owner of Road Bear
 - Former owner of El Monte
 - Joint venture partner with Just go
 - Former joint venture partner with Action Manufacturing



Brothers Karl (left) and Luke Trouchet (right) on a family holiday with an early Apollo RV

“The two businesses have similar operations and like-minded cultures, and we both strongly believe in the potential of the global RV market. I am very much looking forward to joining the Board and executive of **thl** and am excited by the prospects of what the two companies can achieve together.”

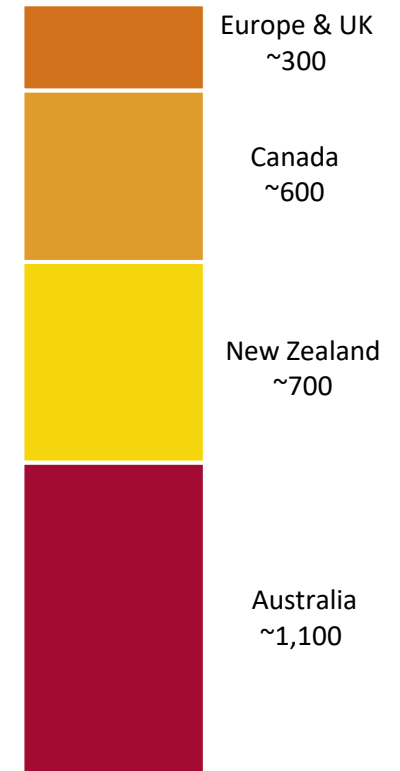
Luke Trouchet, Apollo Managing Director

Apollo Business Overview



	Australia	New Zealand	Canada	Europe & UK
RV Sales	<ul style="list-style-type: none"> New and ex-rental RVs distributed via eight owned retail sales centres 	<ul style="list-style-type: none"> New and ex-rental RVs distributed via two operated sites¹ and third party dealers 	<ul style="list-style-type: none"> Ex-rental RVs distributed via five operated sites¹ and third party dealers 	<ul style="list-style-type: none"> Ex-rental RVs distributed via five operated sites¹ and third party dealers
<i>Apollo RV rental brands</i>	<ul style="list-style-type: none"> StarRV, Apollo, Cheapa Campa, Hippie 	<ul style="list-style-type: none"> StarRV, Apollo, Cheapa Campa, Hippie 	<ul style="list-style-type: none"> CanaDream 	<ul style="list-style-type: none"> Bunk, Apollo
Manufacturing / Fleet sourcing	<ul style="list-style-type: none"> RVs manufactured by Apollo in its Brisbane manufacturing facility (some shipped to New Zealand for rental fleet), or acquired direct from manufacturers Brisbane manufacturing facility has an estimated current capacity of ~2,000² Exclusive right to import and distribute Adria in Australia and New Zealand; exclusive right to manufacture Winnebago in Australia and New Zealand; owns TALVOR, Windsor and Coromal brands³ 		<ul style="list-style-type: none"> RVs acquired direct from manufacturer or wholesale via intermediaries or dealers 	

RV Rental fleet geographical split⁴



1. Apollo owned sites service both its rental and sales operations in New Zealand, Canada, Europe & UK

2. With current plant and equipment on hand and assuming current product mix and no supply or staffing constraints. ~490 RVs produced for Apollo's Rental and Sales operations in FY21, a depressed figure in response to the COVID-19 pandemic

3. Winnebago, TALVOR and Windsor currently exclusively manufactured in Apollo's Brisbane manufacturing facility, Coromal currently contract manufactured by third party

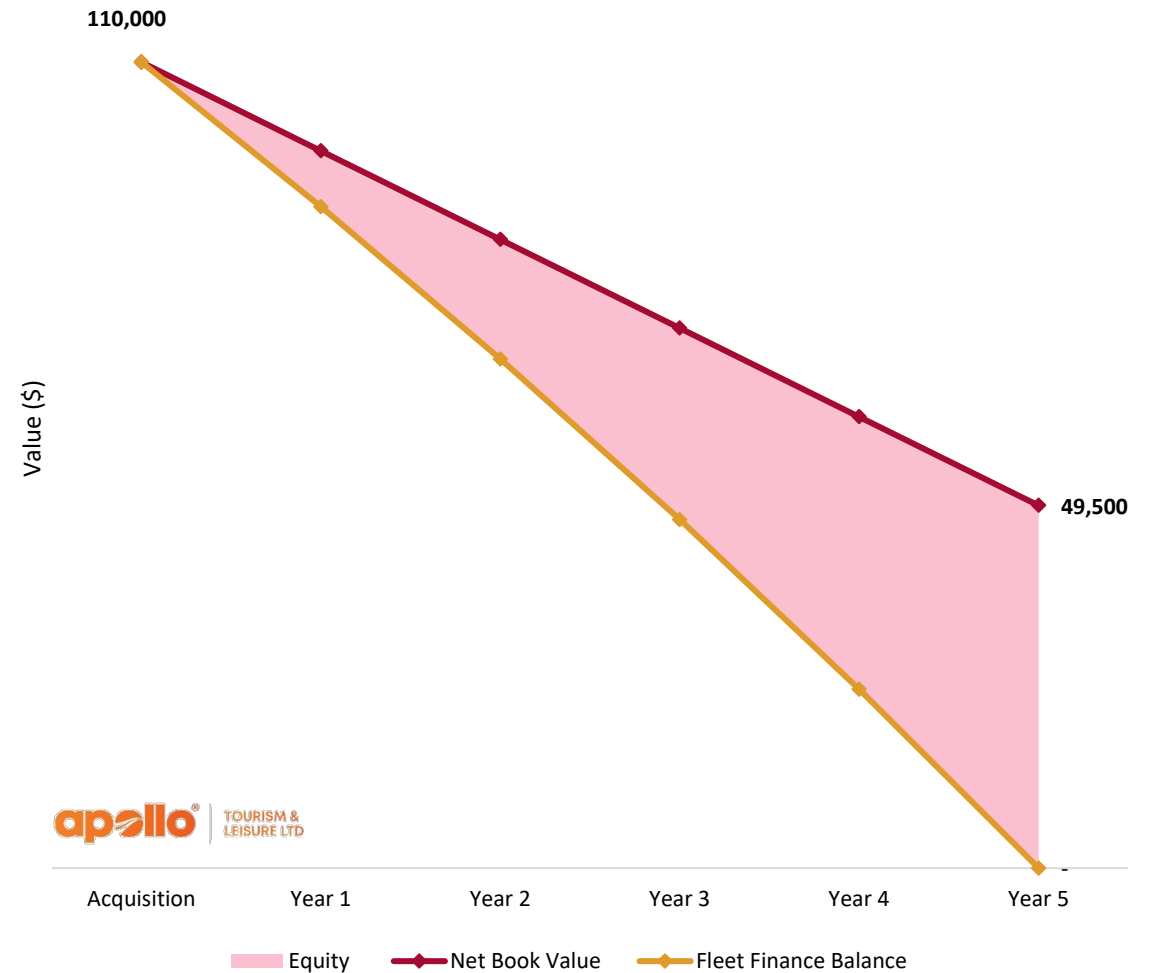
4. As at 30 June 2021

Illustrating the Relationship Between Rental Fleet Debt and NBV

- Apollo utilises fleet financing (i.e. hire purchase) to fund a significant portion of its rental fleet across all jurisdictions. As this finance is repaid with rental revenue over the lifecycle of the vehicle, the increasing differential between Net Book Value and the remaining fleet financing balance represents equity value creation
- Graphic illustrates the relationship between fleet finance balance and the corresponding Net Book Value (NBV) from acquisition date to disposal at the end of the vehicle’s rental lifecycle (figures shown are illustrative only)
- Each vehicle acquired has an intrinsic unrealised value at acquisition date, with the wholesale purchase price being lower than market retail price
- Value continues to increase as the vehicle ages, with debt being repaid at a faster rate than depreciation
- Actual fleet lifecycles, depreciation rates and market sale prices can vary depending on prevailing market conditions in any given year

Assumptions (figures for illustrative purposes only)

Assumed wholesale purchase price	\$110,000
Finance value	\$110,000
Finance term	5 years
Finance interest rate	5.50% p.a.
Depreciation rate	11.00% p.a.
Rental lifecycle	5 years
Sale price at disposal	Assumed to equal Net Book Value

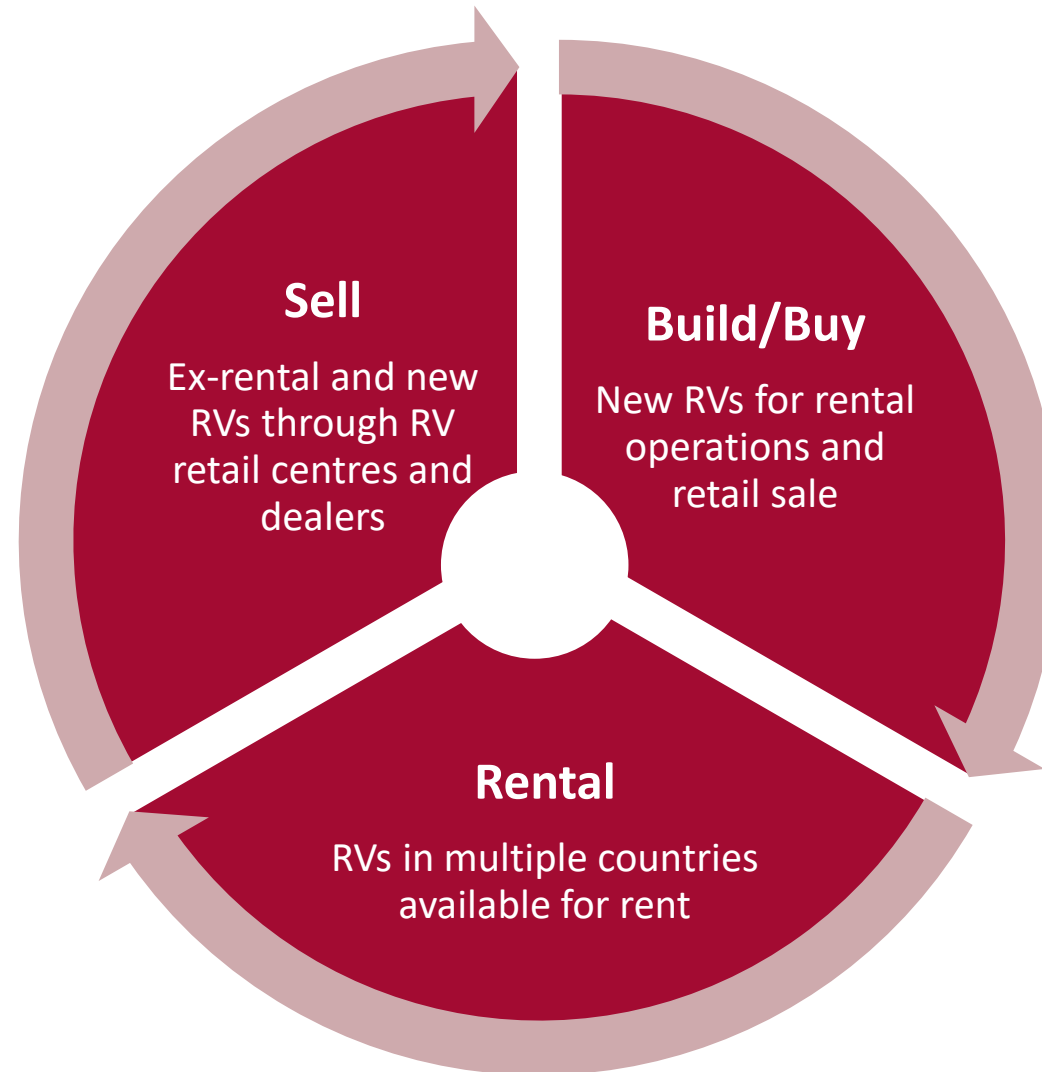


Overview of Combined Group



Shared RV Business Model

- Both **thl** and Apollo operate a Build/Buy, Rental and Sell model
- RVs are built at each company's own manufacturing facilities or purchased directly from third-party manufacturers or dealers
- Both operate multiple RV rental brands across each of its operational jurisdictions, targeting specific segments of the rental market
- Both own retail sales centres and also sells vehicles through a network of dealers



Illustrative Financial Impact of the Transaction

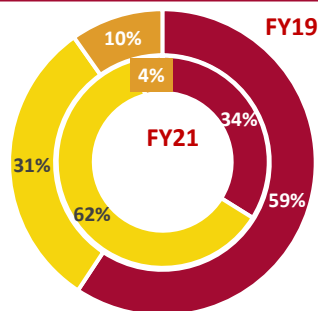
FY19 revenue and earnings contribution reflects a pre-COVID operating environment, whilst FY21 includes actions taken specifically as a result of the COVID environment



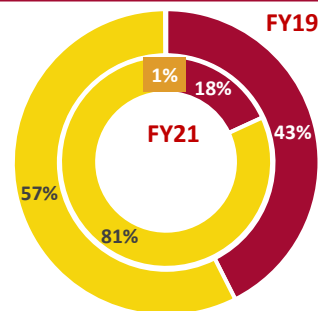
Combined Group²

Revenue composition by business unit

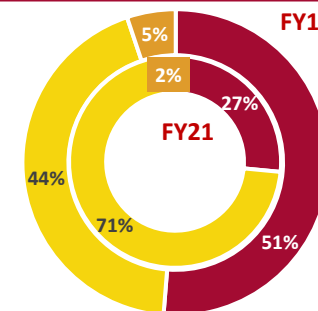
- RV Rentals
- RV Sales
- Other revenue



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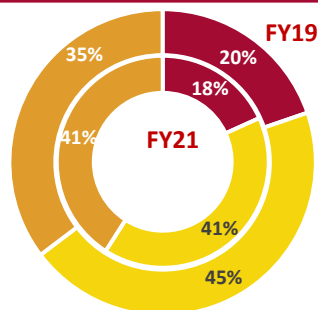


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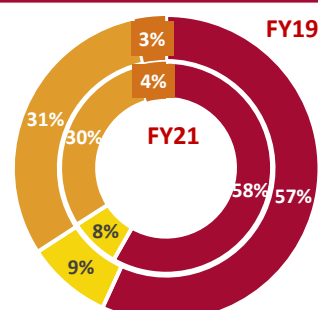


Revenue composition by geography

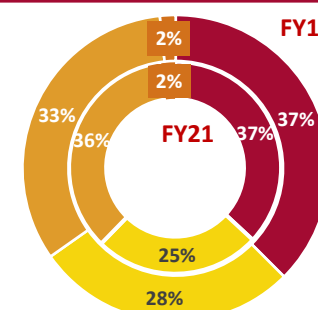
- Australia
- New Zealand
- North America
- Europe & UK



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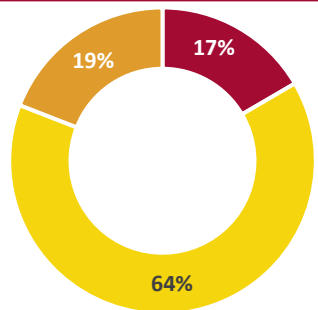


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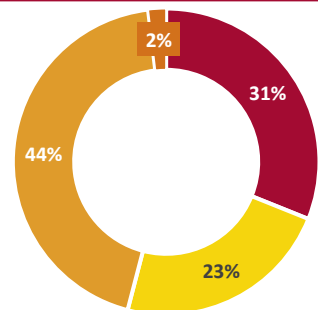


EBIT composition by geography (FY19 only)^{3,4,5}

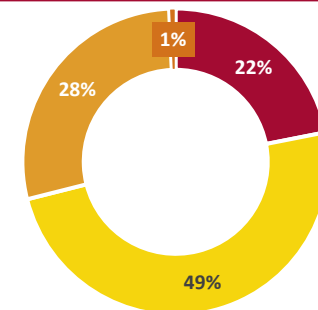
- Australia
- New Zealand
- North America
- Europe & UK



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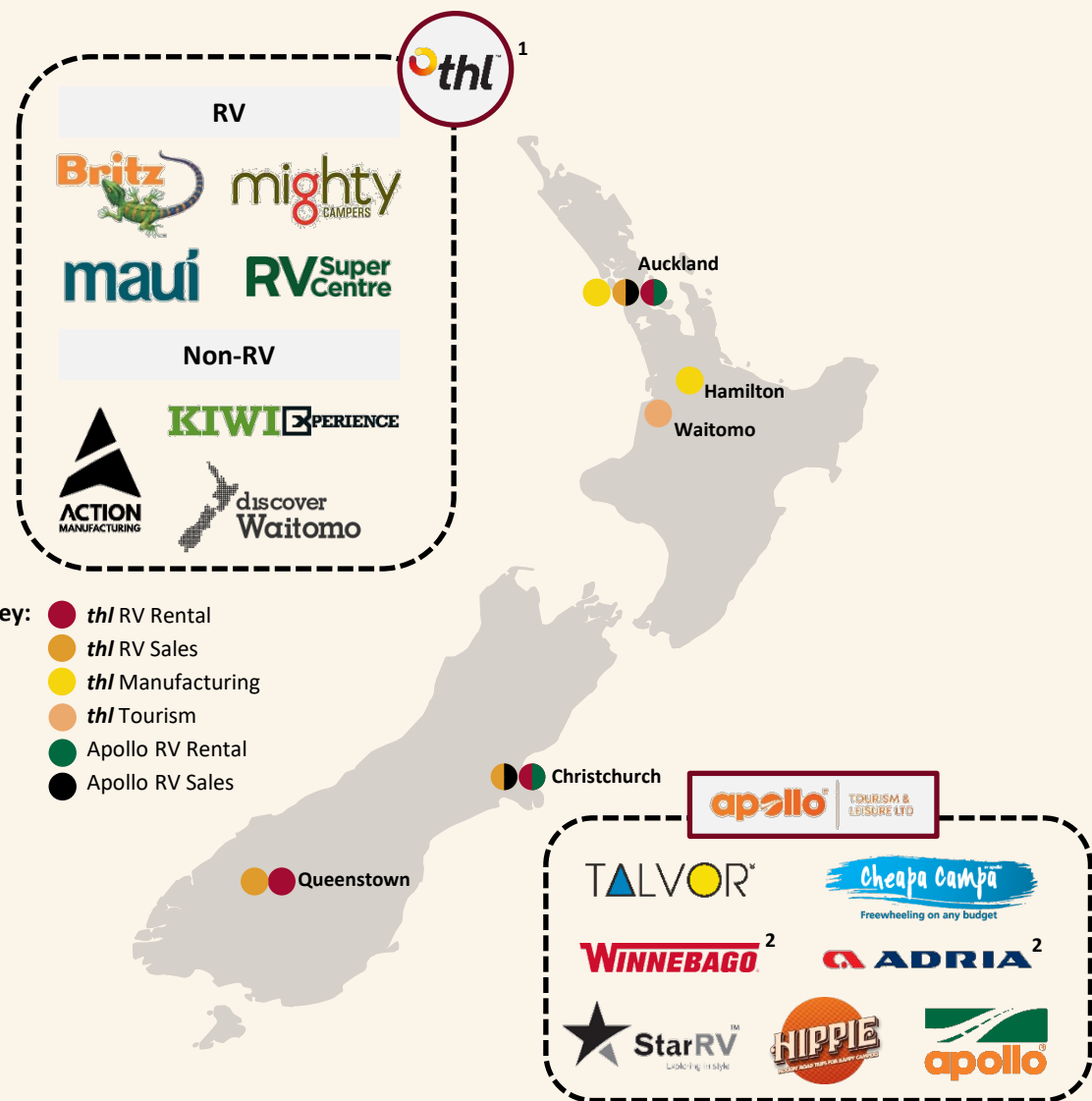


Note: the above metrics are based on combined, unadjusted, as reported financial metrics (i.e. thl + Apollo = Combined Group)

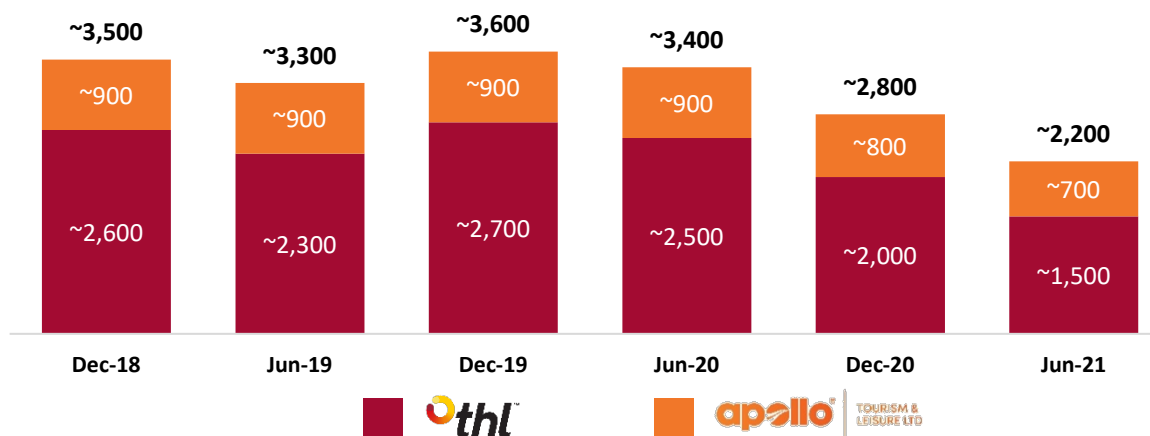
1. thl revenue and EBIT excludes earnings of joint ventures Just go and Togo Group (exited in 2020)
2. Combined Group metrics have been currency converted at an average exchange rate of 0.9383 and 0.9327 NZD / AUD in FY19 and FY21 respectively

3. thl FY19 reported EBIT composition by geography excludes Group Support Services & Other of NZ\$(6.0)m, Apollo FY19 underlying EBIT composition by geography excludes elimination of inter-entity charges, interest charged on loans between segments and amortisation of internally generated intangibles on acquisitions totalling NZ\$(1.9)m
4. FY21 not shown as both businesses generated EBIT losses in FY21 as a result of the COVID impacted operating environment
5. Apollo FY19 financials include its US business. US fleet were sold in FY20 and the business put in hibernation

New Zealand Business



Closing rental fleet size



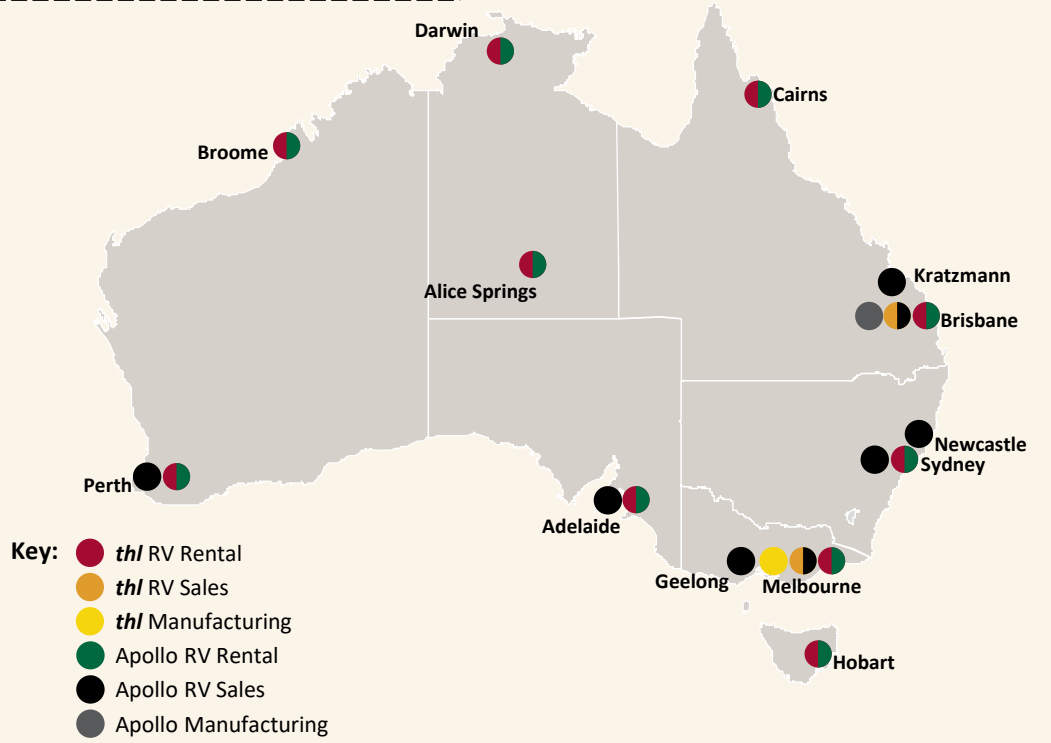
Current conditions and strategy

- New Zealand has been the most challenging jurisdiction with international borders closed for both businesses due to a historical reliance on international tourism and a small domestic population
- Excess fleet arising from the merger (see page 23) allows continued strength in sales volumes in the current high margin market, while retaining an appropriate fleet size to service international tourism as demand is expected to return from 30 April 2022 once borders open
- Continued focus on domestic-targeted aspects of the business including RV accessory sales, servicing and workshop facilities

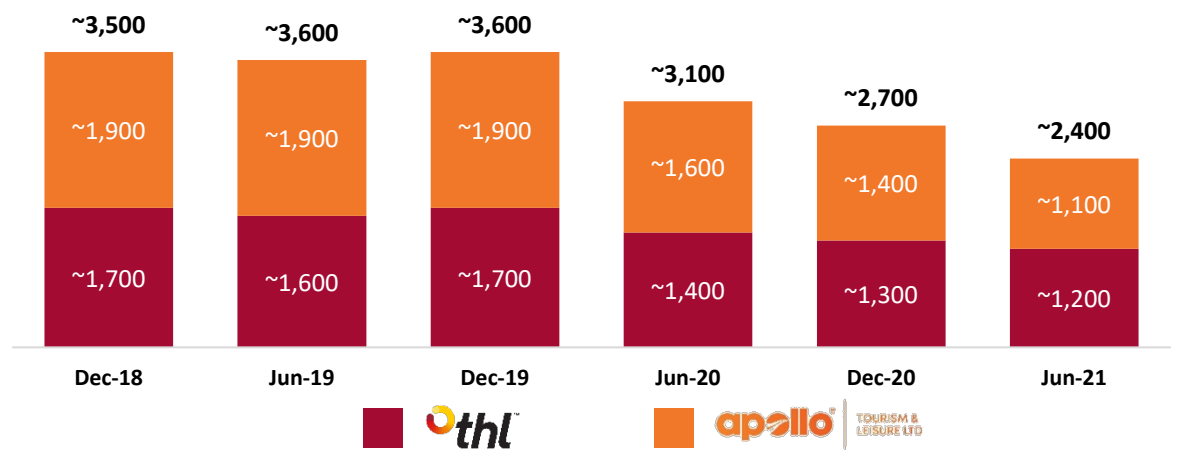
1. In addition thl owns the Highway and SHAREaCAMPER brands, which have been conditionally sold to ASX listed Camplify Holdings

2. Apollo has the exclusive right to import and distribute Adria in Australia and New Zealand; and the exclusive right to manufacture Winnebago in Australia and New Zealand

Australia RV Business



Closing rental fleet size

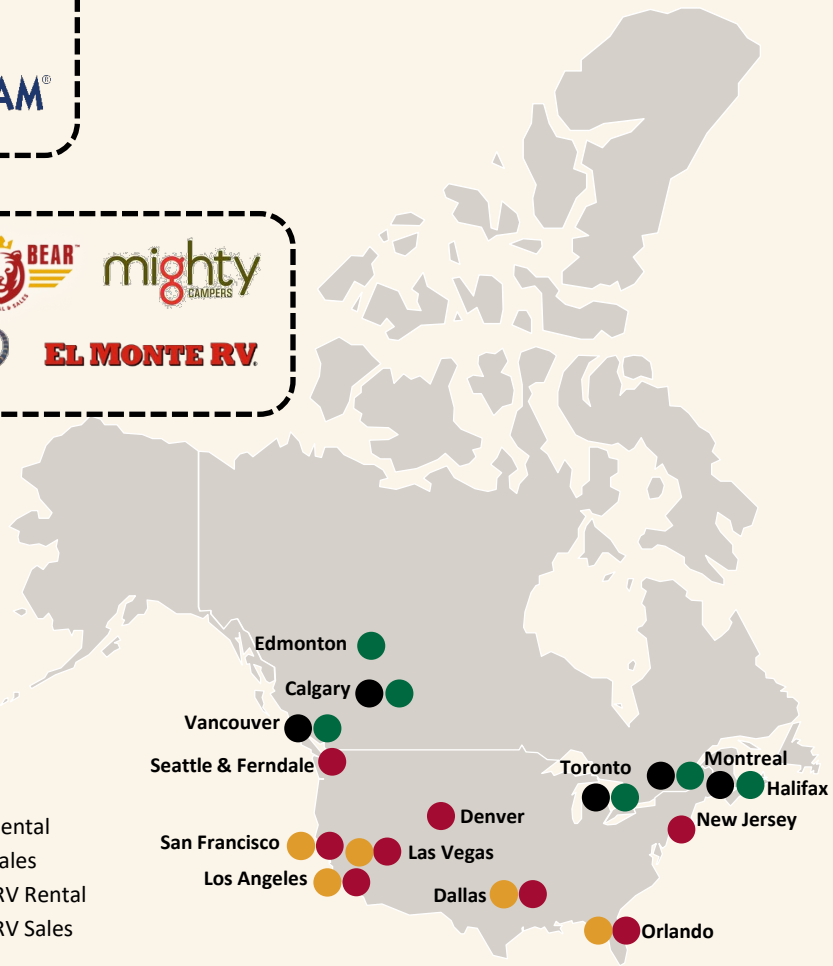


Current conditions and strategy

- We believe the Australian business is capable of generating profitable returns in a domestic-only environment with no inter-state travel restrictions
- Larger fleet provides enhanced fleet optimization, resulting in fewer relocations across branches
- Material property synergies expected with the current overlap of rental branches
- Apollo is a material beneficiary of the current strength in the Australian vehicle sales market due to its distributed retail dealership network. The network offers significant scale benefit, while sales of third-party brands lends an element of downside protection

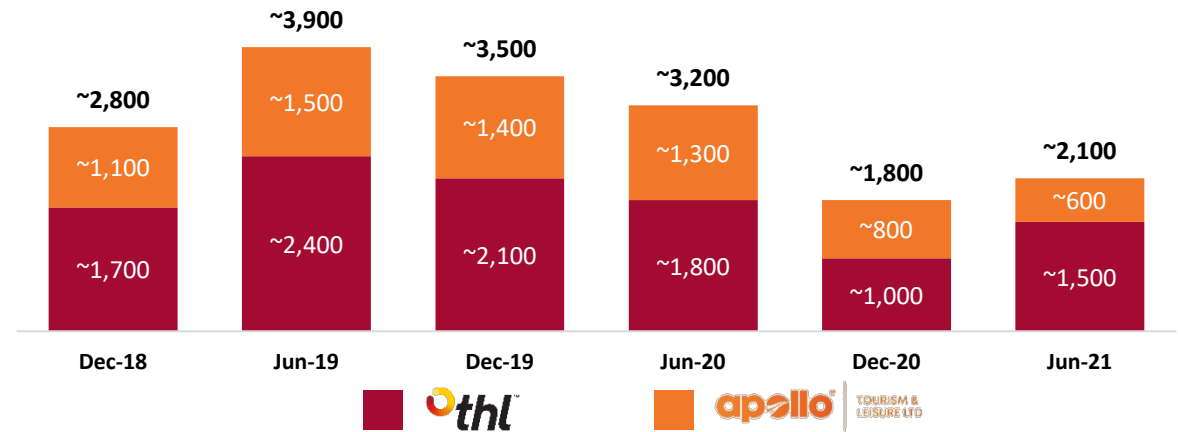
1. Apollo has the exclusive right to import and distribute Adria in Australia and New Zealand; and the exclusive right to manufacture Winnebago in Australia and New Zealand

North America RV Business



Note: Whitehorse (in Canada) currently in hibernation. thl also has licensees in Reno, Corona, Sacramento, San Diego, Santa Cruz, Ventura / Oxnard, Victorville, Miami, Chicago and Salt Lake City

Closing rental fleet size

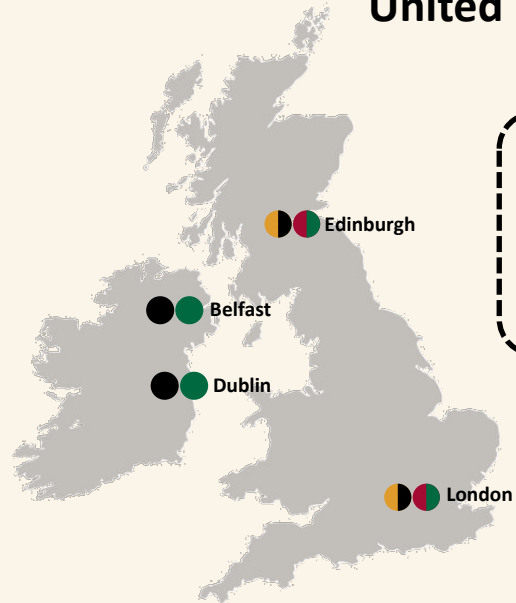


Current conditions and strategy

- The North American businesses operate on a more decentralised model than New Zealand and Australia. There are expected to be limited operational changes in the near to medium term
- Over time, there are expected to be opportunities to leverage the expertise and procurement capabilities of each business to realise synergies
- The merger enables maximisation of fleet opportunities as international tourism flows return to both countries

Europe and UK RV Business

United Kingdom & Ireland

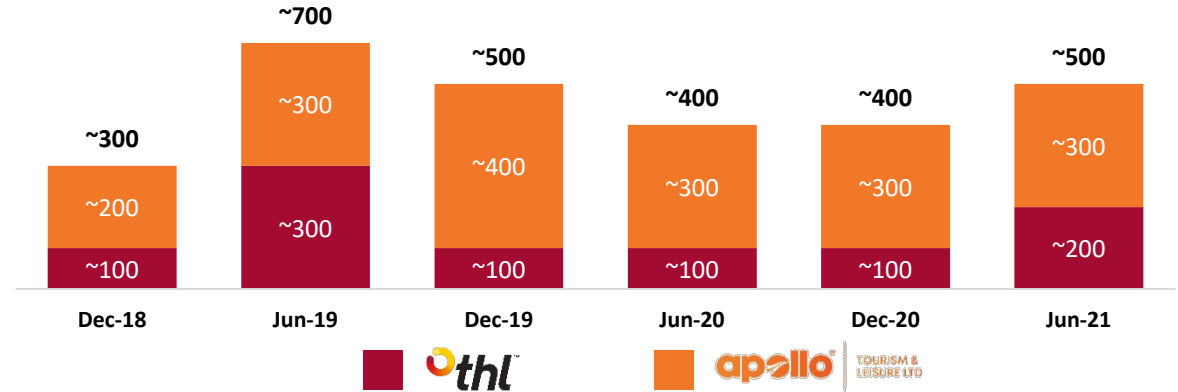


Germany



- Key:
- thl RV Rental
 - thl RV Sales
 - Apollo RV Rental
 - Apollo RV Sales

Closing rental fleet size



Current conditions and strategy

- There may be opportunities to align the business over time
- Apollo has direct ownership of its UK business, **thl** operates Just go through a joint venture with a 49% shareholding
- There has been no review of the Just go joint venture as part of this merger

A Future Fit Merger

The proposed merger is aligned with *thl*'s Future Fit programme to improve the sustainability of the business. Apollo shares our commitment to becoming a business that focuses on multiple stakeholder impacts and benefits. Through site and fleet rationalisation, *thl* will be able to service our customers using fewer resources and less environmental impact

- The Future-Fit Business Benchmark used by *thl* was developed and is managed by the Future-Fit Foundation, a UK-registered charity
- A Future-Fit Society is one which is environmentally restorative, socially just and economically inclusive
- This can only be realised through a rapid and radical shift in the way our economy works

Climate & Carbon Strategy

Future Fleet Programme

Pooling of financial resources and improved scale accelerates progress on the electrification of our fleet

Sustainable Procurement

Circular Economy Pilots

Aligned procurement practices and procedures that recognise social, economic and environmental factors

Accelerate

Partnership for Positive Impacts

Bringing together expertise in operational excellence, industry health & safety and local community engagement in New Zealand and Australia

Ignition

Creating Future-Fit branches

Consolidating and establishing large scale joint branches, incorporating Future Fit needs around water use, waste and emissions



Financial Overview



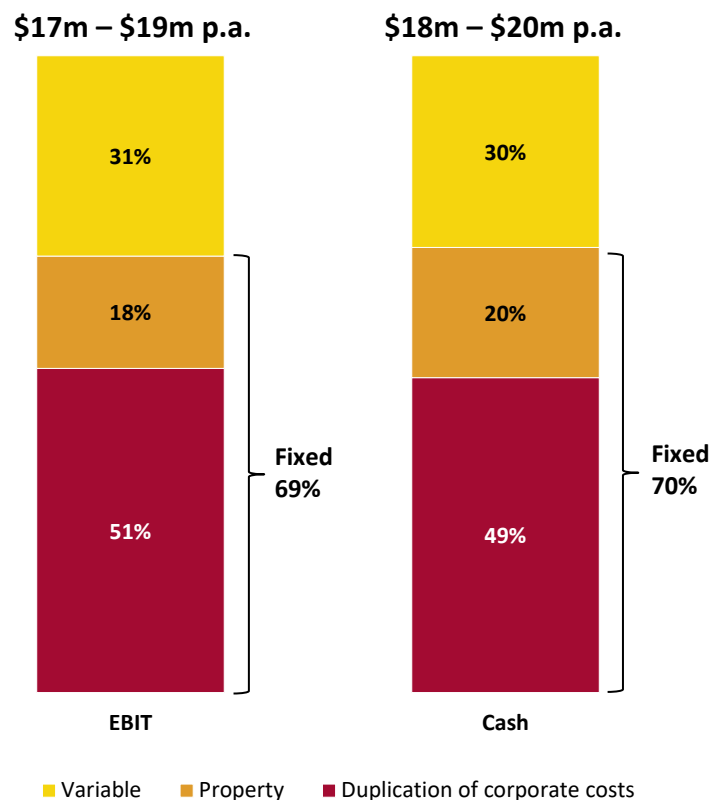
Significant Value Creation through Synergy Realisation (1 / 2)

Largely fixed nature of synergies (1) enhances both businesses' ability to best navigate the recovery and (2) means that significant value is expected to be created regardless of the COVID recovery profile as the value of synergies comprises a relatively larger proportion of the earnings base of the combined standalone businesses

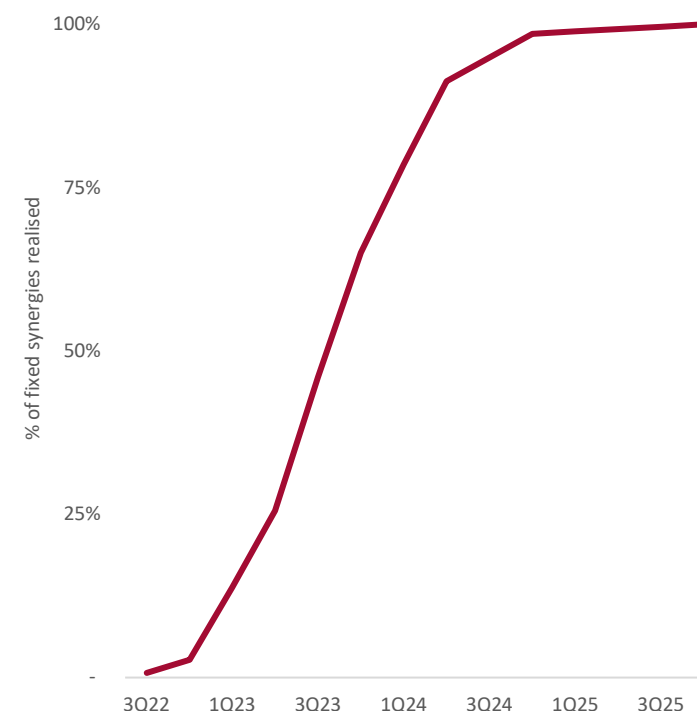
1

- Material synergies are expected to arise in the Combined Group due to recurring cost reduction
- These primarily relate to duplication of corporate costs and procurement benefits
- Such synergies are expected to deliver a steady-state² EBIT uplift of \$17m – \$19m per annum
- The majority of the fixed cost synergies are expected to be fully implemented by the end of FY23
- The phasing of variable cost synergies will depend on the pace of COVID recovery
- Total one-off implementation costs are expected to be \$4m – \$7m, with the majority of these to be incurred by the end of FY23

Expected cost-out recurring synergies¹



Indicative phasing of fixed synergies



1. Percentages based on mid point of synergy range
 2. Steady-state refers to post COVID recovery period

Significant Value Creation through Synergy Realisation (2 / 2)

Largely fixed nature of synergies (1) enhances both businesses' ability to best navigate the recovery and (2) means that significant value is expected to be created regardless of the COVID recovery profile as the value of synergies comprises a relatively larger proportion of the earnings base of the combined standalone businesses

2

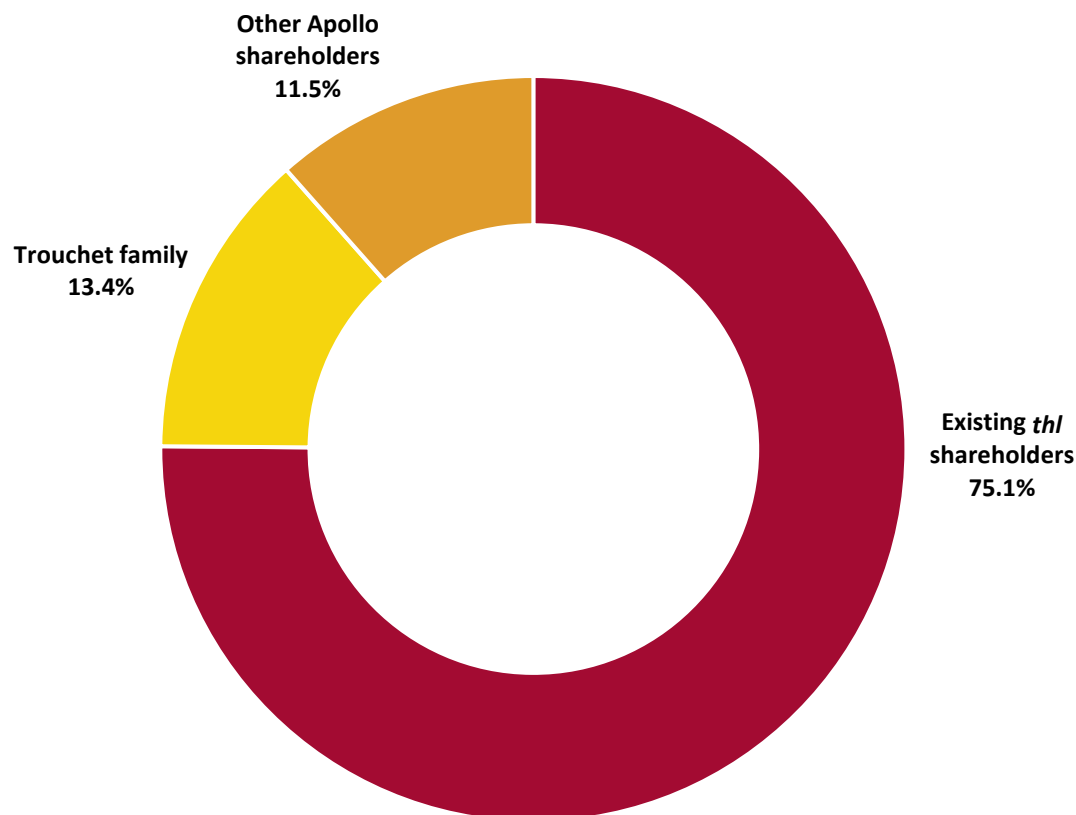
- A significant fleet rationalisation opportunity of up to ~1,250 vehicles is expected due to the ability of the Combined Group to service rental operations on a smaller, more optimised fleet base (i.e. enhanced utilisation)
- This synergy comprises both:
 - A one-off reduction in net debt as fleet are permanently removed; and
 - An ongoing reduction in annual replacement fleet capex required due to smaller fleet size.
- The current state fleet reduction is expected to be achieved by the start of FY23, with the steady state fleet reduction dependent on COVID recovery

	Current and steady state	Potential upside
Current + steady state	Current fleet reduction: Vehicles which can be extracted from the Combined Group immediately ~300 vehicles	Potential upside Additional upside fleet reduction: Additional vehicles which can potentially be extracted subject to operational efficiency improvements ² Recurring savings including net capex reduction: Ongoing cashflow benefits of lower net replacement capex resulting from a smaller fleet base
	Steady state fleet reduction: Additional vehicles which can be extracted from the Combined Group in a steady state environment ~600 vehicles	
	One-off debt reduction: Total cash flow impact of the current and steady state fleet reduction ~\$40m¹	
		Up to ~350 Vehicles , or ~\$30m¹ one-off debt reduction Not quantified

1. Debt reduction per vehicle differs between current and steady state and potential upside due to differences in age of vehicles, mix of vehicles and differences in changes to both purchases and sales
 2. Total fleet size is expected to continue to grow over time as the post-COVID operating environment recovers. Additional upside fleet reduction is relative to steady state fleet size

Combined Group Shareholdings and the Trouchet Family

Combined Group indicative shareholdings



Trouchet family

- Luke Trouchet will continue to provide his global expertise to the business with ongoing involvement in the Combined Group (see page 31)
- Post-merger, the Trouchet family will hold a 13.4% shareholding in the Combined Group
- Subject to regulatory and other requirements, it is proposed that the Trouchet family will escrow:
 - a) 90% of their **thl** consideration shares for 12 months after the Implementation Date; and
 - b) 50% of their **thl** consideration shares for 24 months after the Implementation Date.
- The Trouchet family are strongly aligned with the continued growth of the Combined Group and intend to be a long-term, supportive shareholder evidenced by:
 - Entry into voluntary escrow
 - Luke Trouchet’s role in the Combined Group as Executive Director – M&A and Global Transitions
 - High degree of cultural alignment between **thl** and Apollo

Dividend Policy

- Prior to being suspended due to the impact of the COVID-19 pandemic, **thl**'s dividend policy was a payout ratio of 75% to 90% of NPAT
- The current intention of the **thl** Board is that dividends will recommence, most likely at a lower payout ratio than was paid prior to the COVID-19 pandemic, once the Combined Group returns to a sustainable level of profitability
- The review of the dividend policy will, among other matters, consider:
 - 1) the equity ratio of the Combined Group;
 - 2) the availability of tax imputation and franking credits; and
 - 3) the Combined Group's future growth capital requirements, including as it focuses on re-fleeting in the near-medium term to take advantage of expected recovery and other opportunities.

Summary of Key Borrowing Facilities

Intentions for the Combined Group

- The transaction is subject to refinancing the debt facilities of **thl** and/or the Combined Group with new or existing financiers with effect from the implementation of the Scheme, and all consents and waivers being obtained from any continuing financiers of Apollo
- The Combined Group has a significantly enhanced earnings profile, in particular given the anticipated material synergies available, and as such intends to undertake a refinance in order to optimise its borrowing mix for future growth
- No additional debt is created because of the merger given the equity consideration¹ – debt reduction can be achieved through fleet rationalisation

As at 31 October 2021 (NZ\$m)	thl	Apollo	thl + Apollo
Fleet financing	-	123	123
Floor plan	-	37	37
Bank borrowings, loans & overdrafts	54	27	80
COVID-19 Support Loans	-	32	32
Total	54	218	272
Cash and equivalents	(24)	(37)	(61)
Total Net Debt²	29	182	211

Overview of Current Facilities

- As at 1 December 2021, **thl's** corporate debt facility limit was \$251m
- Apollo uses predominately fleet and floor plan financing and Apollo continues to be able to draw down on these facilities for liquidity as required

Note: exchange rates used for conversion as at 31 October 2021 are 1.048 NZD / AUD, 1.097 NZD / CAD, 1.656 NZD / EUR, 1.954 NZD / GBP, and 1.467 NZD / GBP

1. After the impact of transaction related expenses

2. Excludes non-fleet IFRS 16 lease liabilities

Combined Group FY21 Pro Forma Balance Sheet



<i>NZ\$m, as at 30 June 2021</i>	<i>thl</i>	<i>Apollo adjusted, translated and reclassified</i>	<i>Scheme adjustments</i>	<i>Acquisition adjustment AML¹</i>	<i>Combined Group pro forma consolidated BS</i>
Assets					
Cash and cash equivalents	38.1	48.9	(9.1)	-	77.8
Trade and receivables and other assets	28.7	12.5	(0.4)	-	40.8
Inventories	57.5	57.1	-	-	114.6
Property, plant and equipment	273.1	115.2	-	(0.9)	387.4
Right-of-use assets - Fleet	-	82.3	-	-	82.3
Right-of-use assets - Property	62.3	27.4	-	-	89.7
Intangible assets (including goodwill)	51.1	25.0	115.6	-	191.7
Investments in/advances to associates and JVs	4.9	-	-	0.0	5.0
Investments accounted for using equity method	-	3.5	-	-	3.5
Other assets	22.4	11.2	(10.5)	-	23.1
Total assets	538.1	383.2	95.6	(0.8)	1,016.0
Liabilities					
Interest bearing loans and borrowings	86.8	149.3	-	-	236.1
Trade and other payables	25.3	24.0	-	-	49.2
Revenue in advance	13.1	17.0	-	-	30.1
Lease liabilities	73.3	116.8	-	-	190.1
Other liabilities	27.1	34.8	3.3	-	65.1
Total liabilities	225.5	341.9	3.3	-	570.6
Equity					
Share capital	277.8	89.9	52.8	-	420.5
Retained earnings	42.3	(35.8)	26.7	(0.8)	32.3
Other equity	(7.5)	(12.8)	12.8	-	(7.5)
Total equity	312.6	41.3	92.4	(0.8)	445.4
Total equity and liabilities	538.1	383.2	95.6	(0.8)	1016.0
Key balance sheet metrics					
Equity ratio (net of intangibles)	53.7%	4.5%			30.8%
NTA per share¹	\$1.73	\$0.09			\$1.25

Note: Pro forma statements have been consolidated for brevity. Refer to notes 1 to 6 on page 28 which detail the basis of preparation of the Combined Group pro forma financial information

1) NTA per share has been calculated using the shares outstanding as at 30 June 2021 for each of thl and Apollo. For the Combined Group, the Combined Group total shares on issue post-Scheme of 202,292,995 shown on page 34 has been used for the calculation

Combined Group FY21 Pro Forma P&L



<i>NZ\$m, twelve months ending 30 June 2021</i>	<i>thl</i>	Apollo adjusted, translated and reclassified	Scheme adjustments	Acquisition adjustment AML¹	Combined Group pro forma consolidated P&L
Sales of services	130.0	57.0	0.0	0.0	187.1
Sales of goods	229.1	256.1	0.0	14.7	499.9
Total revenue	359.2	313.1	0.0	14.7	687.0
Cost of sales	(186.0)	(228.0)	0.0	(10.3)	(424.3)
Gross profit	173.1	85.1	0.0	4.4	262.6
Administration expense	(37.9)	(16.6)	(9.1)	(1.9)	(65.4)
Operating expenses	(150.0)	(85.8)	0.0	(3.6)	(239.4)
Other income	6.5	1.4	0.0	0.6	8.4
Operating (loss) / profit before financing costs	(8.3)	(15.8)	(9.1)	(0.5)	(33.7)
Net finance costs	(10.8)	(11.0)	0.0	(0.3)	(22.2)
Share of profit / (loss) from associates and joint ventures	0.7	0.0	0.0	(0.0)	0.7
(Loss) / profit before tax	(18.4)	(26.8)	(9.1)	(0.8)	(55.2)
Income tax benefit	3.9	7.7	0.0	0.0	11.5
(Loss) / profit for the year	(14.5)	(19.1)	(9.1)	(0.8)	(43.6)

Pro forma financial information notes (relating to pages 27 – 29)

Note 1: Combined Group pro forma financial information is non GAAP financial information. The Combined Group pro forma financial information is presented for informational purposes only and is not intended to present, or be indicative of, what results from operations or financial position would have been had the events actually occurred on the dates indicated, nor is it meant to be indicative of future results from operations or financial position for any future period or as of any future date. The Combined Group pro forma financial information does not give effect to the potential impact of current financial conditions, or any anticipated synergies that may result from the implementation of the Scheme and subsequent integration of the two businesses

Note 2: Pro forma statements have been consolidated for brevity. It does not include all the disclosures, statements or comparative information that are required by New Zealand GAAP applicable to full financial statements or to financial statements prepared in accordance with the applicable rules and regulations of the New Zealand Stock Exchange ("NZX") and the New Zealand Companies Act 1993

Note 3: Apollo's financial information has been translated to NZ dollars and reclassified to align the presentation of certain financial statement captions with thl

Note 4: Scheme adjustments relate to impacts on the financial statements arising from the implementation of the Scheme. For the purpose of the Combined Group pro forma financial information, the fair value of Apollo's identifiable assets acquired, and liabilities assumed, have been presented on a provisional basis at book value. Scheme adjustments for Administration expenses relate to advisor costs which are expected to be incurred as part of the Scheme implementation. The purchase price consideration is based on the closing share price for thl on the 3rd December 2021. Any material changes in the share price between this date and the date of acquisition for accounting purposes will impact the purchase price consideration recognised for financial reporting purposes

Note 5: During the 2021 financial year, thl acquired the remaining 50% interest in AMLP, an RV manufacturer, that it did not already own. This transaction occurred on 28 February 2021. A pro forma adjustment has been included to reflect the impact of this acquisition as if it occurred from 1 July 2020. The pro forma adjustment includes eight months of trading for the period 1 July 2020 to 28 February 2021. These adjustments include the elimination of the impact of intercompany trading between thl and AMLP

Note 6: Apollo financial information has been currency adjusted at 0.9310 NZD / AUD for the purposes of the Balance Sheet, and currency adjusted at 0.9327 NZD / AUD for the purposes of the P&L and Cash Flow

Combined Group FY21 Pro Forma Cash Flow



<i>NZ\$m, twelve months ending 30 June 2021</i>	<i>thl</i>	Apollo adjusted, translated and reclassified	Scheme adjustments	Acquisition adjustment AMLPL	Combined Group pro forma consolidated CF
Cash flows from operating activities					
Receipts from customers	150.5	242.2	-	-	392.7
Proceeds from sale of goods	222.3	122.6	-	42.4	387.3
Payments to suppliers and employees	(159.8)	(242.6)	(9.1)	(26.1)	(437.6)
Purchase of rental assets	(119.9)	(23.4)	-	-	(143.3)
Net interest paid / (received)	(10.8)	(11.5)	-	(0.2)	(22.5)
Taxation received / (paid)	2.0	0.9	-	0.0	3.0
Other operating cash flows	2.7	-	-	-	2.7
Net cash flows from operating activities	87.0	88.4	(9.1)	16.1	182.3
Cash flows from investing activities					
Net sale / (purchase) on property, plant & equipment	(1.1)	(1.1)	-	(0.4)	(2.6)
Other investing cash flows	0.5	(0.6)	-	-	(0.1)
Net cash flows used in investing activities	(0.6)	(1.8)	-	(0.4)	(2.8)
Cash flows from financing activities					
Payment for lease liability principal	(7.7)	(45.0)	-	-	(52.8)
Net proceeds / (repayments) from borrowings	(74.6)	(18.6)	-	(15.8)	(108.9)
Other financing cash flows	0.3	-	-	-	0.3
Net cash flows used in financing activities	(82.0)	(63.6)	-	(15.8)	(161.4)
Net increase in cash and cash equivalents	4.4	22.9	(9.1)	(0.1)	18.1
Opening cash and cash equivalents	35.5	25.2	<i>n.a</i>	0.1	60.8
Exchange (losses)/gains on cash and cash equivalents	(1.8)	0.7	<i>n.a</i>	<i>n.a</i>	(1.1)
Closing cash and cash equivalents	38.1	48.9	(9.1)	-	77.8

Note: Pro forma statements have been consolidated for brevity. Refer to notes 1 to 6 on page 28 which detail the basis of preparation of the Combined Group pro forma financial information

Governance and Management



Board and Executive Management

The Combined Group will be governed by a transitional Board of 10 directors, comprising the existing *thl* board as well as 2 Independent Directors from the Apollo Board, Grant Webster and Luke Trouchet as Executive Directors. This transitional Board is expected to be in place until the 2022 Annual Meeting at which point a new Board consisting of no more than 8 directors will be appointed

New additions to the *thl* Board



Grant Webster
CEO and Managing Director

Grant was appointed to the position of Chief Executive Officer of *thl* in December 2008. Grant is currently the Deputy Chair of the TIA (Tourism Industry Aotearoa) Board, on the Government working group on responsible camping, and was a co-Chair for the New Zealand Government's Tourism Futures Taskforce in 2020. Grant joins the Board as Managing Director



Luke Trouchet
Non-Independent, Executive Director

Luke Trouchet has been a non-independent director of Apollo since September 2016. Luke was appointed as the Chief Executive Officer and Managing Director of Apollo's predecessor entities in 2001, and of Apollo in September 2016 (when Apollo was incorporated). Since that time he has led the organisation through a strong growth period, expanding internationally into NZ, USA, Canada, United Kingdom and Europe



Sophie Mitchell
Independent Director

Sophie has been an independent director of Apollo since September 2016. She is a non-executive director of Corporate Travel Management Limited, Morgans Holdings (Australia) Limited and is also a member of the Queensland Advisory Board for AustralianSuper, a board member of the Australia Council for the Arts, and a board member of Myer Family Investments Pty Ltd. Sophie is a former member of the Australian Takeovers Panel



Robert Baker
Independent Director

Robert joined the Apollo Board as an independent director in January 2020. Rob is an experienced director with current ASX roles including independent director and Chair of the Audit & Risk committee of Flight Centre Travel Group Ltd and independent chairman of RightCrowd Limited. He is also Chairman of Goodman Private Wealth Ltd and has several pro bono Board or Advisory Board roles with not-for-profit organisations

Executive management

- The Combined Group's Executive team will include Grant Webster remaining in the role of Chief Executive Officer, in addition to joining the Board as Managing Director
- Luke Trouchet will also be appointed to the new role of Executive Director – M&A and Global Transitions. In this role, Luke will oversee a number of business projects that are contemplated over the coming years, including transitional projects in relation to chassis procurement, manufacturing, dealerships and technology solutions, as well as exploration of global M&A opportunities
- Nick Judd will be remaining in the role of Chief Financial Officer of the Combined Group
- The specific Executive structure of the Combined Group, including how duplicate Executive roles between ATL and *thl* are to be addressed, are currently under review. Once determined, the remaining Executive structure will be implemented following a transitional period after completion of the Scheme

Continuing Board members



Rob Campbell
Chairman



Debbie Birch
Independent Director



Rob Hamilton
Independent Director



Guorong Qian
Non-Independent Director



Cathy Quinn
Independent Director



Gráinne Troute
Independent Director

Transaction Process



Transaction Overview and Conditions

- The merger will be implemented by way of an Australian Scheme of Arrangement whereby **thl** acquires all shares in Apollo (excluding **thl**), this is expected to take effect in Q4 FY22
- Apollo will become a wholly-owned subsidiary of **thl**
- **thl** will be listed on the Australian Securities Exchange (ASX) as a foreign exempt listing

The Scheme is subject to a number of conditions. Full details of these conditions are set out in the Scheme Implementation Deed.

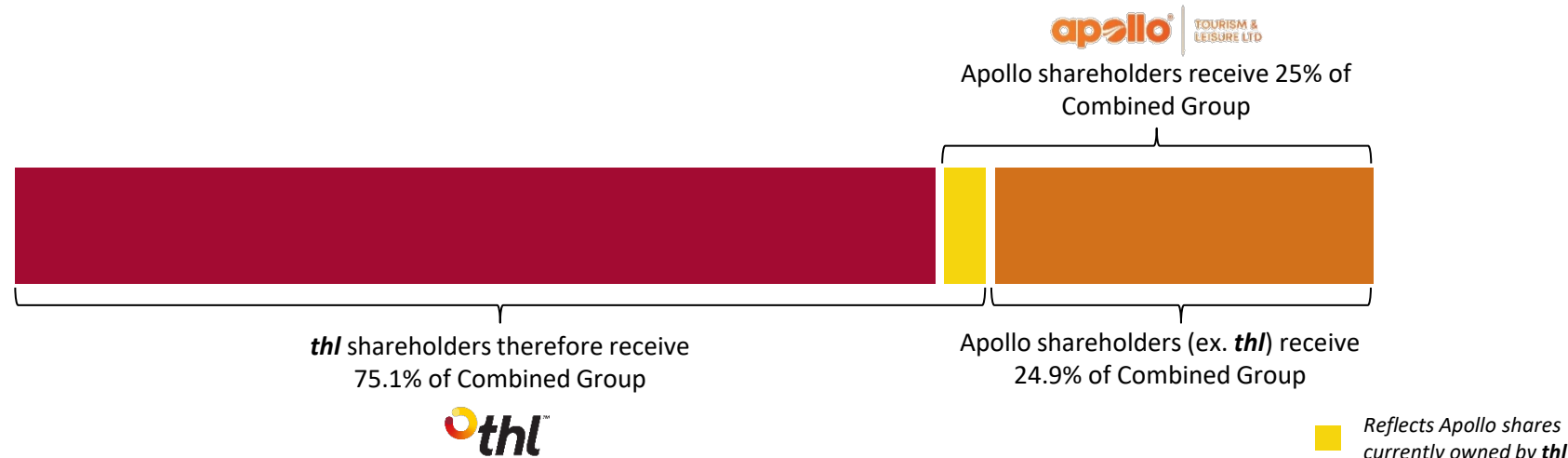
These conditions include:

- Each party obtaining all necessary regulatory approvals or waivers (including Australian competition and foreign investment (ACCC and FIRB) and New Zealand competition (NZCC) approvals)
- Approval of 75% of votes cast and more than 50% of members voting at a meeting of Apollo shareholders
- Approval of the Supreme Court of Queensland
- The receipt of an independent expert report which concludes the Scheme is in the best interests of Apollo shareholders
- **thl** obtaining ASX foreign exempt listing approval
- No prescribed occurrences in relation to **thl** or Apollo
- No material adverse change or certain specific company events in relation to **thl** or Apollo
- Each party's warranties remaining true and correct in all material respects
- The Trouchet family entering into escrow arrangements, as set out on page 24
- Prior to the Second Court Date, **thl** obtaining confirmation from its insurers that its existing Directors and Officers insurance policy is extended to include the Scheme
- No restraining orders that prohibit, materially restrict, make illegal or restrain the completion of the Scheme
- Refinancing the debt facilities of **thl** and/or the Combined Group with new or existing financiers with effect from the implementation of the Scheme on terms acceptable to **thl** and Apollo and all conditions to drawdown being satisfied or waived by the Second Court Date (including obtaining all necessary approvals for the refinancing)
- All consents and waivers being obtained from any continuing financiers of Apollo that are necessary in the opinion of **thl** or Apollo the Scheme and the ongoing funding of the Combined Group in an acceptable form
- All necessary consents in connection with the Scheme are obtained in connection with a list of material Apollo contracts

No **thl** shareholder approval is required for the Scheme

Key Merger Metrics

Resulting ownership of Combined Group



Combined Group share composition

Apollo current shares on issue	186,150,908
Apollo shares held by thl	898,150
Apollo current shares on issue (excl. thl held)	185,252,758
Conversion ratio	3.680818
thl shares issued to Apollo shareholders (excl. thl)	50,329,236²
thl current shares on issue ³	151,963,759
Combined Group shares on issue	202,292,995²

Merger consideration

- As consideration, thl will issue **1 new ordinary thl share for every 3.680818 ordinary Apollo shares** held by Apollo shareholders (excluding thl) as at the date of Scheme Implementation Deed¹
- thl currently holds 898,150 ordinary shares in Apollo being 0.5% of Apollo ordinary shares on issue at the date of the Scheme Implementation Deed. No new shares will be issued to thl in relation to its shareholding in Apollo
- The merger will result in Apollo shareholders (excluding thl) owning 24.9% of the Combined Group and thl shareholders owning 75.1% of the Combined Group³. The Trouchet Family (who are currently 53.4% of Apollo) will become 13.4% shareholders of the Combined Group

1) The consideration shares of shareholders with an address other than in Australia, New Zealand, the United Kingdom or other jurisdictions agreed by Apollo and thl will be issued to a nominee and sold with the proceeds paid to the shareholder

2) Any entitlements to a fraction of a new thl share arising under the calculation of scheme consideration will be rounded to the nearest new thl share (and if the fractional entitlement would include one-half of a thl consideration shares, the entitlement will be rounded up)

3) Based on the respective ordinary shares on issue for thl (and Apollo) as at the date of the Scheme Implementation Deed. The total number of thl ordinary shares on issue may change prior to completion of the Scheme in the event that any shares vest under existing LTI schemes

Indicative Timetable

Key event	Indicative date
Enter in Scheme Implementation Deed	10 December 2021
Lodge Explanatory Booklet with ASIC and ASX for review and comment	Q3 FY22
First Court Date	Q3 FY22
Explanatory Booklet registered by ASIC	Q3 FY22
Dispatch Explanatory Booklet to Independent Shareholders	Q3 FY22
Scheme Meeting	Q3 FY22
Second Court Date	Q4 FY22
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	Q4 FY22
Scheme Record Date	Q4 FY22
Implementation Date	Q4 FY22

Note: All dates are indicative only and subject to change. The dates assume there are no delays or complications with respect to any of the court and regulatory approvals and are dependent on the timing of satisfaction of the conditions precedent referred to on page 33

Transaction Advisors

Advisor	Role
Jarden	Financial advisor
MinterEllisonRuddWatts	Legal advisor (New Zealand)
MinterEllison	Legal advisor (Australia)
Baker McKenzie	Legal advisor (North America)
KPMG	Synergy Due Diligence; Accounting advisor
Deloitte	Tax advisor
Richard Wallace	Banking advisor

Transaction costs

- **thl** costs associated with the transaction to date will be included within the half year results and are expected to be approximately \$2m
- **thl** expects to continue to incur further transaction costs in H2 FY22, including costs which are conditional on the transaction settling

Key Risks (1 / 3)

Risk	Description
Completion of the Scheme is subject to various Scheme Conditions	<p>The implementation of the Scheme is subject to the satisfaction or waiver of the conditions precedent to the Scheme (which are included at clause 3 of the Scheme Implementation Deed and summarised on page 33 of this Investor Presentation) (Scheme Conditions).</p> <p>The Scheme will not proceed if the relevant Scheme Conditions are not satisfied or waived (as applicable) before the End Date (which is currently 29 April 2022 unless at that time the only Scheme Conditions that need to be satisfied are the approval by the Australian Competition and Consumer Commission, Commerce Commission and Foreign Investment Review Board, in which the End Date will be 30 June 2022).</p> <p>There can be no certainty, nor can thl provide any assurance, that these conditions will be satisfied or waived (where applicable), or if satisfied or waived (where applicable), when that will occur. There are also a number of conditions which are outside the control of thl, including, but not limited to, approval of the Scheme by the requisite majorities of ATL Shareholders, approval by the Court and receipt of an independent expert report which concludes the Scheme is in the best interest of Apollo shareholders.</p> <p>In addition, one of the Scheme Conditions relates to thl entering into an agreement with its financiers to refinance its existing debt facilities or the debt facilities of all or part of the Combined Group, and obtaining all necessary approvals in respect of the entry into any such refinancing. There can be no assurance that that refinancing will be able to be achieved or the terms on which that financing may be able to be obtained.</p>
Scheme Implementation Deed may be terminated	<p>Each of ATL and thl has the right to terminate the Scheme Implementation Deed in certain circumstances as set out in the Scheme Implementation Deed. Accordingly, there is no certainty that the Scheme Implementation Deed will not be terminated by either ATL or thl before the implementation of the Scheme if any of those circumstances occur.</p>
Court approval	<p>There is a risk that the Court may not approve the Scheme, either at all or in the form proposed, or the Court's approval of the Scheme may be delayed. In particular, if there is a material change in circumstances between the meeting and the second court date, the Court will take the change into account in deciding whether it should approve the Scheme. If there is a material change of sufficient importance so as to materially alter the Scheme, there is a risk that the Court may not approve the Scheme on the second court date.</p>
Superior proposal may emerge	<p>There is a risk that a superior proposal for ATL, which is more attractive for ATL Shareholders than the Scheme, may materialise in the future. ATL has the ability to respond to any bona fide competing proposal made by or on behalf of a person that the ATL Board considers is of sufficient commercial standing, is reasonably expected to lead to a superior proposal and (subject to receiving legal advice from ATL's external legal advisors) failure to respond to the competing proposal will constitute a breach of fiduciary or statutory duties of the ATL board). If ATL receives such a competing proposal then thl may be unwilling to increase its offer under the Scheme which may mean that the Scheme does not proceed.</p>
Integration risk and realisation of synergies	<p>There is a risk that thl's business and assets are not integrated effectively with ATL's business and assets, that the expected synergies are unable to be realised or implementation costs are greater than anticipated. Any failure to achieve expected synergies (including the consolidation of systems and processes) or an increase in implementation costs may impact on the financial performance and position of the Combined Group. The integration of thl and ATL into a Combined Group may encounter unexpected challenges or issues. There is a risk that integration could take longer or cost more than anticipated, including as a result of the COVID-19 pandemic, travel restrictions and social distancing requirements, or that the expected benefits and synergies of the Scheme may be less than estimated. There is further risk of disruption to the ongoing operation of both businesses, reduced employee productivity or unintended loss of key personnel or expert knowledge arising as a result of the Scheme, particularly through the period between announcement and implementation of the Scheme (which has the potential to be significant given the lengthy court and regulatory processes).</p>

Key Risks (2 / 3)

Risk	Description
COVID-19	<p>The global impact of the COVID-19 pandemic, and the advice and responses from health and regulatory authorities, is continuously developing. The COVID-19 pandemic has had and continues to have a significant adverse impact on the tourism industry globally. It has also had and may continue to have unpredictable and significant impact on capital markets and share prices and may adversely impact the Combined Group's business and financial performance for the foreseeable future.</p> <p>The Combined Group may be impacted both by deterioration in macroeconomic conditions generally and specifically in relation to its operations. To date, the COVID-19 pandemic has affected, amongst other things, economic conditions, employment markets, equity markets, regulatory policy and caused governmental action including, mandatory quarantine, self-isolations, border closures and other travel related restrictions. Both thl and ATL's businesses have been impacted by various domestic and international travel restrictions in New Zealand and Australia. In the United States and Canada, there is yet to be a meaningful return of international tourism activity.</p> <p>Over the medium to longer term, the extent to which the COVID-19 pandemic will continue to impact the Combined Group will be primarily based on how long it takes for international tourism to return and whether international tourism returns to pre-COVID-19 levels. However, given the ongoing and dynamic nature of the COVID-19 pandemic, the measures implemented to try to control it and the resulting volatility in financial, commodity and other markets, it is not possible to predict the impact that the COVID-19 pandemic and related measures taken to try to control the COVID-19 pandemic will have on the Combined Group's business (or on the operations of the Combined Group's customers, suppliers and other businesses upon which the Combined Group relies), and the length of time of such impact. Given the nature of the Combined Group's business, it is likely to continue to be affected by, among others, the geographic spread of the virus; changes in the severity of the disease; mutations in the COVID-19 virus (including Omicron); the duration of the pandemic; the availability and effectiveness of vaccines; actions that may be taken by Australian and New Zealand governmental authorities and governmental authorities in the other jurisdictions outside Australia and New Zealand in which the Combined Group operates in response to the pandemic, including actions to relax or further tighten existing travel, social distancing and other restrictions. The COVID-19 pandemic and such responsive measures could also impact the Combined Group's ability to effectively implement its strategy, risk management framework and internal controls and procedures.</p> <p>To the extent that the COVID-19 pandemic outbreak adversely affects the Combined Group's business and financial performance, it may also have the effect of exacerbating many of the other risks identified in this Investor Presentation.</p>
Decline in vehicle sales demand	<p>Globally, recent demand for motorhomes has been high. If, for whatever reason, there was a decline in vehicle sales demand, in conjunction with a potential extended border closure environment as a result of the COVID-19 pandemic, the Combined Group may be unable to adjust fleet size downwards, resulting in excess fleet being carried globally. A reduction in vehicle sales demand may also lead to a reduction in pricing, impacting the quantum of 'embedded equity' (the difference between market value and book value of vehicles in the Combined Group's fleet).</p>

Key Risks (3 / 3)

Risk	Description
Supply chain / market conditions	<p>The COVID-19 pandemic has had a significant impact on global supply chains, which in turn has had and continues to have an adverse impact on ATL and <i>thl</i>.</p> <p>Both ATL and <i>thl</i> are facing supply chain difficulties. <i>thl</i> is reliant on a delivery of vehicles that have been ordered for its USA, New Zealand and Australian businesses, in order to replenish a proportion of vehicles that have been recently sold. If for whatever reason, the delivery of vehicles does not eventuate, or is delayed, then this will have an impact on the Combined Group's performance as (a) the Combined Group may need to reduce vehicle sales to ensure it maintains an appropriate fleet size, and (b) the Combined Group would have a smaller fleet if vehicle sales were continued at the expected pace. Future supply shortages may have an adverse effect on the financial performance of the Combined Group.</p> <p>In addition, there are several expected synergies resulting from <i>thl</i> and ATL leveraging each other's suppliers to procure inputs at lower costs (e.g. chassis, tyres, brakes, etc.). There is a potential risk that the Combined Group will be unable to realise these cost savings in the shorter term, due to supply chain difficulties.</p>
Competitive industry	<p>The market for products and services targeting the RV lifestyle or enthusiast market is highly fragmented and competitive. New competitors may enter the market or existing competitors could join together to consolidate their positions. It is also possible for competitors to create new opportunities through digital market disruption and potentially change the manner in which consumers use RV rental services. Increased or improved competition may adversely affect the Combined Group's financial performance and key business. Factors that may impact Combined Group's performance include: new or improved products made available by its competitors; the Combined Group's pricing and competitiveness; technological and regulatory change; and ability to respond to changing preferences of the Combined Group's clients.</p>
Other risks	<p>Additional risks and uncertainties not currently known to <i>thl</i> may also have a material adverse effect on the business <i>thl</i>, ATL or the Combined Group and the information set out above does not purport to be, nor should it be construed as representing, an exhaustive list of the risks of ATL, <i>thl</i> or the Combined Group. These additional risks could include general economic and geo-political risks, climate-related risks, regulatory risks, personnel risks, key supplier risks, litigation risks and reputation risks.</p>

Appendix: *th*/Trading Update



thl Trading Update (1 / 2)

H1 FY22 net profit after tax

- As advised at the 2021 Annual Meeting, H1 FY22 will be below the prior corresponding period (**pcp**) result due to:
 - ongoing domestic travel restrictions in New Zealand and Australia; and
 - the earlier 2021 USA summer season having performed below expectations.
- The USA autumn shoulder season has performed in line with the pcp, and has experienced stronger than expected bookings for winter.
- The vehicle sales market remains strong, with average sales margin growth exceeding the pcp in all jurisdictions. As previously indicated, the current sales margins being achieved are transitory in nature as we sell vehicles purchased prior to the COVID-19 pandemic in today's market conditions. We expect higher than historical margins to remain throughout FY22 and potentially into H1 FY23, and then return to historical norms.
- Action Manufacturing and Just go have performed well. In particular, Action Manufacturing is currently on track for \$1m+ EBIT growth on the pcp.
- Variable costs have been closely managed in all jurisdictions.
- Inclusive of transaction costs incurred to date for the Apollo merger (~\$2m for the half year), we expect that the result for H1 will be a **net loss after tax of between \$4m - \$7m**.

thl Trading Update (2 / 2)

H2 FY22

- The outlook for H2 FY22 in New Zealand and Australia remains uncertain, as both markets currently have some form of domestic travel restrictions in place.
- While the respective Governments have provided an indicative timetable for the relaxation of international borders, it remains too early to understand what potential international demand could return in H2 FY22.
- Based on the New Zealand Government's announcement on border settings, it is unlikely that there will be any meaningful Trans-Tasman travel in H2.
- International booking intake for the April – May shoulder season in the USA has been positive, although it is too early to get a clear indication of the potential demand for the 2022 summer season.
- As previously stated, **thl's** H2 result is expected to be above the pcp as domestic (and to a lesser extent international) travel restrictions ease and **thl** continues to capitalise on strong vehicle sales demand.
- **thl** is closely monitoring development of the Omicron variant to assess the potential impact on travel sentiment and international and domestic travel restrictions in its operating jurisdictions, and at this point there have not been any clearly identifiable trends.

Net debt and capital expenditure

- Net debt as at 30 November was approximately \$20m, as **thl** continues to capitalise on the strong vehicle sales market. Consequently, **thl** expects that net capital expenditure for FY22 will be at the lower end of previously stated guidance (between \$25m to \$60m).
- There is some uncertainty regarding the timing of new vehicle deliveries and as a result **thl** is limiting sales in New Zealand and the United States. Vehicle supply challenges are ongoing but considered manageable for 2022.

END



CONFIDENTIAL ANNEXURE 4 – *thl*'S NEW ZEALAND SALES REVENUES, FLEET SIZE, VOLUMES AND CAPACITY

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]²⁵

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] ²⁶	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] ²⁷	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] ²⁸	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

²⁵ [REDACTED]

²⁶ [REDACTED]

²⁷ [REDACTED]

²⁸ [REDACTED]

CONFIDENTIAL ANNEXURE 5 – APOLLO'S TOTAL NEW ZEALAND SALES REVENUES, FLEET SIZE, VOLUMES AND CAPACITY

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]²⁹

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]³⁰

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] ³¹

²⁹ [REDACTED]

³⁰ [REDACTED]

³¹ [REDACTED]

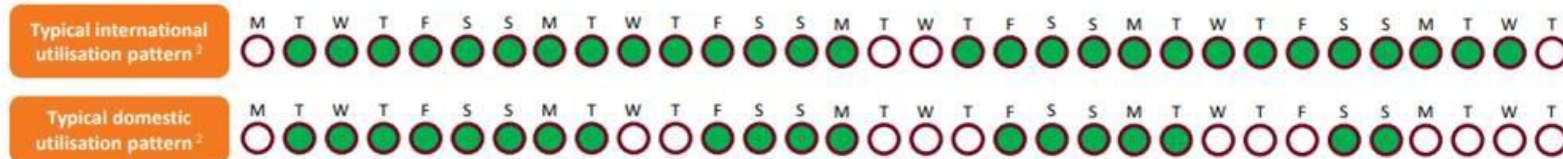
ANNEXURE 6 – EXTRACT FROM *THL* MARKET UPDATE JUNE 2021

Limitations of the domestic market

- Replacing international bookings with domestic bookings will not provide the same level of returns given a number of factors:
 - Domestic bookings are often clustered around the same periods – long weekends and school holidays
 - Domestic bookings are usually at a lower yield (most notably in New Zealand) as the customer is generally unwilling to pay the same premium during peak periods – they have the option of using their personal vehicle at no cost and staying at hotels/motels
 - Domestic bookings are on average 60% shorter in duration than international bookings
- It is more challenging to maintain a steady, high utilisation¹ in the domestic market
- Domestic utilisation comes at a greater operational cost as it involves more pick ups, returns and vehicle preparations being required to service the same number of booked days compared to the international market

Historical domestic customer split, fleet utilization and seasonality

	Q1 (July - September)	Q2 (October - December)	Q3 (January - March)	Q4 (April - June)
Rentals - New Zealand	<ul style="list-style-type: none"> Domestic customers: ~15% Utilisation: ~40% Low season 	<ul style="list-style-type: none"> Domestic customers: ~5% Utilisation: ~70% High season 	<ul style="list-style-type: none"> Domestic customers: ~5% Utilisation: ~80% High season 	<ul style="list-style-type: none"> Domestic customers: ~20% Utilisation: ~40% Low season
Rentals - Australia	<ul style="list-style-type: none"> Domestic customers: ~50% Utilisation: ~70% Low season 	<ul style="list-style-type: none"> Domestic customers: ~30% Utilisation: ~70% High season 	<ul style="list-style-type: none"> Domestic customers: ~30% Utilisation: ~80% High season 	<ul style="list-style-type: none"> Domestic customers: ~55% Utilisation: ~70% Low season
Rentals - USA	<ul style="list-style-type: none"> Domestic customers: ~40% Utilisation: ~70% High season 	<ul style="list-style-type: none"> Domestic customers: ~75% Utilisation: ~33% Low season 	<ul style="list-style-type: none"> Domestic customers: ~60% Utilisation: ~30% Low season 	<ul style="list-style-type: none"> Domestic customers: ~50% Utilisation: ~60% High season



¹ Utilisation is an internal measure reflecting the amount of hire days booked relative to the total number available.

² Booking pattern for a single vehicle for one month, with green representing booked days. Diagram is for illustrative purposes only and is not reflective of expected utilisation or booking durations.

ANNEXURE 7 – MOTORHOME RENTAL OPERATORS³²

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
Jucy	Jucy	Auckland (3.7km from AKL Airport); Christchurch (1.8km from CHC Airport); Queenstown (2.5km from Queenstown Airport)	https://www.jucy.com/nz/en/	Manufacturer/Renter	Both	Camper vans	2 berth, 3 berth, 4 berth	900	159 Parnell Road, Parnell, Auckland 1010 Contact: Dan Alpe (CEO) Phone: [REDACTED]
McRent	McRent	Auckland – 41.6km from AKL Airport and Christchurch – 4.3km from CHC Airport	https://www.mcrent.co.nz/	Renter	TS	Camper vans Motorhomes	2 berth, 4 berth, 5 berth, 6 berth	50	50 Gateway Park Drive Pokeno, Auckland 2402 Phone: +64 9267 6789 Email: mcrentnz@gmail.com
Wendekreisen	Wendekreisen	Auckland – 4.2km from AKL Airport and Christchurch – 3.8km from CHC Airport	https://www.wendekreisen.co.nz/	Manufacturer/Renter	Both	Motorhomes Camper vans Rooftop tent	2 berth and 4 berth	500	Unit 6, 197 Montgomerie Rd, Mangere/Airport Oaks, Auckland 2022 Phone: 09 256 0127 (Auckland), 03 357 4153 (Christchurch)

³² Unless otherwise indicated, information in this table has been collated from each rental operator's website.

³³ TS means toilet and shower. NTS means no toilet and shower.

³⁴ These estimates are *thl* management's best estimates based on their industry knowledge and experience.

³⁵ *thl* does not have contact information for all of the competitors listed in this table. Accordingly, the majority of the details provided are those published publicly on the companies' respective websites.

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
Tui	Tui Campers, Freedom Campers, Budget Campers, Tui Sleepervans	Auckland – 6.4km from AKL Airport and Christchurch – 4.0km from CHC Airport	https://www.tuicampers.co.nz/ https://www.freedomcampers.co.nz/ https://www.budgetcampers.co.nz/ and https://www.sleepervans.co.nz/	Renter	Tui Campers: Both Freedom: Both Tui Sleepervans: Toilet only	Motorhomes Camper vans	2 berth, 4 berth, 6 berth	300	520 Wairakei Road, Burnside, Christchurch Phone: +64 3 359 7410 (Tui Campers), +64 3 359 4730 (Freedom Campers), +64 3 977 4940 (Budget Campers), +64 3 359 4731 (Tui Sleepervans) Email: info@tuicampers.co.nz , info@freedomcampers.co.nz , info@budgetcampers.co.nz , info@sleepervans.co.nz
TAB	Travellers Autobarn	Auckland – 4.7km from AKL Airport, Christchurch – 3.7km from CHC Airport, Hamilton – 9.5km from Hamilton Airport and Queenstown – 3.5km from Queenstown Airport	https://www.travelers-autobarn.co.nz/	Renter	NTS	Camper vans	2 berth, 3 berth, 4 berth, 5 berth	200	C/13 Aintree Avenue Mangere, Auckland 2022 Phone: 0800 348 348 Email: info@travellers-autobarn.com
Wilderness	Wilderness	Auckland – 3.2km from AKL Airport and Christchurch	https://www.wilderness.co.	Renter, imported from	TS	Motorhomes Camper	2 berth and 4 berth	180	11 Pavilion Drive Mangere, Auckland 2022

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
		– 4.8km from CHC Airport	nz/	Germany		vans			Phone:0800 110 155 0508 945 337 Email: support@wilderness.co.nz Contact name: [REDACTED]
Wicked Campers Limited	Wicked Campers	Auckland – 4.0km from AKL Airport, Wellington – 25.6km from WLG Airport, Christchurch – 12.0km from CHC Airport, Queenstown – 3.2km from Queenstown Airport	https://wickedcampers.co.nz/	Renter	NTS	Camper vans	2 berth	200	3/50 Ascot Road, Mangere, Auckland 2022 Phone:0800 24 68 70 +64 3 222 2098 Email: online@wickedcampers.com
Spaceships Limited	Spaceships	Auckland – 14.4km from AKL Airport and Christchurch – 2.6km from CHC Airport.	https://www.spaceshipsrentals.co.nz/	Renter	NTS	Camper vans	2 berth	400	60 Walls Road, Penrose, Auckland 1061 Phone:0800 772 237 Email: info@spaceshipsrentals.co.nz
Escape Rentals Limited	Escape Rentals	Auckland 14.3km from AKL Airport and Christchurch – 11.9km from CHC Airport	https://www.escape rentals.co.nz/	Renter	Toilet only. Some models have a free solar shower	Camper vans	3 berth	400	8A Stoddard Place, Mt Roskill, Auckland 1041 Phone:0800 21 61 71 +64 9 302 4139

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
Pacific Horizon	Pacific Horizon	Auckland – 3.8km from AKL Airport, Wellington – 34.9km from WLG Airport and Christchurch – 2.5km from CHC Airport	https://pacifichorizon.co.nz/	Manufacturer/Renter	Both	Motorhomes Camper vans	2 berth, 4 berth and 6 berth	200	PO Box 57-230, Mana, Wellington, New Zealand Phone: +64 4 233 8881 0800 808 882 Email: info@pacifichorizon.co.nz
Mad Campers	Mad Campers	Auckland – 9.5km from AKL Airport and Christchurch – 2.7km from CHC Airport	https://www.madcampers.co.nz/	Renter	NTS	Camper vans	2 berth	100	19-21 Hill St, Onehunga Auckland 1061 Phone: 0800 466 236 +64 9 9750450 Email: theteam@madcampers.co.nz
Lucky Rentals	Lucky Rentals	Auckland – 4.5km from AKL Airport and Christchurch – 900m from CHC Airport	https://www.luckyrentals.co.nz/	Renter	Both	Camper vans	2 berth, 3 berth and 4 berth	200	5 Aintree Avenue, Mangere (Airport Oaks), Auckland 2022 Phone: +64 9 275 5110 0800 808 881 Email: info@luckyrentals.co.nz
Campify	Third party owned vehicles	N/A. Motorhome owners who rent their motorhomes through this platform are located throughout New Zealand.	https://www.campify.co.nz/	Renter	Both	All types	Any berth	94	Phone: 0800 779 779
Outdoor sy	Third party	N/A. Motorhome owners who rent	https://nz.outdoors	Renter	Both	All types	Any berth	141	Phone: +1 877-723-7232 Email:

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
	owned vehicles	their motorhomes through these platforms are located throughout New Zealand.	y.com/						support@outdoorsy.com
Happy Campers	Happy Campers	Auckland – 4.2km from AKL Airport and Christchurch – 3.8km from CHC Airport	https://www.happycampers.co.nz/	Renter	Both	Camper vans Motorhomes	2 berth, 3 berth, 4 berth, 5 berth	Unknown	Unit 8, 197 Montgomerie Road Airport Oaks Auckland 2022 Phone: 0800 569 385 Email: info@happycampers.co.nz
Nomad Motorhome Rentals	Nomad Motorhome Rentals	Auckland – 20.7km from AKL Airport and Christchurch – 3.7km from CHC Airport	https://www.nomadnz.com/	Renter	Both	Camper vans Motorhomes	2 berth, 4 berth, 5 berth	Unknown	51 Coldham Crescent St Johns Auckland 1072 New Zealand Phone: 0800 12 68 68 Email: reservations@nomadnz.com
Campa South	Campa South	Christchurch – 6.2km from CHC Airport.	https://www.campasouth.com/	Renter	NTS	Camper vans	2 berth, 3 berth and 4 berth	10	547 Pound Road, Yaldhurst, Christchurch 7676 Phone: 0210 222 5815 Email: campasouthrentals@gmail.com

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
Walkabout Motorhomes	Walkabout Rentals	Auckland – 8.9km from AKL Airport and Christchurch – 4.3km from CHC Airport	https://walkaboutrentals.co.nz/	Renter	TS	Camper vans Motorhomes	2 berth and 6 berth	Unknown	15/51 ASH ROAD AUCKLAND AIRPORT Phone: +64 981 08999 Email: rentals@walkaboutrentals.co.nz
Wanderlust Campers	Wanderlust Campers	Christchurch – 1.7km from CHC Airport	https://www.wanderlustcampers.co.nz/	Renter	NTS	Camper vans	2 berth	Unknown	Wanderlust Campers, 3/3 Pukaki Road, Christchurch Airport, Christchurch 8042 Phone: +64 32600883 Email: customerservices@wanderlustcampers.co.nz
Abuzzy Motorhomes	Abuzzy	Auckland – 3.2km from AKL Airport	http://www.abuzzy.co.nz/	Renter	Unclear	Camper vans	Unclear	Unknown	39 Rennie Drive, Māngere, Auckland 2022 Phone: 09 255 5443
Discover NZ Motorhomes	Discover NZ	Auckland – 3.9km from AKL Airport, Christchurch – 4.5km from CHC Airport	https://www.newzealandcampervanhire.co.nz/	Renter	TS	Motorhomes Camper vans	2 berth, 4 berth, 6 berth	Unknown	388 Paton Road, Hope 7022 Phone: 0800 696 686 Email: bookings@motorhomerentalsnz.co.nz
Mojo Camper	Mojo Campers	Hamilton – 16.5km from	https://www.mojo	Renter + modifier of	NTS	Camper vans	2 berth	50	186 Kent Street Frankton

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
s		Hamilton Airport.	campers.co.nz/	interiors					Hamilton 3204 Phone: +64 27 510 6962 Email: mail@mojocampers.co.nz
Venture RV Limited	Venture RV	Auckland – 66.2km from AKL Airport	https://www.venturerv.co.nz/	Renter	TS	Motorhome	4 berth	20	591 Weranui Road Puhoi 0994 Phone: +64 9 426 1659 Email: bookings@venturerv.co.nz
Euro Campers	Euro Campers Heron Campers Budy Campers	Auckland – 10km from AKL Airport and Christchurch – 21.2km from CHC Airport	https://eurocampers.co.nz/	Renter	Budy: TS Heron: TS Euro: Both	Motorhomes Camper vans	2 berth, 3 berth, 4 berth, 5 berth, 6 berth	50	833 Jones Road Rolleston 7614 Phone: 0800 887 701 Email: info@tatoffice.com
Vantastic New Zealand	Vantastic	Christchurch – 31.5km from CHC Airport	https://www.vantastic.co.nz/	Renter	TS	Camper vans	2 berth	20	33 Galilee Lane, Moncks Bay 8081 Phone: +64 28 429 1840 Email: info@vantastic.co.nz
Coastal Camper	Coastal Campers	Whitianga	https://www.coast	Renter	TS	Motorhomes	4 berth and 6	20	22 Lee Street, Whitianga 3510

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
s			alcamper s.co.nz/				berth		Phone: +64 7 866 0509 Email: info@coastalcampers.co.nz
Kia Ora Campers	Kia Ora Campers	Timaru	https://kiaoracampers.co.nz/	Renter	TS	Camper vans Motorhomes	2 berth, 3 berth, 4 berth	50	560 Landsborough Road, Claremont 7974 Phone: +64 21 176 4079 Email: info@kiaoracampers.nz
Kiwi Motorhomes	Kiwi Motorhomes	Auckland – 16.5km from AKL Airport	https://www.kiwimotorhomes.co.nz/	Renter	TS	Motorhomes	3 berth, 4 berth, 5 berth, 6 berth	50	Kiwi Motorhomes, 75 Walter Strevens Drive, Conifer Grove, Auckland 2112 Phone: +64 21 222 1434 Email: info@kiwimotorhomes.co.nz
Off Track Rentals	Off Track Rentals	Queenstown – 8.8km from Queenstown Airport	https://www.offtrackrentals.co.nz/	Renter	NTS	Rooftop tents	2 berth	20	1 Repco Boulevard, Queenstown 9300 Phone: +64 20 4016 1170 Email: info@offtrackrentals.co.nz
Cruzy Campers	Cruzy Campers	Christchurch – 50.9km from CHC Airport	https://www.cruzycampers.co.nz/	Renter	NTS	Camper vans	2/3 berth	20	16 Hunters Road, Diamond Harbour 8971 Phone: 0276224210

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
									Email: info@cruzycmapers.co.nz
Next Campers	Next Campers	Christchurch – 4.3km from CHC Airport	https://www.nextcampers.co.nz/campervans	Renter	NTS	Camper vans	2 berth	10	12 Holt Place, Burnside Christchurch 8053 Phone: 027 210 7525
Classic Campers	Classic Campers	Auckland – 56.6km to AKL Airport	http://classiccampers.com/	Renter	NTS	Camper vans Motorhomes Rooftop tents	2 berth 3 berth 4 berth	10	Newman Road, Silverdale 0993 Phone: 0800 566 247
Jones Motorhome Rentals	Jones Motorhome Rentals	Hamilton – 600m from Hamilton Airport	https://www.jonesmotorhomes.co.nz/	Renter	TS	Motorhomes	4 berth 6 berth	10	Unit 13/142 Ossie James Drive, Ham Airport, Hamilton 3282 Phone: 0880 458 543 Email: hello@jonesmotorhomes.co.nz
Your kind of camper	Your Kind of Camper	Auckland – 59.7km from AKL Airport	https://www.yourkindofcamper.co.nz/	Renter	TS	Camper vans	2 berth	10	20 Esther Place, Red Beach 0932 Phone: 021 236 9288
Bay of Islands Campervans Ltd	Bay of Islands Campervans	Paihia	https://campervan-hire-new-zealand.com/	Renter	TS	Motorhomes	2 berth	10	93A Yorke Road, Paihia 0204 Phone: +64 21 022 03009 Email:

Operator	Brands	Depot locations	Website	Renter / manufacturer?	Segment (TS/NTS) ³³	Vehicle types	Vehicle sizes	Estimated Fleet size ³⁴	Contact details ³⁵
									info@bayofislandscampervans.co.nz
Tiny House Campers	Tiny House Campers	Hamilton – 12.2km from Hamilton Airport	https://www.tinyhousecampers.global/	Renter	Unclear	Unclear	Unclear	10	31 Slim Street, Bader, Hamilton 3206 Phone: +64 22 479 3945

PUBLIC VERSION

ANNEXURE 8 – TRADE OR INDUSTRY ASSOCIATIONS

thl is a member of Tourism Industry Aotearoa.

Apollo is a member of the Caravan Industry Association of Australia.