

The Manager
Company Announcements Office
Australian Securities Exchange Limited
20 Bridge Street
SYDNEY NSW 2000

Diploma announces recommended cash scheme at \$0.015 per share

Further to the announcement released on 7 September 2015, Diploma Group Limited (**Diploma**) is pleased to announce it has entered into a Scheme Implementation Agreement (**SIA**) with Diploma Investments Pty Ltd (**BidCo**), under which it is proposed that BidCo will acquire all of the outstanding Diploma shares (**Shares**) not currently held by Wandina Holdings Pty Ltd, UP Investments Pty Ltd, Healthy Holdings Pty Ltd and ND Properties Pty Ltd (**Joint Bidders**), for cash consideration of \$0.015 per Share (the **Scheme**).

BidCo is a special purpose vehicle incorporated for the purpose of undertaking the Scheme and is owned by Mr Dominic Di Latte. Under the terms of a Framework Agreement executed between BidCo and the Joint Bidders, if the Scheme becomes effective, BidCo will acquire the Shares as trustee for the Joint Bidders. Diploma Managing Director and Chief Executive Office Mr Nick Di Latte controls ND Properties Pty Ltd and the Joint Bidders currently hold 45.43% of Diploma Shares in aggregate.

The Scheme is intended to be effected by way of a scheme of arrangement under Part 5.1 of the Corporations Act and is conditional on, among other things, shareholder and court approval. If the Scheme is approved, Diploma's shareholders other than the Joint Bidders (**Scheme Participants**) will receive cash consideration of \$0.015 for each Share they hold.

The board of Diploma established an independent committee of directors, comprising Mr Jeff Hill and Mr Jason Ferris (the **IBC**), to evaluate and negotiate the terms of the Scheme on behalf of Diploma. The IBC **unanimously recommends** that shareholders vote in favour of the Scheme, in the absence of a superior proposal or an event giving rise to a right of termination of the SIA by Diploma and subject to an independent expert concluding that the Scheme is in the best interests of Scheme Participants. Subject to the same qualifications, the IBC intend to vote, or cause the voting of any shares in which they have a relevant interest, in favour of the Scheme.

Diploma will appoint an independent expert to prepare an independent expert's report on whether the Scheme is in the best interests of Scheme Participants.

Key metrics

The offer price of \$0.015 per Share represents:

- a premium of 15% to the ASX closing share price of \$0.013 on 4 September 2015, being the last trading day before the discussions leading to the Scheme were announced; and
- a premium of 27.3% to the volume weighted average ASX share price (**VWAP**) of \$0.0118 in the one month up to and including 4 September 2015.

BidCo has warranted that it has the requisite capacity to perform its obligations under the SIA, including payment of the offer price to Scheme Participants if the Scheme becomes effective.

Key conditions for implementation

- Scheme Participants' approval under item 7 of section 611 of the Corporations Act of the acquisitions of relevant interests in Diploma Shares by the Joint Bidders arising out of the Framework Agreement;
- Scheme Participants' approval of the Scheme (requiring a majority in number of Scheme Participants voting (in person or by Proxy), and who represent at least 75% of the total votes cast);
- receipt of all required approvals and consents to the Scheme and all related matters;
- the independent expert's report concluding that the Scheme is in the best interests of Scheme Participants (with such report not being withdrawn or varied adversely prior to the court hearing to approve the Scheme);
- Court approval of the Scheme meeting and the Scheme itself in accordance with Corporations Act requirements; and
- No material adverse change being discovered, announced or disclosed, no 'prescribed occurrence' occurring between the date of the SIA and the Court hearing to approve the Scheme.

Full details of the conditions of the Scheme are set out in Schedule 1 of the SIA, a copy of which is attached to this announcement.

Next Steps

Diploma shareholders do not need to take any action at this time. Shareholders are expected to be sent a scheme booklet in October 2015 containing full details of the Scheme including an indicative timetable. The scheme booklet will include, among other things, the reasons for the IBC's unanimous recommendation and a copy of the independent expert's report.

Diploma shareholders should consult their stockbroker, accountant, tax, financial or other professional adviser about the impact of the Scheme on their particular investment objectives. Diploma will inform the market of any material developments at the appropriate time.

Advisers

BidCo is being advised by legal adviser HopgoodGanim Lawyers.

Diploma is being advised by legal adviser Steinepreis Paganin.

SIMON OATEN
Company Secretary
Diploma Group Limited



HopgoodGanim

LAWYERS

Scheme Implementation Agreement

Diploma Group Limited ACN 127 462 686

Diploma Investments Pty Ltd ACN 607 874 019

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Date

Parties

Diploma Group Limited ACN 127 462 686 of First Floor, 140 Abernethy Road, Belmont, Western Australia (**Diploma**)

Diploma Investments Pty Ltd ACN 607 874 019 of c/- Frank Cullura & Associates, Suite 6, 16 Main Street, Osborne Park Western Australia (**BidCo**)

Background

- A. Diploma and BidCo have agreed to effect a transaction by means of a scheme of arrangement under Part 5.1 of the Corporations Act pursuant to which BidCo will acquire all of the Scheme Shares and Diploma will become a public company owned by BidCo and the Excluded Shareholders, in accordance with this agreement.
- B. Diploma has agreed to propose the Scheme and issue the Scheme Booklet at the request of BidCo, and Diploma and BidCo have agreed to implement the Scheme on the terms and conditions of this agreement.

It is agreed

1. Definitions and interpretation

1.1 Definitions

In this agreement:

ASIC means the Australian Securities and Investments Commission.

Announcement means the announcement in the form of Schedule 4.

Associate has the meaning defined in the Corporations Act.

Authorised Officer of a party which is a corporation means:

- (a) an employee of the party whose title contains either of the words Director or Manager;
- (b) a person performing the function of any of them;
- (c) a solicitor acting on behalf of the party; or
- (d) a person appointed by the party to act as an Authorised Officer for the purposes of this deed and notified to the others.

ASX means ASX Limited.

BidCo Indemnified Parties means BidCo and its directors and employees and each of the Excluded Shareholders.

BidCo Material means the information provided by BidCo to Diploma in accordance with clause 6.3(a) for inclusion in the Scheme Booklet.

Board means the board of directors of a party.



Business Day means:

- (a) if determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and
- (b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Perth.

Competing Proposal means a transaction or proposed transaction which, if completed, would mean a person (other than BidCo, the Excluded Shareholders or their respective Related Bodies Corporate) would:

- (a) directly or indirectly, acquire an interest or relevant interest in or become the holder of:
 - (1) 50% or more of all Diploma Shares; or
 - (2) all or a substantial part or a material part of the business undertaken by Diploma,

including by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale of shares or joint venture, but not as a custodian, nominee or bare trustee;
- (b) acquire control of Diploma, within the meaning of section 50AA of the Corporations Act; or
- (c) otherwise acquire or merge with Diploma.

Conditions means the conditions precedent to completion of the Scheme in Schedule 1.

Condition Date means the date that all of the Conditions have been satisfied or waived.

Controller has the meaning given to it in section 9 of the Corporations Act.

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

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act agreed in writing by BidCo and Diploma.

Deed Poll means a deed poll to be executed by BidCo prior to the First Court Date under which BidCo covenants in favour of the Scheme Participants to perform the obligations under the Scheme in a form acceptable to Diploma and BidCo (and which is to be in a form customary for cash-only scheme consideration).

Diploma Board means the Board of Diploma.

Diploma General Meeting means the meeting of Diploma Shareholders to be convened by Diploma to consider the Item 7 of Section 611 Resolution and any other business Diploma considers appropriate.

Diploma Indemnified Parties means Diploma and its directors, officers and employees.

Diploma Material means all information contained in the Scheme Booklet and all information provided by or on behalf of Diploma to the Independent Expert to enable the Independent Expert's Report to be prepared and completed, but does not include the BidCo Material.

Diploma Material Adverse Change means an event that occurs or is announced which, individually or when aggregated with all such events, has or is likely to have a material adverse effect on the business, assets, liabilities, financial or operating position, profitability or



prospects of Diploma (after taking into account any matters which offset the impact of the event or events giving rise to the adverse effect), other than:

- (a) anything which is fully and fairly disclosed in an ASX filing of Diploma prior to the Execution Date; or
- (b) a change in generally accepted accounting principles or the interpretation of them; or
- (c) anything done with the prior written approval of BidCo.

Diploma Prescribed Occurrence means none of the following occurrences (being those listed in section 652C of the Corporations Act) happens:

- (a) Diploma converts all or any of its shares into a larger or smaller number of shares;
- (b) Diploma or a subsidiary of Diploma resolves to reduce its share capital in any way;
- (c) Diploma or a subsidiary of Diploma enters into a buy-back Agreement or resolves to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act in respect of the subsidiaries of Diploma;
- (d) Diploma or a subsidiary of Diploma issues shares, or grants an option over its shares or agrees to make such an issue or grant such an option;
- (e) Diploma or a subsidiary of Diploma issues, or agrees to issue, convertible notes;
- (f) Diploma or a subsidiary of Diploma disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) Diploma or a subsidiary of Diploma charges, or agrees to grant a security interest in the whole, or a substantial part, of its business or property;
- (h) Diploma or a subsidiary of Diploma resolves to be wound up;
- (i) A liquidator or provisional liquidator Diploma or of a subsidiary of Diploma is appointed;
- (j) A court makes an order for the winding up of Diploma or of a subsidiary Diploma;
- (k) An administrator of Diploma, or of a subsidiary of Diploma, is appointed under section 436A, 436B or 436C of the Corporations Act;
- (l) Diploma or a subsidiary of Diploma executes a deed of company arrangement; or
- (m) A receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property Diploma or of a subsidiary of Diploma.

Diploma Shares means fully paid ordinary shares in the capital of Diploma.

Diploma Shareholder means a holder of Diploma shares.

Diploma Shareholder Scheme Approval means a resolution passed by Diploma Shareholders (other than the Excluded Shareholders) in favour of the Scheme of Arrangement under section 411(4)(a)(ii) of the Corporations Act.

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

Scheme Implementation Agreement



Effective Date means the date on which the Scheme becomes Effective in accordance with section 411(10) of the Corporations Act.

End Date means 29 February 2016 or such other date agreed between the parties in writing.

Excluded Shareholders means any Diploma Shareholder who is BidCo, Wandina Holdings Pty Ltd ACN 009 088 135 (**Wandina**), UP Investments Pty Ltd ACN 113 950 128 (**UP Investments**), Healthy Holdings Pty Ltd ACN 113 989 049 (**Healthy Holdings**) and ND Properties Pty Ltd ACN 102 222 864 (**ND Properties**) or an Associate or Related Body Corporate of any of those entities.

Execution Date means the date upon which the last party executes this agreement.

External Administrator means an administrator, Controller, trustee, provisional liquidator, liquidator or any other person holding or appointed to an analogous office or acting or purporting to act in an analogous capacity.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting.

Framework Agreement means an agreement dated on or about the date of this agreement between the Excluded Shareholders and BidCo pursuant to which the parties to that agreement agree, subject to passing of the Item 7 of Section 611 Resolution, to propose the Scheme, to agree to provide funding to BidCo to pay the Scheme Consideration and procure BidCo to enter into this agreement.

Government Body means:

- (a) any person, body or other thing exercising an executive, legislative, judicial or other governmental function of any country or political subdivision of any country;
- (b) any public authority constituted by or under a law of any country or political subdivision of any country; and
- (c) any person deriving a power directly or indirectly from any other Government Body.

Independent Directors means the independent directors of Diploma, being as at the date of this agreement, Messrs Jason Ferris and Jeff Hill.

Independent Expert means the independent expert in respect of the Scheme (and the Item 7 of Section 611 Resolution) appointed by Diploma.

Independent Experts Report means the report issued by the Independent Expert in relation to the Scheme.

Insolvency Event means:

- (a) in relation to any corporation:
 - (1) its Liquidation;
 - (2) an External Administrator is appointed in respect of the corporation or any of its property;
 - (3) the corporation ceases or threatens to cease to carry on its business;
 - (4) the corporation being deemed to be, or stating that it is, unable to pay its debts when they fall due;



- (5) any other ground for Liquidation or the appointment of an External Administrator occurs in relation to the corporation;
 - (6) the corporation resolves to enter into Liquidation; or
 - (7) an application being made which is not dismissed or withdrawn within ten Business Days for an order, resolution being passed or proposed, a meeting being convened or any other action being taken to cause or consider anything described in paragraphs (1) to (6) (inclusive) above;
- (b) in relation to an individual, that person becoming an insolvent under administration as defined in section 9 of the Corporations Act; and
- (c) in relation to any person, anything analogous to or having a similar effect to anything described above in this definition under the law of any relevant jurisdiction.

Item 7 of Section 611 Resolution means a resolution to be put to Diploma Shareholders at the Diploma General Meeting to approve, under section 611 of item 7 of the Corporations Act, the acquisitions of relevant interests in Diploma Shares by the Excluded Shareholders arising out of the Framework Agreement and such resolution is not conditional upon the receipt of the Diploma Shareholder Scheme Approval.

Liquidation means:

- (a) a winding up or liquidation (whether voluntary or involuntary), provisional liquidation, dissolution, bankruptcy or other analogous proceeding; or
- (b) an arrangement, assignment, composition or moratorium with or for the benefit of creditors or any class or group of creditors (including an administration or arrangement under part 5.3A of the Corporations Act).

Listing Rules means the Official Listing Rules of ASX Limited as amended from time to time.

Record Date means 5.00pm on the day which is five Business Days following the Effective Date to determine entitlements to receive Scheme Consideration.

Register means the register of Diploma Shareholders maintained in accordance with the Corporations Act.

Regulatory Approvals means such consents, approvals or other acts by a Government Body as are necessary to enable the parties to give effect to this agreement.

Related Body Corporate has the meaning given to that term in the Corporations Act.

Scheme or Scheme of Arrangement means a scheme or scheme of arrangement between BidCo and the Scheme Participants under Part 5.1 of the Corporations Act to give effect to the terms of this agreement in a form acceptable to Diploma and BidCo (and which is to be in a form customary for cash-only scheme consideration) and includes any alterations or conditions made or required under section 411(6) of the Corporations Act and any other alterations or conditions approved in writing by each party.

Scheme Booklet means the information described in clause 6.2(a) to be approved by the Court and despatched to Diploma Shareholders.

Scheme Consideration means the offer of 1.5 cents for every Scheme Share.

Scheme Implementation Agreement means this agreement.



Scheme Implementation Date means the date that is three Business Days after the Record Date or such other date agreed between the parties in writing and in compliance with the Listing Rules.

Scheme Meeting means the meeting to be convened by the Court in relation to the Scheme under section 411(1) of the Corporations Act.

Scheme Participants means Diploma Shareholders holding Scheme Shares as at the Record Date.

Scheme Shares means all Diploma Shares not already held by the Excluded Shareholders.

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.

Superior Proposal means a publicly announced Competing Proposal which the Independent Directors, acting in good faith, and after taking advice from its legal advisors and after taking into account all terms and conditions of the Competing Proposal, determines is:

- (a) reasonably capable of being completed taking into account all aspects of the Competing Proposal; and
- (b) more favourable to holders of Diploma Shares than the Scheme.

1.2 Interpretation

- (a) Unless the contrary intention appears, a reference in this agreement to:
 - (1) this agreement or another document includes any variation or replacement of it despite any change in the identity of the parties;
 - (2) one gender includes the others;
 - (3) the singular includes the plural and the plural includes the singular;
 - (4) a person, partnership, corporation, trust, association, joint venture, unincorporated body, Government Body or other entity includes any other of them;
 - (5) an item, recital, clause, subclause, paragraph, schedule or attachment is to an item, recital, clause, subclause, paragraph of, or schedule or attachment to, this agreement and a reference to this agreement includes any schedule or attachment;
 - (6) a party includes the party's executors, administrators, successors, substitutes (including a person who becomes a party by novation) and permitted assigns;
 - (7) any statute, ordinance, code or other law includes regulations and other instruments under any of them and consolidations, amendments, re-enactments or replacements of any of them;



- (8) money is to Australian dollars, unless otherwise stated; and
- (9) a time is a reference to Perth time unless otherwise specified.
- (b) The words include, including, such as, for example and similar expressions are not to be construed as words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (d) Headings and any table of contents or index are for convenience only and do not affect the interpretation of this agreement.
- (e) A provision of this agreement must not be construed to the disadvantage of a party merely because that party or its advisers were responsible for the preparation of this agreement or the inclusion of the provision in this agreement.

1.3 Business Days

- (a) If anything under this agreement must be done on a day that is not a Business Day, it must be done instead on the next Business Day.
- (b) If an act is required to be done on a particular day, it must be done before 5.00pm on that day or it will be considered to have been done on the following day.

1.4 Parties

- (a) If a party consists of more than one person, this agreement binds each of them separately and any two or more of them jointly.
- (b) An agreement, covenant, obligation, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them separately.
- (c) An agreement, covenant, obligation, representation or warranty on the part of two or more persons binds them jointly and each of them separately.

2. Conditions precedent

2.1 Conditions

Completion of the Scheme is subject to the satisfaction or waiver of each of the Conditions for the benefit of the party set out in Schedule 1.

2.2 Best endeavours

Each of BidCo and Diploma must use their respective best endeavours to procure that:

- (a) each of the Conditions is satisfied as soon as practicable after the Execution Date or on such other timeframe as mutually agreed or continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
- (b) its officers, employees, contractors and agents cooperate with the other party and its advisors and consultants in the reasonable conduct of the other party's due diligence investigations.



2.3 Waiver of Conditions

- (a) A Condition that is listed as being for the benefit of a party may only be waived by that party if it is a condition that is capable of waiver by that party. For the avoidance of doubt the Conditions in paragraph 3 of Schedule 1 cannot be waived.
- (b) A party entitled to waive a Condition under this clause 2.3 may do so in its absolute discretion.
- (c) If a party waives the breach of non-satisfaction of any Condition, that waiver will not preclude it from suing the other party for any breach of this agreement including a breach that resulted in the non-satisfaction of the Condition that was waived.

2.4 Conditions not satisfied or waived

- (a) If any Conditions are not satisfied or waived or if the Scheme of Arrangement is not Effective, by the End Date, then the parties will consult in good faith:
 - (1) with a view to determining whether the Scheme, or a transaction which results in BidCo and/or the Excluded Shareholders having beneficial ownership of all Diploma Shares, may proceed by way of alternative means or methods; or
 - (2) to extend the End Date or to adjourn or change the date of an application to the Court,

and seek to agree a course of action that achieves either of the events in paragraphs 2.4(a)(1) and 2.4(a)(2).

- (b) If the parties are unable to reach agreement under subclause 2.4(a) within five Business Days after the date in subclause 2.4(a), then unless that Condition is waived in accordance with this clause, any party may terminate this agreement without any liability to the other party by reason of that termination alone unless the relevant occurrence or the failure of the Condition to be satisfied or of the Schemes of Arrangement to become Effective arises out of a breach by the terminating party of this agreement.

2.5 Regulatory approvals

Regulatory Approval will be regarded as having been obtained despite the fact that the Regulatory Approval was conditional if the relevant conditions cannot reasonably be considered to have a material adverse impact on the value each party considered it would derive from the Scheme.

2.6 Shareholder Approval

If the Scheme is not approved by a majority in number of Scheme Participants present and voting (in person or by proxy) at the Scheme Meeting (**headcount test**), that fact will not of itself be treated as preventing the condition precedent in clause 1(b)(6) of Schedule 1 from being satisfied, and Diploma must, unless its counsel certifies after due enquiry by Diploma that there are no reasonable prospects of success on such an application, do everything it reasonably can to obtain Court approval of the Scheme in accordance with section 411(4)(b) of the Corporations Act, and an order of the Court in accordance with section 411(4)(a)(ii)(A) of the Corporations Act that the headcount test need not be satisfied, and must consult and co-operate fully with the other parties in that regard.

2.7 Certificates in relation to Conditions

- (a) Subject to the satisfaction and/or waiver of the Conditions, BidCo and Diploma must each provide the Court on the Second Court Date with a certificate that all of the



Conditions (other than the Condition requiring Court approval of the Scheme) are satisfied, or if not satisfied, are waived.

- (b) The giving of a certificate by each of the BidCo and Diploma under clause 2.7(a) will in the absence of manifest error, be conclusive evidence of the satisfaction or waiver of the Conditions referred to in the certificate.

3. Agreement to propose Scheme of Arrangement

3.1 Diploma to propose Scheme

Diploma agrees to propose the Scheme in accordance with Part 5.1 of the Corporations Act and upon and subject to the terms and conditions of this agreement.

3.2 BidCo to assist

BidCo agrees to assist Diploma in proposing the Scheme in accordance with Part 5.1 of the Corporations Act upon and subject to the terms and conditions of this agreement.

3.3 No amendments to Scheme without consent

Diploma must not consent to any modification of, or amendment to, or making or imposition by the Court of any condition in respect of, the Scheme without the prior consent of BidCo, such consent not to be unreasonably withheld.

4. Scheme steps

4.1 Proposal of Scheme

Diploma must propose the Scheme to the Diploma Shareholders.

4.2 Transfer of Shares

Under the Scheme of Arrangement all of the Diploma Shares not already held by BidCo or the Excluded Shareholders will be transferred to BidCo and the Scheme Participants will be entitled to receive the Scheme Consideration.

4.3 Scheme Consideration

BidCo covenants in favour of Diploma (in its own right and on behalf of the Scheme Participants) that in consideration for the transfer of each Diploma Share held by a Scheme Participant under the terms of the Scheme, BidCo will provide Scheme Participants, for each Diploma Share held on the Record Date, the Scheme Consideration.

4.4 No amendment to the Scheme without consent

Diploma must not consent to any modification of, or amendment to, or the making or imposition by a Court of any condition in respect of, the Scheme without the prior written consent of BidCo in its absolute discretion.

4.5 Alternative Scheme structure

Instead of the structure disclosed in this clause, BidCo may if it receives advice that it is preferable to do so require Diploma to propose a scheme under which the relevant Diploma Shares held by Scheme Participants are cancelled pursuant to a resolution of Diploma Shareholders. In that event, the parties will negotiate in good faith to make all necessary consequential amendments to this document provided that neither party will suffer a material adverse consequence as a result of the change. This alternate structure will not affect the



quantum of Scheme Consideration to be provided to Scheme Participants in accordance with clause 4.3 of this document.

5. Independent Director Recommendations

5.1 Recommendations

Prior to entering into this agreement, Diploma has been advised by each of its Independent Directors that he intends to recommend the Scheme to the Scheme Participants and he intends to vote in favour of the Scheme (and also the Item 7 of Section 611 Resolution) in respect of all Diploma Shares held by the director or any Associate of the director, provided:

- (a) the Independent Expert does determine that the Scheme is in the best interests of the Scheme Participants and does not withdraw or vary that determination;
- (b) there is no Superior Proposal; and
- (c) there is no event giving rise to a right of termination of this agreement by Diploma, prior to the date of the Scheme Meeting.

5.2 Changes to recommendations

The Independent Directors will not withdraw or change a recommendation or voting preference described in clause 5.1, except if:

- (a) the Independent Expert concludes that the Scheme is not in the best interests of Scheme Participants or having concluding that the Scheme is in the best interests of Scheme Participants subsequently withdraws or varies that determination, provided that the Independent Directors may only withdraw or change their recommendation pursuant to this paragraph if Diploma has first made reasonable endeavours to consult with BidCo as to the matters, occurrences or events that would give rise to consideration of the withdrawal or change of recommendation;
- (b) a Competing Proposal constitutes a Superior Proposal to the Scheme from the perspective of the Scheme Participants; or
- (c) there is an event giving rise to a right of termination of this agreement by Diploma, prior to the date of the Scheme Meeting.

6. Implementation of Scheme

6.1 Obligations of the parties

Each party must use its reasonable endeavours to give effect to the Scheme, subject to this agreement and in compliance with their respective obligations, powers and duties under this agreement, their constituent documents and all applicable laws and the proper performance by the directors of BidCo and Diploma of their fiduciary duties.

6.2 Diploma's obligations

Diploma must take all necessary steps to implement the Scheme of Arrangement as soon as is reasonably practicable, including taking each of the following steps:

- (a) immediately after execution of this agreement release the Announcement, including a statement by the Independent Directors consistent with the recommendation referred to in clause 5.1;



- (b) promptly prepare and dispatch a Scheme Booklet in respect of the Scheme to the Diploma Shareholders which complies with the requirements of all applicable laws including:
 - (1) the Corporations Act and the Corporations Regulations; and
 - (2) ASIC Regulatory Guide 60,and which will include:
 - (3) the Scheme of Arrangement;
 - (4) the Independent Expert's Report;
 - (5) a copy of the Deed Poll;
 - (6) notices of meetings and proxy forms; and
 - (7) a statement by the Independent Directors consistent with the recommendation referred to in clause 5.1 (unless clause 5.2 applies).
- (c) ensure that the Scheme Booklet will:
 - (1) as at the date the Scheme Booklet is despatched to Diploma Shareholders, other than in relation to the BidCo Material, not be misleading or deceptive in any material respect (whether by omission or otherwise); and
 - (2) be updated by all such further or new information which may arise after the Scheme Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the Diploma Material is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (d) promptly appoint the Independent Expert (and any other specialist expert required) and provide all assistance and information reasonably requested by the Independent Expert (and any other specialist expert) in connection with the preparation of the necessary report(s) for inclusion in the Scheme Booklet;
- (e) promptly prepare all documents necessary for the Court proceedings relating to the Scheme:
 - (1) in accordance with all applicable law; and
 - (2) in consultation with BidCo as to the form and content of the Court documents, including making whatever amendments to the documents BidCo reasonably requires;
- (f) provide copies of the Scheme Booklet to BidCo and consult in accordance with clause 6.4 as to the content and presentation of the Scheme Booklet;
- (g) provide to BidCo and its authorised representatives reasonable access to employees, offices and other facilities, and to the books and records, of Diploma and its subsidiaries for the purpose of implementing the Scheme, but nothing in this paragraph 6.2(g) requires Diploma to provide to BidCo information concerning Diploma's consideration of the Scheme;
- (h) disclose to BidCo in writing all material correspondence between Diploma and any Government Body received following the Execution Date until the Effective Date;

Scheme Implementation Agreement



- (i) ensure that no Diploma Prescribed Occurrence occurs during the period commencing on the Execution Date and ending at 8.00 am on the Second Court Date and, if a Diploma Prescribed Occurrence occurs, immediately inform BidCo in writing;
- (j) take all reasonable measures necessary to cause ASIC to register the Scheme Booklet relating to the Scheme;
- (k) apply to the Court under section 411(1) of the Corporations Act for orders directing Diploma to convene the Scheme Meetings;
- (l) promptly convene the Scheme Meeting in accordance with any orders made by the Court under section 411(1) of the Corporations Act;
- (m) seek Diploma Shareholder Scheme Approval;
- (n) at the cost of Bidco, convene a general meeting of Diploma Shareholders to be held by no later than the date which is 3 months after the date of execution of this agreement (or, if ASIC modifies section 609(7)(c) of the Corporations Act to provide for a maximum disposal restriction period of longer than 3 months after the date of this agreement, by the last date of such longer period) and put the Item 7 of Section 611 Resolution;
- (o) upon request by BidCo made before the commencement of the Scheme Meeting, inform BidCo of the total number of proxy votes in respect of which the appointment for the Scheme Meeting specified that:
 - (1) the proxy is to vote in favour of the Scheme Resolution;
 - (2) the proxy is to vote against the Scheme Resolution;
 - (3) the proxy is to abstain on the Scheme Resolution; and
 - (4) the proxy may vote at the proxy's discretion;
- (p) if it becomes aware of information after the date of dispatch of the Scheme Booklet, which is material for disclosure to the Scheme Participants in deciding whether to approve the Scheme, inform the Scheme Participants of the information in an appropriate and timely manner;
- (q) apply to ASIC for the production of a statement under section 411(17)(b) of the Corporations Act in respect of each of the Schemes stating that ASIC has no objection to the Scheme;
- (r) subject to all conditions other than Court approval being satisfied or waived, as soon as practicable apply to the Court for orders approving the Scheme under section 411(4)(b) of the Corporations Act;
- (s) if the Court makes an order under section 411(4)(b) of the Corporations Act approving the Scheme, lodge, as soon as practicable thereafter, with the ASIC an office copy of the relevant orders of the Court under section 411(10) of the Corporations Act;
- (t) give to BidCo details of the names, registered addresses and holdings of Diploma Shares of every Scheme Participant as shown in the Register as at 5.00pm on the Record Date, in such form as BidCo may reasonably require;
- (u) determine who are the Scheme Participants and their entitlements to the Scheme Consideration as at 5.00pm on the Record Date; and



- (v) if the Court refuses to make any orders directing Diploma to convene the Scheme Meetings or approving the Scheme of Arrangement, Diploma must appeal the Court's decision to the fullest extent possible (except to the extent that the parties agree otherwise, or independent Queens Counsel or Senior Counsel indicates that, in his view, an appeal would have no reasonable prospect of success, or there is a bona fide alternative offer which in the view of the directors of Diploma, held on reasonable grounds, must be recommended in preference to the Scheme Arrangement in order to ensure that directors of Diploma comply with their fiduciary obligations).

6.3 BidCo obligations

BidCo must take all necessary steps to assist Diploma to implement the Scheme of Arrangement as soon as is reasonably practicable, including taking each of the following steps:

- (a) promptly provide relevant BidCo information reasonably requested by Diploma for inclusion in the Scheme Booklet including such information as is necessary in relation to BidCo, the Excluded Shareholders and the Framework Agreement (**Bidco Material**);
- (b) apply for all relevant Regulatory Approvals and take all steps it is responsible for in the approval process;
- (c) procure that, if required, it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which, through its Counsel, BidCo will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme of Arrangement; and
- (d) prior to the First Court Date, enter into the Deed Poll; and
- (e) if the Scheme becomes Effective, provide, or procure the provision of, the Scheme Consideration in accordance with the Scheme and the Deed Poll on the Implementation Date

6.4 Scheme Booklet

- (a) Each of Diploma and BidCo will work (including by attending meetings and providing information) in good faith and in a timely and co-operative manner with each other to prepare the Scheme Booklet.
- (b) Diploma must not:
 - (1) use the Scheme Booklet for the purpose of applying to the Court for orders referred to in paragraph 6.2(k); or
 - (2) despatch the Scheme Booklet to Diploma Shareholders,until BidCo has approved the Scheme Booklet, which approval must not be unreasonably withheld or delayed.
- (c) If the representatives of BidCo and Diploma disagree on whether any aspect of the Scheme Booklet complies with the requirements of the Corporations Act, then the parties must in good faith consult with each other to try and reach agreement on the issue. However, if they are unable to agree within five Business Days of a dispute being raised, the issue must be referred to a Queens Counsel or Senior Counsel practising in Perth (such counsel to be acceptable to both Parties or, failing such acceptance, as nominated by the President of the Law Society of Western Australia), such referral to be made within ten Business Days of the dispute being raised, and the opinion of that Queens Counsel or Senior Counsel will be determinative of the issue.



6.5 Conduct of business before Scheme Implementation Date

From the Execution Date up to and including the Scheme Implementation Date, Diploma must, unless with the prior written approval of BidCo which shall not be unreasonably withheld, conduct its business in the ordinary and proper course of business and make all reasonable efforts to:

- (a) keep available the services of its officers and employees;
- (b) preserve their relationships with suppliers, licensors, licensees, joint venturers and others with whom they have business dealings;
- (c) preserve intact its current business organisation and maintain its business and assets; and
- (d) ensure neither it or its subsidiaries does or agrees to do any of the following (except as required by law):
 - (1) increase the remuneration of or pay any bonus or issue any securities or options to, or otherwise vary the employment agreements with, any of its directors or senior employees other than as disclosed in writing between the parties prior to the Execution Date;
 - (2) accelerate the rights of any of its directors or senior employees to benefits of any kind; or
 - (3) pay a director or senior employee a termination payment.

6.6 Assistance with integration

The parties must work together in good faith from the date of this agreement up to and including the Scheme Implementation Date to facilitate the efficient implementation of the Scheme and plans by BidCo to de-list Diploma post the Scheme Implementation Date, subject to compliance with their respective obligations, powers and duties under this agreement, their constituent documents and all applicable law and the proper performance by the directors of their fiduciary duties.

6.7 Post Implementation board

On the Effective Date, Diploma will use its best endeavours to ensure that all directors of Diploma resign save only for (unless otherwise determined by BidCo) Nick Di Latte.

7. Exclusivity

7.1 Exclusivity Period

Subject to clause 7.2, from the date of this agreement until the earlier of termination of this Agreement, the Scheme Implementation Date or midnight (Australian Western Standard Time) on the End Date (**Exclusivity Period**) Diploma agrees that it will:

- (a) immediately suspend any and all existing negotiations or discussions in respect of any Competing Proposal;
- (b) not, and ensure that its Related Bodies Corporate do not, directly or indirectly solicit, invite, facilitate or encourage any enquiries, negotiations or discussions with a view to obtaining an expression of interest, proposal or offer in relation to a Competing Proposal; and



- (c) not, and ensure that its Related Bodies Corporate do not, negotiate or enter into or participate in negotiations or discussions in relation to a Competing Proposal even if the Competing Proposal is not solicited by Diploma or publicly announced.

7.2 Exceptions

The provisions in clause 7 do not prevent Diploma from taking or refusing to take any action with respect to a bona fide Competing Proposal if the Independent Directors have determined in good faith, acting reasonably, after taking advice from its legal advisers that:

- (a) the Competing Proposal could, subject to the receipt of further details in relation to the Competing Proposal, be reasonably considered to be, or is, a Superior Proposal; and
- (b) failing to respond to the Competing Proposal will more than likely constitute a breach of the fiduciary or statutory duties and obligations of the board of directors of Diploma.

7.3 Competing Proposal

- (a) Subject to clause 7.2, during the Exclusivity Period, if Diploma receives a Competing Proposal that the Independent Directors consider may be, or is, a Superior Proposal, Diploma must immediately notify BidCo of the terms of the Superior Proposal and must allow BidCo not less than five Business Days from the date of the notice in which to propose terms to vary the Scheme to match or better the Superior Proposal.
- (b) Upon receiving notice of the Superior Proposal under clause 7.3(a), BidCo may request that Diploma provide BidCo with copies of all the material given to the maker of the Superior Proposal unless either:
 - (1) that material has already been provided to BidCo; or
 - (2) Diploma receives legal advice that to do so would be likely to constitute a breach of the Diploma Board's fiduciary, statutory or confidentiality obligations, and then only to the extent of the material that may not breach those duties or obligations.

8. Conduct of Court proceedings

- (a) Diploma and BidCo are entitled to separate representation at all Court proceedings affecting the Scheme.
- (b) This agreement does not give Diploma or BidCo any right or power to give undertakings to the Court for or on behalf of any other party without that party's written consent (in its absolute discretion).
- (c) Diploma and BidCo must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme as contemplated by this agreement.

9. Break fee

9.1 Acknowledgements

- (a) Diploma acknowledges that BidCo has incurred or will incur significant external advisory costs, internal costs of a similar kind and opportunity costs (**Costs**) in relation to the Scheme (**Transaction**) and will incur further Costs if the Transaction is announced but does not proceed to completion.
- (b) Diploma acknowledges that:



- (1) it has received legal advice on this agreement and the operation of this clause;
- (2) it would not have entered into this agreement without the benefit of this clause and that it would not have entered into and continued the negotiations leading up to this agreement unless the other party had agreed to enter into a clause of this kind; and
- (3) it considers this clause to be fair and reasonable and that it is appropriate to agree to the terms in this clause in order to secure the significant benefits to it (and its shareholders) resulting from the Transaction.

9.2 Agreement on costs

- (a) The parties acknowledge that the amount of the Costs is inherently unascertainable and that, even after termination of this agreement, the Costs will not be able to be accurately ascertained. As a genuine and reasonable pre-estimate of Costs that BidCo will suffer in the event of the Transaction not proceeding, the parties agree that for the purposes of this clause (and in particular for the purposes of clause 9.3), the Costs will be an amount being 1% of the value of all the Scheme Shares calculated by reference to the Scheme Consideration.
- (b) In the event that it is finally judicially or administratively determined that this clause or the reimbursement of all or any part of the Costs is or was or would be:
 - (1) a breach of the duties of the directors of the party; or
 - (2) illegal on any other basis;

then the reimbursement to that extent only will not be made or, if made, will be refunded.

9.3 Reimbursement of costs

- (a) Diploma (**Reimbursing Party**) agrees to reimburse BidCo (**Recipient Party**) for the total Costs of the Recipient Party as quantified by clause 9.2 if at any time after the entry into this agreement and before completion of the Transaction any of the following occurs:
 - (1) a Superior Proposal is publically announced which results in the proponent of the proposal receiving acceptances from holders of not less than 50% of all Diploma Shares; or
 - (2) BidCo terminates this agreement pursuant to clause 11.3(b).
- (b) The reimbursement of Costs by the Reimbursing Party to the Recipient Party provided for in this clause must be made within five Business Days of receipt of a written demand for payment by the Recipient Party.

10. Representations and warranties

10.1 Diploma's representations

- (a) Diploma represents and warrants to BidCo (on its own behalf and separately as trustee for each of the BidCo Indemnified Parties) each of the matters in Schedule 2, as at the Execution Date, the Second Court Date and any other date to which a representation in Schedule 2 is expressed to be given.
- (b) Diploma does not make any representation or warranty in relation to the achievability of:



- (1) any economic, fiscal or other interpretations or evaluations by Diploma; or
- (2) future matters, including future or forecast costs, prices, revenues or profits.

10.2 Diploma's indemnity

Diploma agrees with BidCo (on BidCo's own behalf and separately as trustee or nominee for each of the other BidCo Indemnified Parties) to indemnify and keep indemnified the BidCo Indemnified 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 BidCo Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in Schedule 2.

10.3 BidCo's representations

- (a) BidCo represents and warrants to Diploma (on its own behalf and separately as trustee for each of the Diploma Indemnified Parties) each of the matters in Schedule 3 as at the Execution Date, the Second Court Date and any other date to which a representation in Schedule 3 is expressed to be given.
- (b) BidCo does not make any representation or warranty in relation to the achievability of:
 - (1) any economic, fiscal or other interpretations or evaluations by BidCo; or
 - (2) future matters, including future or forecast costs, prices, revenues or profits.

10.4 BidCo's indemnity

BidCo agrees with Diploma (on Diploma's own behalf and separately as trustee for each of the other Diploma Indemnified Parties) to indemnify and keep indemnified the Diploma Indemnified 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 Diploma Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in Schedule 3.

10.5 Survival of representation and warranties

Each representation and warranty in clauses 10.1 and 10.3;

- (a) is severable;
- (b) will survive the termination of this agreement; and
- (c) is given with the intent that liability in relation to it will not be confined to breaches which are discovered prior to the date of termination of this agreement.

10.6 Survival of indemnities

Each indemnity in this agreement (including those in clauses 10.2 and 10.4) 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 agreement; and
- (d) survive the termination of this agreement.



10.7 Liability of directors and officers

- (a) Each party agrees that it will release its rights against, and will not make any claim against, any past or present director or employee of the other in relation to information provided to it or in relation to its entry into this agreement to the extent that the past or present director or employee has acted in good faith.
- (b) Each party holds the releases in subclause 10.7(a) in respect of its directors and employees as trustee for its past and present directors and employees.

11. Termination

11.1 Termination by Diploma

Diploma may terminate this agreement by giving written notice to BidCo at any time prior to 8.00am on the Second Court Date if the Diploma Shareholder Scheme Approval is not obtained.

11.2 Termination by BidCo

BidCo may terminate this agreement by giving written notice to Diploma at any time prior to 8.00am on the Second Court Date if:

- (a) a Diploma Material Adverse Change occurs;
- (b) a Diploma Prescribed Occurrence occurs; or
- (c) the Diploma Shareholder Scheme Approval is not obtained.

11.3 Termination by Diploma or BidCo

Either Diploma or BidCo may terminate this agreement by giving written notice to the other party if:

- (a) the parties agree in writing to terminate this agreement;
- (b) the other party is in material breach of any clause, including a representation or warranty, of this agreement where:
 - (1) it has given written notice to the other party setting out the relevant circumstances and stating its intention to terminate; and
 - (2) in the opinion of the non-breaching party acting reasonably, the relevant circumstance continues to exist for 30 days after the notice is given;
- (c) a Court or other Government Body has issued a final and non-appealable order, decree or ruling or taking other action which permanently restrains or prohibits the Scheme;
- (d) any Condition has not been satisfied or waived in accordance with this agreement or is reasonably considered incapable of being satisfied; or
- (e) if the Effective Date does not occur by the End Date.

11.4 Effect of termination

If this agreement is terminated by either BidCo or Diploma under this clause 11 or subclause 2.4(b), this agreement will become void and have no effect, except that:



- (a) a party will remain liable for an antecedent breach of this agreement; and
- (b) clauses 10 and 14 to 17 survive termination of this agreement.

12. Directors' duties

Nothing in this agreement imposes an obligation on any party to the extent that compliance with this agreement would involve a breach of fiduciary duties by directors of that party or not be in the best interests of shareholders of that party or be otherwise unlawful, but the party must give prior written notice to the other party before taking any action in respect of which it relies on this clause and must, to the extent permitted by law and as expeditiously as practicable, provide full particulars to the other party, and consult with the other party in good faith, with respect to the relevant action but nothing requires the disclosing party to disclose the identity of the third party that may be seeking information from the disclosing party.

13. Public announcements

13.1 No release or announcement without consultation

The parties agree that no press release or other announcement about this agreement or the transactions contemplated by it may be made without prior consultation of the parties and the parties must co-operate as to the timing and contents of any such announcement.

13.2 Exceptions

Clause 13.1 does not apply to:

- (a) release of the Announcement; and
- (b) a public announcement, communication or circular required by the Corporations Act or the Listing Rules, if the party required sending it has, if practicable, first consulted and taken into account the reasonable requirements of the other parties.

14. Confidentiality

14.1 Disclosure of Confidential Information

Neither party may disclose any Confidential Information of the other party except:

- (a) to representatives of the receiving party or its Related Bodies Corporate requiring the information for the purposes of this agreement;
- (b) with the written consent of other party;
- (c) if required to do so by law or by the Listing Rules; or
- (d) if the party is required to do so in connection with legal proceedings.

14.2 Scheme Booklet

Diploma may use Confidential Information relating to BidCo for the purpose of preparing the Scheme Booklet and associated Court documents.

14.3 Disclosure by recipient of Confidential Information

Any party disclosing information under clause 14.1 or 14.2 must use all reasonable endeavours to ensure that persons receiving Confidential Information from it do not disclose the information except in the circumstances permitted by this clause 14.



14.4 Exceptions

- (a) The obligations of confidentiality under this clause 14 do not extend to Confidential Information that (whether before or after this agreement is executed):
 - (1) is rightfully known or in the possession or control of the receiving party and is not subject to an obligation of confidence (including an obligation under this agreement);
 - (2) is lawfully generally available to the public, other than as a result of a breach of this agreement; or
 - (3) the party is required by law or by order of a court of competent jurisdiction to disclose.
- (b) The Recipient must, whenever practicable and permitted by law, prior to making any disclosure permitted by paragraph 14.4(a)(3), advise the Discloser of the form and content of the proposed disclosure and will provide the Discloser with a reasonable opportunity to comment on the proposed disclosure.

14.5 Obligations to survive termination

This clause 14 will survive termination.

15. Notices

15.1 Notices of failure to satisfy Condition

- (a) Each party must promptly give the other notice of a failure to satisfy a Condition or of any event that will prevent a Condition being satisfied.
- (b) Diploma or BidCo (as the case may be) will give written notice to the other party as soon as possible (and in any event no later than five Business Days or such shorter time to ensure that notice is given before 5.00pm on the day before the Second Court Date) as to whether or not it waives the breach or non-satisfaction of any Condition resulting from the occurrence of that event, specifying the condition in question.
- (c) A waiver of such breach or non-satisfaction in respect of any one Condition of this agreement will not constitute:
 - (1) a waiver of breach or non-satisfaction of any other Condition resulting from the same event; or
 - (2) a waiver of breach or non-satisfaction of that Condition resulting from any other event.

15.2 Notices of other matters

BidCo and Diploma will promptly advise each other in writing of:

- (a) a representation or warranty provided in this agreement by either party becoming false; or
- (b) a breach of this agreement by it.

15.3 Giving notice

A notice, approval, consent, or other communication connected with this agreement (**Notice**) has no legal effect unless it is:



- (a) in writing and in the English language;
- (b) addressed to the address of the addressee shown in this agreement or to such other address as it may have notified the sender; and
- (c) signed by the party or by an Authorised Officer of the sender.

15.4 How given

In addition to any other method of service provided by law, the Notice may be:

- (a) sent by prepaid ordinary post to the address for service of the addressee, if the address is in Australia and the Notice is sent from within Australia;
- (b) sent by prepaid airmail to the address for service of the addressee, if the address is outside Australia or if the Notice is sent from outside Australia;
- (c) sent by facsimile to the facsimile number of the addressee;
- (d) sent by electronic mail to the electronic mail address of the addressee; or
- (e) personally delivered at the address for service of the addressee.

15.5 Certificate evidence

A certificate signed by a party giving a Notice or by an Authorised Officer or employee of that party stating the date on which that Notice was sent or delivered under clause 11.4 is prima facie evidence of the date on which that Notice was sent or delivered.

15.6 Deemed service

If the Notice is sent or delivered in a manner provided by clause 11.4, it must be treated as given to and received by the addressee:

- (a) if sent by prepaid ordinary post from within Australia to an address in Australia, on the second Business Day (at the address to which it is posted) after posting;
- (b) if sent by prepaid airmail to an address outside Australia or sent by prepaid airmail from outside Australia, on the fifth Business Day (at the address to which it is posted) after posting;
- (c) if sent by facsimile or electronic mail before 5.00pm on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt; or
- (d) if otherwise delivered before 5.00pm on a Business Day at the place of delivery, upon delivery, and otherwise on the next Business Day at the place of delivery.

15.7 Effective communication

Despite clause 15.6:

- (a) a facsimile is not treated as given or received unless at the end of the transmission the sender's facsimile machine issues a report confirming the transmission of the number of pages in the Notice;
- (b) an electronic mail message is not treated as given or received if the sender's computer reports that the message has not been delivered;



- (c) a facsimile or electronic mail message is not treated as given or received if it is not received in full and in legible form and the addressee notifies the sender of the fact within three hours after the transmission ends or by 12.00pm on the Business Day on which it would otherwise be treated as given and received, whichever is later; and
- (d) a Notice sent or delivered in a manner provided by clause 15.4 must be treated as validly given to and received by the party to which it is addressed even if:
 - (1) the addressee had been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent;
 - (2) the Notice is returned unclaimed; or
 - (3) in the case of a Notice sent by electronic mail, the electronic mail message is not delivered or opened (unless paragraph 15.7(c) applies).

15.8 Diploma address

Diploma's initial address for service, facsimile number and electronic mail address are:

Address: Level 1, 140 Abernethy Road, Belmont, WA 6104

Facsimile: +61 8 9475 3501

Electronic Mail: soaten@diploma.com.au

Attention: Mr Simon Oaten

15.9 BidCo address

BidCo's initial address for service, facsimile number and electronic mail address are:

Address: c/- Frank Cullura & Associates, Suite 6, 16 Main Street, Osborne Park WA 6017

Facsimile: (08) 9242 2191

Email: ddilatte@diploma.com.au

Attention: Domenico Di Latte

15.10 Change of address

A party may change its address for service, facsimile number or electronic mail address by giving a Notice of that change to each other party.

16. Governing law and jurisdiction

16.1 Governing law

This agreement is governed by and construed in accordance with the laws of Western Australia.



16.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Western Australia and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this agreement; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 16.2(a).

17. Miscellaneous

17.1 Exercise rights

A single or partial exercise or waiver by a party of any right under or relating to this agreement will not prevent any other exercise of that right or the exercise of any other right.

17.2 Legal effect

Each party acknowledges and agrees for the benefit of each other party that this document is intended to take effect as an agreement. Each party executes this document with the intention that it will be immediately legally bound by this document despite the existence of, but subject to, the conditions precedent contained in clause 2. To avoid any doubt, there will be no need for further delivery of this document following the satisfaction of the conditions precedent contained in clause 2.

17.3 Scheme

If the liability of a party to pay money under this agreement becomes merged in any agreement, judgment, order or other thing, the party liable must pay interest on the amount owing from time to time under that agreement, judgment, order or other thing at the higher of the rate payable under this agreement and that fixed by or payable under that agreement, judgment, order or other thing.

17.4 Moratorium legislation

Any law which varies prevents or prejudicially affects the exercise by a party of any right, power or remedy conferred on it under this agreement is excluded to the extent permitted by law.

17.5 No assignment

A party must not assign, transfer or novate all or any part of its rights or obligations under or relating to this agreement or grant, declare, create or dispose of any right or interest in it, without the prior written consent of each other party.

17.6 Remedies cumulative

The rights and remedies under this agreement are cumulative and not exclusive of any rights or remedies provided by law.

17.7 Severability

If a provision of this agreement is illegal, invalid, unenforceable or void in a jurisdiction it is severed for that jurisdiction and the remainder of this agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.



17.8 Further assurance

Each party must promptly at its own cost do all things (including executing and delivering all documents) necessary or desirable to give full effect to this agreement and the transactions contemplated by it.

17.9 Taxes

BidCo must:

- (a) pay all Taxes which may be payable or determinable in connection with the execution, delivery, performance or enforcement of this agreement or any payment or receipt or of any transaction contemplated by this agreement; and
- (b) indemnify Diploma against any liabilities resulting from any delay or omission by Bidder to pay any Taxes.

17.10 Time

- (a) Time is of the essence of this agreement.
- (b) If the parties agree to vary a time requirement, the time requirement so varied is of the essence of this agreement.
- (c) An agreement to vary a time requirement must be in writing.

17.11 Variation

An amendment or variation to this agreement is not effective unless it is in writing and signed by the parties.

17.12 Waiver

- (a) A party's waiver of a right under or relating to this agreement, whether prospectively or retrospectively is not effective unless it is in writing and signed by that party.
- (b) No other act, omission or delay by a party will constitute a waiver of a right.

17.13 Counterparts

This agreement may be executed in any number of counterparts each of which will be considered an original but all of which will constitute one and the same instrument. A party who has executed a counterpart of this agreement may deliver it to, or exchange it with, another party by:

- (a) faxing; or
- (b) emailing a pdf (portable document format) copy of;

the executed counterpart to that other party.

17.14 Whole agreement

This agreement:

- (a) is the entire agreement and understanding between the parties relating to the subject matter of this agreement; and

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- (b) supersedes any prior agreement, representation (written or oral) or understanding on anything connected with that subject matter.



Schedule 1 - Conditions

1. Conditions for the benefit of BidCo

- (a) No Diploma Prescribed Occurrence occurs between the date of this deed and 8am on the Second Court Date.
- (b) No Diploma Material Adverse Change occurs, or is discovered, announced or disclosed or otherwise becomes known to BidCo, between the date of this deed and 8am on the Second Court Date.
- (c) The representations and warranties of Diploma set out in Schedule 2:
 - (1) that are qualified as to materiality, are true and correct; and
 - (2) that are not so qualified, are true and correct in all material respects,as at the date of this deed and as at 8am on the Second Court Date as though made on and as of that time.
- (d) The Independent Directors have, in the Scheme Booklet, unanimously stated that it considers the Scheme to be in the best interests of Scheme Participants and recommended that Diploma Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal, and subject to the Independent Expert concluding that the Scheme is in the best interests of Scheme Participants and not withdrawing or varying that determination, and the Independent Directors have not withdrawn, qualified or varied those statements or recommendations before the Diploma Shareholder Scheme Approval is obtained other than as permitted by clause 5.2.

2. Conditions for the benefit of Diploma

- (a) Receipt of all required approvals and consents to the Scheme and all related matters, including:
 - (1) the approval by the board of directors of BidCo of the Scheme Booklet; and
 - (2) the approval of any other third parties from whom BidCo must obtain consent.
- (b) The Independent Expert's Report concluding that the Scheme is in the best interests of Scheme Participants and that report is not withdrawn or varied adversely prior to 8:00am on the Second Court Date.
- (c) There being no prohibition at law against the Scheme.
- (d) The representations and warranties of BidCo set out in Schedule 3:
 - (1) that are qualified as to materiality, are true and correct; and
 - (2) that are not so qualified, are true and correct in all material respects,as at the date of this deed and as at 8am on the Second Court Date as though made on and as of that time.
- (e) Material compliance of BidCo with the terms of this agreement.

3. Mutually beneficial conditions

- (a) The Court makes orders convening the Scheme Meeting under section 411(1) of the Corporations Act.

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- (b) The Diploma Shareholder Scheme Approval is obtained.
- (c) The Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act and an office copy of the Scheme Orders are lodged with ASIC as contemplated by section 411(10) of the Corporations Act.
- (d) No judgment, order, decree, statute, law, ordinance, rule or 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, remains in effect as at 8am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Scheme.



Schedule 2 - Diploma Representations and Warranties

1. **(Corporate Existence)** Diploma is a corporation duly incorporated, validly existing and in good standing under the laws of Australia. No proceedings have been taken or authorized by Diploma in respect of the bankruptcy, reorganisation, insolvency, liquidation, dissolution or winding up of Diploma.
2. **(Subsidiaries)** Each of Diploma's subsidiaries are duly incorporated, validly existing and in good standing under the laws of the jurisdiction of incorporation.
3. **(Capacity to enter agreement)** Diploma has the requisite corporate power and authority and capacity to enter into and perform its obligations under this agreement.
4. **(Binding obligation)**
 - (a) The execution, delivery and performance of this agreement by Diploma and the consummation by it of the transactions contemplated hereby have been duly and validly authorised by all necessary corporate action, and no further consent or authorisation of the board of directors of Diploma is required, except for the approval by the board of directors of Diploma of the Scheme Booklet.
 - (b) This agreement constitutes a valid and binding obligation of Diploma enforceable against Diploma in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium, liquidation, conservatorship, receivership or other laws of general application limiting the enforcement of creditors' rights generally and to the fact that equitable remedies, including specific performance, are discretionary and may not be ordered in respect of certain defaults.
5. **(Absence of conflict)** None of the execution and delivery of this agreement, the performance of Diploma obligations under this agreement, or the completion of the transactions contemplated by this agreement will:
 - (a) result in or constitute a breach of any term or provision of, or constitute a default under, the constitution of Diploma, or subject to obtaining the consents and providing notice to BidCo, any agreement or other commitment to which Diploma is a party or by which Diploma is bound;
 - (b) constitute an event which would permit any party to any agreement or other commitment with Diploma to terminate that agreement, or to accelerate the maturity of any indebtedness of Diploma, or other obligation of Diploma; or
 - (c) result in the creation or imposition of any encumbrance on Diploma Shares.
6. **(Regulatory approvals)** Except as required in this agreement, no authorisation, approval, order, consent of, or filing with, any Government Body is required on the part of Diploma in connection with the execution, delivery and performance of this agreement or any other documents and agreements to be delivered under this agreement.
7. **(Consents)** There is no requirement to obtain any consent, approval or waiver of a party under any agreement or other commitment to which Diploma is a party in order to complete the transactions contemplated by this agreement.
8. **(Capacity and power of Diploma)** Diploma have all necessary corporate power, authority and capacity to own or lease their respective assets and carry on their respective businesses as currently being conducted.
9. **(Continuous disclosure)** Diploma has materially complied with its obligations under chapter 3 of the Listing Rules and the information disclosed to ASX is true and correct in all material



respects, and no information is being withheld pursuant to Listing Rule 3.1A (other than in respect of the Scheme).

10. **(provision of Diploma Material)** the Diploma Material included in the Scheme Booklet:
 - (a) will be included in good faith and on the understanding that BidCo and each of the Officers of BidCo will rely on that information for the purposes of considering and approving the BidCo Material in the Scheme Booklet and approving the entry by BidCo into the Deed Poll, and that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report; and
 - (b) will comply in all material respects with the requirements of the Corporations Act, the ASX Listing Rules and all relevant policy statements, practice notes and other guidelines and requirements of ASIC;
11. **(Diploma Material true)** the Diploma Material included or incorporated by reference in the Scheme Booklet will not, as at the date of despatch of the Scheme Booklet to the Diploma Shareholders, contain any statement which is misleading or deceptive in any material respect (by omission or otherwise);
12. **(securities)** its only issued securities as at the date of this document are 472,234,182 Diploma Shares; and Diploma is not under any obligation to issue any shares or securities convertible into Diploma Shares to any person and, except as specified above, no option exists nor is Diploma subject to any actual or contingent obligation to issue or convert securities;
13. **(financial statements)** the consolidated financial statements of Diploma lodged with ASIC and/or ASX:
 - (a) complied in all material respects with the Corporations Act and all applicable accounting requirements applicable to the preparation of the financial statements;
 - (b) complied in all material respects with Australian generally accepted accounting principles applied on a consistent basis throughout the periods involved (except as may be indicated in the notes to the financial statements); and
 - (c) fairly presented the consolidated financial position of Diploma as at the dates of the relevant financial statements and the consolidated results of Diploma's operations and cash flows for the relevant periods; and
14. **(compliance with laws)** as far as Diploma is aware, after making enquiries of its Officers, Diploma has complied in all material respects with all applicable laws and regulations which would, if breached, have a material adverse effect on:
 - (a) its financial position as a whole; or
 - (b) the implementation of the Scheme.



Schedule 3 - BidCo Representations and Warranties

1. **(Corporate existence)** BidCo is a corporation duly incorporated, validly existing and in good standing under the laws of Australia. No proceedings have been taken or authorized by BidCo in respect of the bankruptcy, reorganisation, insolvency, liquidation, dissolution or winding up of BidCo.
2. **(Capacity to enter agreement)** BidCo has the requisite corporate power and authority and capacity to enter into and perform its obligations under this agreement in accordance with its terms, including payment of the Scheme Consideration.
3. **(Binding obligation)**
 - (a) The execution, delivery and performance of this agreement by BidCo and the consummation by it of the transactions contemplated hereby have been duly and validly authorised by all necessary corporate action, and no further consent or authorisation of the board of directors of BidCo is required.
 - (b) This agreement constitutes a valid and binding obligation of BidCo enforceable against BidCo in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium, liquidation, conservatorship, receivership or other laws of general application limiting the enforcement of creditors' rights generally and to the fact that equitable remedies, including specific performance, are discretionary and may not be ordered in respect of certain defaults.
4. **(Regulatory approvals)** Except as required in this agreement, no authorisation, approval, order, consent of, or filing with, any Government Body is required on the part of BidCo in connection with the execution, delivery and performance of this agreement or any other documents and agreements to be delivered under this agreement.
5. **(Consents)** There is no requirement to obtain any consent, approval or waiver of a party under any agreement or other commitment to which BidCo is a party in order to complete the transactions contemplated by this agreement.
6. **(Capacity and power of BidCo)** BidCo have all necessary corporate power, authority and capacity to own or lease their respective assets and carry on their respective businesses as currently being conducted.
7. **(BidCo Material true)** all BidCo Material provided by BidCo and included or incorporated by reference in the Scheme Booklet in the form consented to by BidCo will not, as at the date of dispatch of the Scheme Booklet to the Diploma Shareholders, contain any statement which is misleading or deceptive in any material respect (by omission or otherwise).



Schedule 4 - Announcement

Scheme Implementation Agreement



Signing page

Executed by Diploma Group Limited
ACN 127 462 686

Director

JEFFERY MICHAEL HILL.

Print full name of Director

Director/Secretary

SIMON ANDREW OATEN

Print full name of Director/Secretary

Executed by Diploma Investments Pty Ltd ACN
607 874 019

Sole Director and Secretary

DOMENICO DI LATTE

Print full name of Sole Director and Secretary

