



AFFINITY EDUCATION
G R O U P

ABN 37 163 864 195

15 September 2015

Affinity Education announces increased proposal of \$0.92 from Anchorage Capital Partners and entry into Scheme Implementation Deed.

G8 intends to vote in favour of scheme of arrangement, in the absence of a superior proposal, and will not extend its takeover offers.

Revised proposal at \$0.92 per share, conditional on announcement by Anchorage of financing commitments

Affinity Education Group Limited (**Affinity Education**) today announces that it has entered into a Scheme Implementation Deed in relation to a revised proposal of \$0.92 cash per share from Anchorage Childcare Pty Limited (**Anchorage**). A copy of the Scheme Implementation Deed is attached in **Annexure A** to this announcement.

Under the Scheme Implementation Deed, Affinity has agreed to implement a scheme of arrangement (**Scheme**), under which Anchorage will acquire all of the issued ordinary shares in Affinity Education and Affinity Education shareholders will receive \$0.92 cash for each share (**Scheme Consideration**).

Affinity's obligations to proceed with the scheme are conditional upon Anchorage announcing to ASX by no later than 10:00 am (Sydney time) on 21 September 2015 that it has sufficiently detailed binding commitments in place to fund its obligations to pay the Scheme Consideration, which are conditional only upon certain procedural or mechanical matters (**Financing Condition**).

The independent board committee¹ of Affinity Education unanimously **RECOMMENDS THE SCHEME**

Subject to the satisfaction of the Financing Condition, the independent board committee of Affinity Education intends to unanimously recommend the Scheme and vote in favour of the Scheme, in the absence of a superior proposal.

The Scheme provides a superior outcome for Affinity Education shareholders compared to the market takeover offer of \$0.80 per share (**G8 Cash Offer**) and the off-market takeover offer of 1 G8 share for every 4.25 Affinity Education shares (**G8 Share Offer**) (together, **G8 Takeover Offers**) by G8 Education Limited (**G8**), being at a:

- 15.0% premium to the G8 Cash Offer; and
- 17.4% premium to the implied value of the G8 Share Offer.²

The Scheme Consideration falls within the range of \$0.92 to \$1.00 previously assessed by the Independent Expert, Lonergan Edwards & Associates, as being fair value for each Affinity Education share.

¹ The Affinity Board has established an independent board subcommittee to consider the G8 Takeover Offers and the Scheme. The husband of one of the Affinity Directors, Ms Gabriel Giufre, is working with Anchorage in relation to the Scheme. Accordingly, Affinity has adopted protocols (in accordance with the Takeovers Panel's Guidance Note 19: Insider Participation in Control Transactions) to ensure that Affinity's consideration of the Scheme is free from any influence from Ms Giufre and that any disclosure of sensitive information is subject to appropriate oversight and control.

² Implied value of \$0.7835 for each Affinity Education share, based on G8's closing share price of \$3.33 on 14 September 2015.

The directors of Affinity Education continue to recommend unanimously that Affinity Education shareholders reject the G8 Takeover Offers.

G8 intends to vote in favour of the Scheme and not extend the G8 Takeover Offers

Affinity Education has entered into a voting deed (**Voting Deed**) with G8, under which G8 has agreed, subject to the satisfaction of the Financing Condition:

- to not extend the G8 Takeover Offers so that the G8 Takeover Offers will close on 28 September 2015; and
- to irrevocably appoint, for no consideration, the chair of Affinity Education as G8's proxy to vote 33,560,488 Affinity Education shares held by G8 (**Relevant Affinity Education Shares**), which represent approximately 14.5% of Affinity's issued ordinary share capital, in favour of the Scheme.

This proxy may only be revoked if:

- the meeting of Affinity shareholders to consider and vote on the Scheme is not held before 14 January 2016;
- the Independent Board Committee fails to recommend, or withdraws its recommendation, that Affinity Education shareholders vote in favour of the Scheme in the absence of a superior proposal; or
- a superior proposal is announced by a party other than Anchorage and is recommended by the Independent Board Committee.

G8 has also agreed to announce that it will vote all of the other Affinity shares it holds (in addition to the Relevant Affinity Shares) in favour of the Scheme, subject to none of the events referred to above occurring before the scheme meeting.

Indicative timetable and next steps

Affinity shareholders do not need to take any further action at the present time in relation to the Scheme.

In particular, Affinity shareholders should not accept the G8 Takeover Offers.

Affinity will announce to ASX by no later than 10:00 am (Sydney time) on 21 September 2015 whether the Financing Condition has been satisfied.

If the Financing Condition is satisfied, Affinity shareholders will be given the opportunity to vote on the Scheme at a meeting expected to be held in November 2015. Subject to shareholder approval and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented in December 2015.

An explanatory statement containing information relating to the Scheme, reasons for the Independent Board Committee's recommendation, an independent expert's report and details of the scheme meeting is expected to be sent to Affinity Shareholders in October 2015 after its review by ASIC.

Set out below is an indicative timetable for the Scheme:

| Indicative timetable | |
|--|--|
| Event | Date |
| Enter into Scheme Implementation Deed | Tuesday, 15 September 2015 |
| Anchorage to notify Affinity if Financing Condition has been satisfied | No later than 10.00 am Monday, 21 September 2015 |
| Lodge Scheme Booklet with ASIC for review and comment | Monday, 28 September 2015 |
| First Court Date | Wednesday, 14 October 2015* |
| Explanatory Booklet registered with ASIC | Thursday, 15 October 2015 |
| Dispatch Explanatory Booklet to Affinity Shareholders | Wednesday, 21 October 2015 |
| Scheme Meeting | Friday, 20 November 2015 |
| Second Court Date | Monday, 30 November 2015* |
| Effective Date – lodge office copy of Court order approving the Scheme with ASIC | Tuesday, 1 December 2015 |
| Record Date | 7:00 pm on Tuesday, 8 December 2015 |
| Implementation Date – pay Scheme Consideration | Tuesday, 15 December 2015 |

* Subject to court availability.

Note: This is an indicative timetable only and is subject to change, including following any regulatory consultation and as may be required by the court.

Affinity Shareholder Information Line

Affinity shareholders who have questions about the Scheme or the G8 Takeover Offers can call the Affinity Shareholder Information Line on 1300 911 275.

For further information please contact:

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About Affinity Education Group Limited

Affinity Education Group Limited has been established to be a leading provider in the Australian market of high quality education and care to children aged six weeks to 12 years. Provision of these services includes long day care, before and after school care and occasional care.

Annexure A – Scheme Implementation Deed

Affinity Education Group Limited

Anchorage Childcare Pty Limited

Scheme Implementation Deed

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Date 15 September 2015

Parties

Affinity Education Group Limited ACN 163 864 195 of Level 14, 100 Creek Street, Brisbane QLD 4000 (**Affinity**)

Anchorage Childcare Pty Limited ACN 607 819 081 of c/- Level 39, 259 George Street, Sydney NSW 2000 (**Bidder**)

Background

- A Affinity and Bidder have agreed to implement the Proposed Transaction on and subject to the terms and conditions of this deed.
- B Affinity and Bidder have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.
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Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this deed these terms have the following meanings:

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| Affinity Board | means the board of directors of Affinity as constituted from time to time (or any committee of the board of directors of Affinity constituted from time to time to consider the Proposed Transaction on behalf of Affinity). |
| Affinity Group | means Affinity and its Controlled Entities. |
| Affinity Information | means information to be included by Affinity in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the <i>Corporations Regulations 2001</i> (Cth), and any other information that is material to the making of a decision by Affinity Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of Affinity's directors and has not previously been disclosed to Affinity Shareholders, but does not include the Bidder Information and the Independent Expert's Report. |
| Affinity Parties | means each member of the Affinity Group and their |

**Affinity
Prescribed
Occurrence**

Related Bodies Corporate and Authorised Persons.

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

- (a) Affinity 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 Affinity Group resolves to reduce its share capital in any way;
- (c) any member of the Affinity 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 Affinity Group issues shares, or grants a performance right or an option over its shares, or agrees to make such an issue or grant such a right or an option other than pursuant to the exercise of an option or performance right before the Record Date where that option or performance right was on issue immediately before the date of this deed;
- (e) any member of the Affinity Group issues, or agrees to issue, convertible notes or any other security or instrument that is convertible into shares;
- (f) any member of the Affinity Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) any member of the Affinity Group creates or agrees to create, any mortgage, charge, lien or other encumbrance over the whole, or a substantial part, of its business or property other than a lien which arises by operation of law or legislation securing an obligation that is not yet due;
- (h) any member of the Affinity Group resolves to be wound up;
- (i) a liquidator or provisional liquidator of any member of the Affinity Group is appointed;
- (j) a court makes an order for the winding up of any member of the Affinity Group;
- (k) an administrator of any member of the Affinity Group is appointed under section 436A, 436B or

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| | 436C of the Corporations Act; |
| | (l) any member of the Affinity Group executes a deed of company arrangement; |
| | (m) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of any member of the Affinity Group; or |
| | (n) Affinity declares or pays a dividend, |
| | provided that an Affinity Prescribed Occurrence will not include any matter: |
| | (o) required to be done or procured by Affinity pursuant to this deed or which is otherwise contemplated by this deed or the Scheme; |
| | (p) Fairly Disclosed in filings of Affinity with the ASX prior to the date of this deed; |
| | (q) to the extent it is Fairly Disclosed in the Due Diligence Materials or the Disclosure Letter; or |
| | (r) the undertaking of which Bidder has approved in writing. |
| Affinity Shareholder | means each person who is registered in the register maintained by Affinity under section 168(1) of the Corporations Act as a holder of one or more Shares. |
| Affinity Warranties | means the representations and warranties of Affinity set out in clause 10.1. |
| ASIC | means the Australian Securities and Investments Commission. |
| ASX | means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market known as the Australian Securities Exchange operated by it. |
| Authorised Person | means, in respect of a person: <ul style="list-style-type: none"> (a) a director, officer, member or employee of the person; (b) an Adviser of the person; and (c) a director, officer or employee of an Adviser of the person. |
| Bidder Group | means Bidder and each of its Subsidiaries (excluding, at any time, Affinity and its Subsidiaries to the extent that Affinity and its Subsidiaries are Subsidiaries of Bidder at that time). A reference to a member of the Bidder Group or a Bidder Group Member is a reference to Bidder or |

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| | any such Subsidiary. |
| Bidder Information | means such information regarding the Bidder Group that is provided or approved by Bidder or any of their Advisors to Affinity or the Independent Expert: <ul style="list-style-type: none"> (a) to enable the Explanatory Booklet to be prepared and completed in compliance with all applicable laws; and (b) otherwise in compliance with Bidder's obligations under clause 6.2(a). |
| Bidder Parties | means the members of the Bidder Group and their respective Authorised Persons. |
| Bidder Reimbursed Entities | means the Bidder and Anchorage Capital Partners Pty Limited ABN 89 163 169 800. |
| Bidder Warranties | means the representations and warranties of Bidder set out in clause 10.2. |
| Business | means the business of owning, operating and managing childcare and long day care centres. |
| Business Day | means a business day as defined in the ASX Listing Rules. |
| 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. |
| Competing Proposal | means any proposal, offer or transaction by a third party (other than Bidder or its related bodies corporate) that, if completed, would mean: <ul style="list-style-type: none"> (a) a person would acquire a relevant interest or voting power in 20% or more of the Shares or of the securities of any of member of the Affinity Group; (b) a person would enter into any synthetic, economic or derivative transaction connected with or relating to 20% or more of the Shares or of the securities of any member of the Affinity Group; (c) a person would directly or indirectly acquire or obtain an interest (including an economic interest) in all or a substantial part or material part of the business conducted by, or assets or property of, Affinity or any member of the Affinity Group; (d) a person would acquire Control of Affinity or any member of the Affinity Group; |

- (e) a person may otherwise acquire, or merge with, Affinity or any member of the Affinity Group (including by way of takeover bid, scheme of arrangement, capital reduction, buy-back, sale of assets, sale of securities, strategic alliance, dual listed company structure, joint venture or partnership); or
- (f) Affinity will issue, on a fully diluted basis, 20% or more of its capital as consideration for the assets or share capital or another person,

or any proposal by Affinity to implement any reorganisation of capital or any proposal, offer or transaction that is similar in structure to, or that would be reasonably regarded as being an alternative proposal to, the Proposed Transaction. Each successive modification or variation to the fundamental commercial terms of any proposal, offer or transaction in relation to a Competing Proposal will constitute a new Competing Proposal.

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| Conditions | means the conditions set out in clause 4.1 and Condition means any one of them. |
| Confidentiality Deed | means the Confidentiality Deed between Affinity and Bidder dated 5 August 2015. |
| Control | has the meaning given in section 50AA of the Corporations Act. |
| Controlled Entity | means, in respect of a party, an entity that party Controls. |
| Corporations Act | means the <i>Corporations Act 2001</i> (Cth). |
| Cost Reimbursement | is defined in clause 13.2(a). |
| Cost Reimbursement Cap | is defined in clause 13.2(a). |
| Court | means the Federal Court of Australia or such other court of competent jurisdiction determined by Affinity (after consultation, in good faith, with Bidder). |
| Deed Poll | means the deed poll to be executed by Bidder prior to the First Court Date, in the form set out in Schedule 2 or in such other form as is agreed in writing between the parties. |
| Delivery Time | in relation to the Second Court Date means not later than 2 hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to |

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| | approve the Scheme in accordance with section 411(4)(b) of the Corporations Act. |
| Disclosure Letter | means the letter so entitled from Affinity provided to Bidder on or before the date of this deed. |
| Due Diligence Material | means: <ul style="list-style-type: none">(a) all documents and written information disclosed by or on behalf of Affinity and its Subsidiaries (including management presentations and all written responses provided in response to written questions or requests for information) to the Bidder Parties prior to the date of this deed for the purposes of the Proposed Transaction; and(b) all documents and information disclosed by or on behalf of Affinity and its Subsidiaries (including management presentations) contained in the Project A-Team online data room, the index for which materials have been initialled for identification by Affinity's solicitors on behalf of Affinity and by Bidder's solicitors on behalf of Bidder. |
| 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 that Scheme. |
| Effective Date | with respect to the Scheme, means the date on which the Scheme becomes Effective. |
| End Date | means the later of: <ul style="list-style-type: none">(a) 1 March 2016; and(b) such other date and time agreed in writing between Affinity and Bidder. |
| Exclusivity Period | means the period commencing on the date of this deed and ending on the earliest of: <ul style="list-style-type: none">(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 Affinity in respect of the Proposed Transaction in accordance with the terms of this deed and to be despatched to Affinity Shareholders. |
| Fairly Disclosed | has the meaning given in clause 1.2(p) . |

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| Financing Condition | has the meaning given in clause 3 . |
| 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. |
| Government Agency | means any foreign or Australian government or governmental, semi- governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian. |
| 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 Affinity Shareholders present and voting, either in person or by proxy. |
| Identifying Details | has the meaning given in clause 14.5(b)(i). |
| Implementation Date | means the fifth Business Day after the Record Date or such other date after the Record Date agreed to in writing between the parties. |
| Independent Directors | means all of the directors of Affinity, other than Gabriel Giufre. |
| Independent Expert | means the independent expert in respect of the Scheme appointed by Affinity. |
| Independent Expert's Report | means a report (including any updates to such report) of the Independent Expert stating whether or not in its opinion the Scheme is in the best interest of Affinity Shareholders. |
| Insolvency Event | means in relation to a person: <ul style="list-style-type: none"> (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 |

compromise or arrangement with its creditors generally;

- (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;
- (e) **ceasing business:** the person ceases or threatens to cease to carry on 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:** if the person is a company, 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

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| | set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a foreign jurisdiction. |
| Listing Rules | means the official listing rules of ASX as amended from time to time. |
| Performance Right | a performance right in respect of a Share, granted under Affinity's 2015 Equity Incentive Plan. |
| Performance Rights Holder | means a person who holds one or more Performance Right. |
| Proposed Transaction | means: <ul style="list-style-type: none">(a) the proposed acquisition by Bidder in accordance with the terms and conditions of this deed, of all of the Scheme Shares through the implementation of the Scheme; and(b) all associated transactions and steps contemplated by this deed. |
| Record Date | means 7.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the parties. |
| 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. |
| Related Entity or Related Entities | means, in relation to a party, any entity that is related to that party within the meaning of section 50 of the Corporations Act or that is a Controlled Entity of that party. |
| Representatives | means, in relation to an entity: <ul style="list-style-type: none">(a) each of the entity's Related Entities; and(b) each of its directors, officers, employees, contractors, advisers (including legal, financial and other expert advisers) and agents, but excluding the Independent Expert. |
| RG 60 | means ASIC Regulatory Guide 60. |
| Scheme | means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Affinity and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 3 or in such other form as the parties agree in writing, subject to any alterations or conditions made or required by the Court |

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| | under section 411(6) of the Corporations Act and approved in writing by each party. |
| Scheme Consideration | means, in respect of each Scheme Share held by a Scheme Shareholder, \$0.92 per Share. |
| Scheme Meeting | means the meeting of Affinity 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 Share | means a Share on issue as at the Record Date. |
| 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, means the date on which the adjourned application is heard or scheduled to be heard. |
| Share | means an issued fully paid ordinary share in the capital of Affinity. |
| Share Splitting | means the splitting by a holder of Shares into two or more parcels of Shares whether or not it results in any change in beneficial ownership of the 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 the Independent Directors unanimously determine, acting in good faith and in order to satisfy what the Independent Directors reasonably consider to be their fiduciary or statutory duties, would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Affinity Shareholders than the Proposed Transaction having regard to all relevant matters including consideration, conditionality, funding, certainty and timing. |
| Third Party | means any person or entity other than a member of the Bidder Group or a member of the Affinity Group. |
| 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. |
| Treasurer | means the Treasurer of the Commonwealth of Australia. |

1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural, and the converse also applies;
- (b) 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 time is to Sydney, Australia time;
- (h) 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;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) 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;
- (k) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (m) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (n) 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;
- (o) 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
- (p) a reference to **Fairly Disclosed** means disclosed in writing to a member of the Bidder Group or their respective Authorised Persons (or, where the context requires, to the ASX) in sufficient detail and with sufficient

specificity so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Proposed Transaction in the childcare industry to identify and understand 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 expressly 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 and best 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 Government Agency; or
- (b) to commence any legal action or proceeding against any person, except where that provision expressly specifies otherwise.

2 Agreement to propose Scheme

- (a) Affinity agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.
- (b) Bidder agrees to assist Affinity to propose and implement the Scheme on and subject to the terms of this deed.

3 Financing Condition

The obligations of Affinity and the Bidder to implement the Scheme are conditional upon the Bidder announcing to ASX by no later than 10:00 am (Sydney time) on 21 September 2015 that it has sufficiently detailed binding commitments in place to fund its obligations to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll, which are conditional only upon procedural items such as delivery of a draw request, mechanical conditions that can only be satisfied on implementation of the Scheme such as repayment of Affinity's existing banking facility and conditions relating to progressing the Scheme such as requisite Affinity shareholder approval, Court approval and lodging of the court order with ASIC (**Financing Condition**).

4 Conditions precedent and pre-implementation steps

4.1 Conditions to Scheme

Subject to this clause 4, 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 4:

- (a) **(No Affinity Prescribed Occurrence)** no Affinity Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;
- (b) **(Restraints)** no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or Government Agency, or other material legal restraint or prohibition, preventing or delaying the Proposed Transaction is in effect at the Delivery Time on the Second Court Date;
- (c) **(Affinity Warranties)** the Affinity 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;
- (d) **(Bidder Warranties)** the Bidder 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) **(Shareholder approval)** the Scheme is approved by Affinity Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (f) **(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 on either party (acting reasonably); and
- (g) **(Performance Rights)** before the Delivery Time on the Second Court Date, all actions have been taken and/or arrangements have been put in

place so that all Performance Rights will either vest, have lapsed or have been cancelled before the Record Date.

4.2 Benefit and waiver of Conditions

- (a) The Conditions in clauses 4.1(a) (No Affinity Prescribed Occurrence), 4.1(c) (Affinity Warranties) and 4.1(g) (Performance Rights) are for the sole benefit of Bidder and any breach or non-fulfilment of them may only be waived by Bidder giving its written consent.
- (b) The Condition in clauses 4.1(d) (Bidder Warranties) is for the sole benefit of Affinity and any breach or non-fulfilment of it may only be waived by Affinity giving its written consent.
- (c) A party entitled to waive a Condition pursuant to this clause 4.2 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.
- (d) The Conditions in clauses 4.1(b) (Restraints), 4.1(e) (Shareholder approval) and 4.1(f) (Court approval) cannot be waived.
- (e) If a party waives the breach or non-fulfilment of any of the Conditions in clause 4.1, that waiver will not preclude it from suing the other party for any breach of this deed including without limitation a breach that resulted in the non-fulfilment of the Condition that was waived.

4.3 Reasonable endeavours

Affinity and Bidder will use their respective reasonable endeavours to procure that the Financing Condition and each of the Conditions is satisfied as soon as reasonably practicable after the date of this deed and continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).

4.4 Notifications

Each of Bidder and Affinity must:

- (a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Financing Condition and the Conditions;
- (b) promptly notify the other in writing if it becomes aware that the Financing Condition or any Condition has been satisfied; and
- (c) promptly notify the other in writing if it becomes aware that that the Financing Condition or any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 4.3).

4.5 Certificate

Before the Delivery Time on the Second Court Date:

- (a) Bidder and Affinity will provide a joint certificate to the Court confirming whether or not the Condition set out in clause 4.1(b) (Restraints) has been satisfied or waived in accordance with the terms of this deed;
- (b) Affinity will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 4.1(a) (No Affinity Prescribed Occurrence), 4.1(c) (Affinity Warranties), 4.1(e) (Shareholder approval) and 4.1(g) (Performance Rights) have been satisfied or waived in accordance with the terms of this deed;
- (c) Bidder will provide a certificate to the Court confirming whether or not the Conditions set out in clause 4.1(d) (Bidder Warranties) have been satisfied or waived in accordance with the terms of this deed;
- (d) Affinity will provide a certificate to Bidder confirming whether or not it 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) Bidder will provide a certificate to Affinity confirming whether or not it 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.

4.6 Scheme voted down

If the Scheme is not approved by Affinity Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and Affinity or Anchorage 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 Affinity 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 Affinity to represent it in Court proceedings related to the Scheme, in consultation with Anchorage, 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.

4.7 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 4.2, the party does not waive the Condition within seven Business Days after the occurrence of the circumstance; or

- (iii) the Scheme does not become Effective by the End Date and a Superior Proposal has not been publicly recommended by a majority of the Independent Directors,

then Affinity and Bidder must consult reasonably 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; or
 - (vii) to extend the End Date.
- (b) Subject to clause 4.7(c), if a Condition becomes incapable of being satisfied before the End Date and Affinity and Bidder are unable to reach agreement under clause 4.7(a) within five 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 Condition in clauses 4.1(b) (Restraints) or 4.1(e) (Shareholder approval) either Bidder or Affinity 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 4.1(a) (No Affinity Prescribed Occurrence), 4.1(c)(Affinity Warranties) and 4.1(g) (Performance Rights), Bidder may terminate this deed by giving Affinity notice without any liability to any party by reason of that termination alone; and
 - (iii) in relation to the Condition in clause 4.1(d) (Bidder Warranties), Affinity may terminate this deed by giving Bidder 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 pursuant to clause 4.7(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.

4.8 Interpretation

For the purposes of this clause 4, a Condition will be incapable of satisfaction, or incapable of being fulfilled if 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).

5 Transaction Steps

5.1 Scheme

Affinity must, as soon as reasonably practicable after the satisfaction of the Financing Condition 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 Bidder and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration.

5.2 Scheme Consideration

Bidder covenants in favour of Affinity (in Affinity's own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to Bidder of the Scheme Shares under the terms of the Scheme, on the Implementation Date, Bidder will:

- (a) accept that transfer; and
- (b) provide each Scheme Shareholder the Scheme Consideration, in accordance with the Scheme.

5.3 Deed poll

Bidder covenants in favour of Affinity (in Affinity's own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform the Deed Poll prior to the First Court Date.

6 Implementation

6.1 Affinity's obligations

Affinity must take all steps reasonably necessary to propose and (subject to the Financing Condition and all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme as soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, including taking each of the following steps:

- (a) **(Explanatory Booklet)** prepare the Explanatory Booklet in accordance with clause 6.3;
- (b) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the

Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Explanatory Booklet;

- (c) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the Affinity Board, or of a committee of the Affinity 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;
- (d) **(draft to ASIC)** as soon as reasonably practicable after the date of this deed:
 - (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 6.1(c) and 6.2(e), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep Bidder reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with Bidder, to resolve any such matters;
- (e) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the Affinity Board, or of a committee of the Affinity Board appointed for the purpose, is held to consider approving the Explanatory Booklet for despatch to the Affinity Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (f) **(section 411(17)(b) statements)** apply to ASIC for the production of:
 - (i) an indication of intent letter stating that it does not intend to appear before the Court on the First Court Date; and
 - (ii) a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (g) **(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(e) and 6.2(f) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Affinity to convene the Scheme Meeting;
- (h) **(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;
- (i) **(convening Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching

the Explanatory Booklet to the Affinity Shareholders and convening and holding the Scheme Meeting;

- (j) **(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, and if the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the remaining Conditions will be satisfied or waived prior to the proposed Second Court Date, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- (k) **(appeal process)** if the Court refuses to make any orders directing Affinity to convene the Scheme Meeting or approving the Scheme, Affinity and Bidder must:
 - (i) consult with each other, each acting reasonably, as to whether to appeal the Court's decision; and
 - (ii) appeal the court decision unless the parties agree otherwise or an independent senior counsel instructed by Affinity opines that, in his or her view, an appeal would have no reasonable prospect of success;
- (l) **(implementation of Scheme)** if the Scheme is approved by the Court:
 - (i) subject to the 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 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 Bidder 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;
- (m) **(Bidder Information)** without the prior written consent of Bidder, not use the Bidder Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (n) **(Documents)** consult with Bidder in relation to the content of the documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider, for the purpose of amending drafts of those documents, comments from Bidder on those documents;
- (o) **(Shareholder support)** promote to its Shareholders the merits of the Scheme, including soliciting proxy votes in favour of the Scheme; and

- (p) **(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; and
- (q) **(Performance rights)** upon the automatic vesting of the Performance Rights in accordance with the 2015 Equity Incentive Plan, issue all Shares to be issued by virtue of the vesting of Performance Rights to the relevant Performance Rights Holders before the Record Date.

6.2 Bidder's obligations

Bidder must take all steps reasonably necessary to assist Affinity to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including taking each of the following steps:

- (a) **(Bidder Information)** provide to Affinity, in a form appropriate for inclusion in the Explanatory Booklet, all information regarding Bidder, the arrangements Bidder has in place to fund the Scheme Consideration, and Bidder's intentions with respect to the assets, business and employees of Affinity if the Scheme is approved and implemented that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Explanatory Booklet, which information must (without limiting the foregoing):
 - (i) contain all information necessary to enable Affinity 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 despatched 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) **(assist Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report for inclusion in the Explanatory Booklet;
- (c) **(review drafts of Explanatory Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by Affinity and provide comments on those drafts;
- (d) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the appropriate decision-making organ of Bidder is held to consider approving those sections of that draft that relate to Bidder as being in a form appropriate for provision to ASIC for review;

- (e) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the appropriate decision-making organ of Bidder is held to consider approving those sections of the Explanatory Booklet that relate to Bidder as being in a form appropriate for despatch to Affinity Shareholders, subject to approval of the Court;
- (f) **(Representation)** procure that, if requested by Bidder or Affinity, Bidder is represented by counsel at the Court hearings convened for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act;
- (g) **(Affinity Information)** without the prior written consent of Affinity, not use Affinity Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (h) **(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; and
- (i) **(No denigration)** from the date of this deed until the date the Independent Expert's Report is received, Bidder will ensure that Bidder and its Authorised Persons do not publicly (or otherwise to third parties) denigrate the Proposed Transaction or Affinity in any way.

6.3 Explanatory Booklet – preparation principles

- (a) As soon as reasonably practicable after the satisfaction of the Financing Condition and substantially in accordance with the Timetable, Affinity must prepare the Explanatory Booklet in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
 - (ii) this clause 6.3.
- (b) The Explanatory Booklet will include:
 - (i) the terms of the Scheme;
 - (ii) 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 a proxy form for the Scheme Meeting and for any ancillary meeting;
 - (iii) the Affinity Information;
 - (iv) the Bidder Information;
 - (v) a copy of this deed (without the schedules or annexures) or a summary of it;
 - (vi) a copy of the executed Deed Poll; and
 - (vii) a copy of the Independent Expert's Report.
- (c) The Explanatory Booklet must include a statement that:

- (i) other than the Bidder Information and the Independent Expert's Report, the Explanatory Booklet has been prepared by Affinity and is the responsibility of Affinity, and that Bidder assumes no responsibility for the accuracy or completeness of the Explanatory Booklet (other than the Bidder Information); and
 - (ii) the Bidder Information has been provided by Bidder and is the responsibility of Bidder, and Affinity assumes no responsibility for the accuracy or completeness of the Bidder Information.
- (d) Affinity must make available to Bidder drafts of the Explanatory Booklet (excluding any draft of the Independent Expert's Report), consult with Bidder in relation to the content of those drafts (other than the Bidder Information), and consider, acting reasonably and in good faith, for the purpose of amending those drafts, comments from Bidder on those drafts. Bidder acknowledges and agrees that Affinity has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as expressly provided in this deed with respect to the Bidder Information.
- (e) Affinity must seek approval from Bidder for the form and context in which the Bidder Information appears in the Explanatory Booklet, which approval Bidder must not unreasonably withhold or delay, and Affinity must not lodge the Explanatory Booklet with ASIC until such approval is obtained from Bidder.
- (f) Affinity must take all reasonable steps to ensure that the Explanatory Booklet (other than the Bidder Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to Affinity Shareholders.
- (g) Bidder must take all reasonable steps to ensure that the Bidder 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 despatched to Affinity Shareholders.
- (h) Affinity must provide to Bidder all such further or new information of which Affinity becomes aware that arises after the Explanatory Booklet has been despatched 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 and the Listing Rules.
- (i) Bidder must provide to Affinity all such further or new information of which Bidder becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Bidder Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (j) Affinity and Bidder each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of Affinity Shareholders and Bidder and that they will use all reasonable endeavours and utilise all 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 Affinity Board recommendation

7.1 Recommendation

Subject to **clause 7.3** Affinity represents and warrants to Anchorage, as at the date of this deed, that it has been advised by each Independent Director that, subject to the satisfaction of the Financing Condition, he or she will recommend that Affinity Shareholders vote in favour of the Scheme, qualified only by the words “in the absence of a superior proposal”.

7.2 Explanatory Booklet to contain recommendation

Subject to **clause 7.3** and the satisfaction of the Financing Condition, Affinity must ensure that the Explanatory Booklet includes:

- (a) a unanimous recommendation by the Independent Directors that Affinity Shareholders vote in favour of the Scheme qualified only by the words “in the absence of a superior proposal”; and
- (b) a statement by each Independent Director that he or she will vote in favour of the Scheme, in respect of all Shares controlled or held by, or on behalf of, that Independent Director (as appropriate), qualified only by the words “in the absence of a superior proposal”.

7.3 Withdrawal or modification of recommendation

Affinity represents and warrants to Anchorage, as at the date of this deed, subject to satisfaction of the Financing Condition, that it has been advised by each Independent Director that he or she will not:

- (a) change, withdraw or modify his or her recommendation that Affinity Shareholders vote in favour of the Scheme; or
- (b) make any public statement or take any other action that is inconsistent with his or her recommendation that Affinity Shareholders vote in favour of the Scheme,

in each case except where Affinity receives a Competing Proposal and the Independent Directors unanimously determine, after all of Anchorage's rights under clause 14.6 have been exhausted, that the Competing Proposal constitutes a Superior Proposal.

8 Conduct of business before the Implementation Date

8.1 Conduct of Affinity business

Subject to clause 8.3, from the date of this deed up to and including the Implementation Date, Affinity must, and must cause each of its Controlled Entities to:

- (a) carry on and operate the Business as a going concern, in the ordinary and normal course and in substantially the same manner as it was conducted in the twelve months before the date of this deed; and
- (b) 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.

8.2 Prohibited actions

Subject to clause 8.3, from the date of this deed up to and including the Implementation Date, Affinity must not, and must procure that the Affinity Group does not:

- (a) make an election to form a consolidated tax group, whether for direct or indirect taxes;
- (b) pay any financial adviser any fee, cost or other form of compensation that is directly or indirectly as a result of, contingent on, or contingent with the Proposed Transaction;
- (c) purchase, lease, acquire or dispose of any assets (including any child care centres), the value of which exceeds \$100,000 in aggregate;
- (d) enter into, terminate, amend or vary any lease or material agreement;
- (e) do anything that would have a material adverse effect on the goodwill of the Business, including the relationship of the Business with customers, suppliers, landlords and employees;
- (f) increase, reduce or otherwise alter its share capital or grant any options or performance rights for the issue of shares or other securities in Affinity;
- (g) declare or pay a dividend or make any other distribution to shareholders;
- (h) change or agree to change the terms of employment, including salaries and benefits, of employees on a salary of more than \$150,000 per year or grant any bonus, severance or retention benefit to any employee or officer other than in accordance with such employee's or officer's contractual entitlements;
- (i) incur additional borrowing, grant any loan or advance, or enter into any off balance sheet financing or assume, guarantee or endorse the obligations of any person;

- (j) enter into any new agreements, arrangements or understandings involving more than \$100,000 in aggregate;
- (k) increase salaries and benefits of employees which in aggregate amount to more than \$100,000 per year, other than in accordance with such employees' contractual or legal entitlements;
- (l) hire, or agree to hire, any employee, agent or contractor except in the ordinary course of business;
- (m) give or agree to give a financial benefit to a related party of Affinity;
- (n) amend its constitution;
- (o) make any draw downs on its existing senior debt facility with Commonwealth Bank of Australia (or any other debt facility); or
- (p) authorise, commit or agree to take any of the steps or actions set out above.

8.3 Affinity permitted activities

The obligations of Affinity under clauses 8.1 and 8.2 do not apply in respect of any matter:

- (a) that was disclosed to Bidder in writing prior to execution of the heads of agreement between Affinity and Anchorage Capital Partners on 24 August 2015;
- (b) required to respond, on a reasonable and prudent basis, to an emergency or a disaster;
- (c) otherwise disclosed in the Disclosure Letter; or
- (d) otherwise contemplated in this deed or agreed between the parties.

8.4 Access

- (a) From the date of this deed up to and including the Implementation Date, Affinity must:
 - (i) procure that at least two members of its executive management team meet (either in person or by teleconference) with representatives of the Bidder on a weekly basis to assist with, among other things, keeping the Bidder fully informed of the matters contemplated by this clause 8.4(a);
 - (ii) provide the Bidder with all reasonable access during Business Hours and on reasonable notice to the management, offices, books, records and business operations of Affinity that the Bidder reasonably requires in order to implement the Proposed Transaction or for the Bidder to prepare for the transition of ownership of the Business, provided that such access is at all times in the presence of a representative of Affinity, if Affinity so requires;

- (iii) keep the Bidder fully informed of all material developments relating to the Affinity Group and provide to the Bidder weekly management, financial and operational reports (including those provided to the Affinity board); and
 - (iv) share such information as is reasonably required to implement the Proposed Transaction, provided that the Bidder must:
 - (A) keep all information obtained by it as a result of clause 8.4(a) confidential;
 - (B) provide Affinity with reasonable notice of any request for meetings or access;
 - (C) comply with the reasonable requirements of Affinity in relation to such access; and
 - (D) not interfere with the Business or the operations of the Affinity Group.
- (b) The parties must use all reasonable endeavours to obtain any third party consents required in connection with, or as a result of, the Proposed Transaction.
- (c) Nothing in clause 8.4(a) gives the Bidder any rights to undertake further due diligence investigations, or any rights as to the decision-making of any member of the Affinity Group or the Business.
- (d) Nothing in this clause 8.4 obliges Affinity to provide to the Bidder or its Representatives any information:
 - (i) concerning its directors' consideration of the Proposed Transaction or any Competing Proposal (save as otherwise provided in this deed);
 - (ii) which would breach an obligation of confidentiality to any person or any applicable privacy laws; or
 - (iii) which would be reasonably likely to result in a loss of legal professional privilege.

9 Actions on and following Implementation Date

9.1 Reconstitution of the board of each member of the Affinity Group

- (a) On the Implementation Date, but subject to the Scheme Consideration having been paid in by Bidder in accordance with the Scheme and receipt by Affinity of signed consents to act, Affinity must take all actions necessary (and in accordance with the constitution of the Affinity Group member, the Corporations Act and the Listing Rules) to appoint the persons nominated by Bidder as new Affinity Directors and new directors of each Controlled Entity of Affinity.

- (b) Without limiting clause 9.1(a), on the Implementation Date, but subject to receipt by Affinity of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the Affinity Group, Affinity must procure that:
 - (i) all outgoing Affinity Directors resign from the Affinity Board; and
 - (ii) all outgoing directors of each Controlled Entity of Affinity resign from their office of director.

9.2 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions which form part of the Scheme and the ancillary transactions contemplated by this deed will be implemented in the following sequence:

- (a) Bidder will provide the Scheme Consideration in accordance with the Scheme;
- (b) Affinity will disburse the Scheme Consideration to Scheme Shareholders in accordance with the Scheme;
- (c) the Affinity Board and the board of each Controlled Entity of Affinity will be reconstituted in accordance with clause 9.1; and
- (d) Bidder will acquire all of the Scheme Shares in accordance with the Scheme.

10 Representations and warranties

10.1 Affinity representations and warranties

Affinity represents and warrants to the Bidder that:

- (a) it is validly existing under the laws of its place of incorporation or registration;
- (b) it has the power to enter into and perform its obligations under this deed and to carry out the transactions contemplated by this deed;
- (c) it has taken all necessary action to authorise its entry into and performance of this deed and to carry out the transactions contemplated by this deed;
- (d) Affinity's obligations under this deed are valid and binding and enforceable against it in accordance with their terms;
- (e) as at the date of this deed, Affinity is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Transaction or as disclosed in writing to Anchorage on or before the date of this deed);
- (f) as at the date of this deed:
 - (i) the issued capital of Affinity is 231,451,639 Shares; and

- (ii) 1,327,141 Performance Rights are on issue; and
- no member of the Affinity Group has issued, or agreed to issue, any other securities or instruments which may convert into Shares or any other securities in Affinity other than pursuant to the Performance Rights.

10.2 Representations and warranties by the Bidder

The Bidder represents and warrants to Affinity that:

- (a) it is validly existing under the laws of its place of incorporation or registration;
- (b) it has the power to enter into and perform its obligations under this deed and to carry out the transactions contemplated by this deed;
- (c) it has taken all necessary action to authorise its entry into and performance of this deed and to carry out the transactions contemplated by this deed;
- (d) its obligations under this deed are valid and binding and enforceable against it in accordance with their terms;
- (e) any announcement it makes to ASX to satisfy the Financing Condition will not be false in a material particular or materially misleading; and
- (f) subject to the Financing Condition being satisfied, at least five Business Days prior to the Second Court Date, it will have binding agreements in place to fund its obligations to pay the Scheme Consideration in accordance its obligations under this deed, the Scheme and the Deed Poll conditional only upon procedural items such as delivery of a draw request, mechanical conditions that can only be satisfied on implementation of the Scheme such as repayment of Affinity's existing banking facility and conditions relating to progressing the Scheme such as requisite Affinity shareholder approval, Court approval and lodging of the court order with ASIC.

10.3 Timing of representations and warranties

Each representation and warranty made or given under clause 10.1 and clause 10.2 is given:

- (a) at the date of this deed and at the Delivery Time; or
- (b) where expressed, at the time at which the representation or warranty is expressed to be given.

10.4 Survival of representations and warranties

Each representation and warranty in clauses 10.1 and 10.2:

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

11 Confidentiality and Public Announcement

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 Public Announcements on execution

Immediately after the execution of this deed, the parties must issue public announcements in a form previously agreed to in writing between them.

11.3 Further public announcements

Subject to clause 11.4, any further public announcements by Affinity or Bidder in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably) subject to where a party is required by law or the 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 the subject of this deed or the Scheme.

11.4 Required announcement

Where a party is required by applicable law, the ASX Listing Rules or any other applicable financial market regulation to make any announcement or to make any disclosure in connection with the Proposed Transaction or any other transaction the subject of this deed or the Scheme, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other party before making the relevant disclosure and must give the other party as much notice as reasonably practical.

11.5 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, clauses 11.3 and 11.4 apply to any such statements or disclosures.

12 Termination

12.1 Termination by notice

- (a) The Bidder or Affinity may, by notice in writing to the other, terminate this deed at any time prior to the Delivery Time on the Second Court Date:
 - (i) if the Financing Condition has not been satisfied by 10.00am on 21 September 2015;
 - (ii) if the other is in material breach of a material obligation under this deed (other than a breach of a representation or warranty), and, if capable of remedy, the other party has failed to remedy that breach within five Business Days (or 5.00 pm on the day before the date of 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;
- (iii) if the Court refuses to make any order directing Affinity to convene the Scheme Meeting, provided that both Affinity and Bidder have met and consulted and agreed that they do 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) Affinity may, by notice in writing to the Bidder, terminate this deed at any time prior to the Delivery Time on the Second Court Date if, at any time before then:
- (i) Anchorage is in material breach of a representation and warranty contained in clauses 10.2(e) or 10.2(f), and the breach cannot be remedied to the reasonable satisfaction of Affinity by subsequent action on the part of Anchorage before 10.00am on the day before the Second Court Date;
 - (ii) a majority of the Independent Directors change, withdraw or modify their recommendations of the Proposed Transaction in the manner described in clause 7.3; or
 - (iii) an Insolvency Event occurs in relation to the Bidder or Anchorage Capital Partners Pty Limited.
- (c) The Bidder may, by notice in writing to Affinity, terminate this deed at any time prior to the Delivery Time on the Second Court Date if, at any time before then:
- (i) Affinity materially breaches the representation and warranty contained in clause 10.1(e), and the breach:
 - (A) cannot be remedied to the reasonable satisfaction of Anchorage by subsequent action on the part of Affinity before 10.00am on the day before the Second Court Date; and
 - (B) the breach was of a kind that, had it been disclosed to Anchorage prior to its entry into this deed, could reasonably be expected to have resulted in Anchorage either not entering into this deed or entering into it on materially different terms; or
 - (ii) any Independent Director:
 - A. fails to recommend the Proposed Transaction in the manner described in clause 7.3; or
 - B. changes, withdraws or modifies his or her recommendation of the Transaction or makes any public statement, or takes any other action that is inconsistent with his or her recommendation of the Transaction (including where a

Competing Proposal is announced and is recommended by any Independent Director); or

(iii) an Insolvency Event occurs in relation to Affinity.

12.2 Automatic termination

Without limiting any other term of this deed, this deed will terminate automatically if the Scheme is not approved by the necessary majorities at the Scheme Meeting.

12.3 Effect of termination

- (a) In the event of termination of this deed under clause 4.6, 12.1 or 12.2, this deed will become void and have no effect, except that the provisions of clauses 10.4, 11, 13 and 17.3 to 17.14 (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 or in respect of right to payment of an amount under clause 13.

13 Reimbursement of costs

13.1 Acknowledgement

Affinity acknowledges and agrees that:

- (a) the Bidder Reimbursed Entities have incurred and will continue to incur significant costs and expenses in pursuing and implementing the Proposed Transaction including advisory costs, costs of management and directors' time, funding costs and out of pocket expenses;
- (b) the entry by the parties into this deed and the Bidder Reimbursed Entities' agreement to continue to pursue the Proposed Transaction (and incur significant costs, expenses and losses as a result) is of substantial value to Affinity and its shareholders;
- (c) the Bidder Reimbursed Entities would not have continued to explore the Proposed Transaction or its development through to the matters outlined in this deed without an agreement on the matters covered by this clause 13; and
- (d) Affinity has received external legal and financial advice in relation to this clause 13 and represents to the Bidder that:
 - (i) it concluded that it was reasonable and appropriate for Affinity to agree to the matters set out in this clause 13 in order to secure the Bidder Reimbursed Entities' engagement on the development of the Proposed Transaction; and
 - (ii) Affinity will not seek to resist payment of any part of the moneys contemplated by this clause 13 on any legal basis whatsoever.

13.2 Reimbursement of costs and expenses

- (a) Subject to clause 13.2(b), Affinity will pay to the Bidder Reimbursed Entities an amount equal to the reasonable out of pocket expenses of the Bidder Reimbursed Entities, and the reasonable third party accounting, tax and legal advisory expenses (including GST) incurred by the Bidder Reimbursed Entities up to the earlier of (i) the Effective Date or (ii) the date on which this deed is terminated in accordance with its terms, in connection with the Proposed Transaction and its development including its due diligence investigations into Affinity, its negotiation of an agreeable transaction structure with Affinity, its negotiation and drafting of this deed, the Scheme, the Deed Poll and the Explanatory Booklet, its negotiations with potential financiers and all reasonable incidental advice, and the Bidder Reimbursed Entities' financiers' reasonable legal fees (**Cost Reimbursement**) capped at a maximum of \$2,141,565 (excluding GST) less any Cost Reimbursement paid by Affinity to the Bidder Reimbursed Entities prior to the date of this deed (**Cost Reimbursement Cap**).

However, the amount to be reimbursed is to be reduced by the amount of any input tax credits the Bidder, or the representative member of any GST group of which the Bidder is a member, is entitled to in relation to the expense.

- (b) For the avoidance of doubt, Cost Reimbursements will only be payable in respect of reasonable out of pocket expenses incurred by the Bidder Reimbursed Entities and reasonable costs incurred by the Bidder Reimbursed Entities in respect of the fees of its reasonable third party accounting, tax and legal advisers and the Bidder Reimbursed Entities' financiers' reasonable legal fees in accordance with clause 13.2(a), and no Cost Reimbursement will be payable in respect of any costs incurred by any investment partners involved with the Bidder Reimbursed Entities in the Transaction.
- (c) The Bidder Reimbursed Entities may seek Cost Reimbursement on a weekly basis in respect of expenses incurred by the Bidder Reimbursed Entities in accordance with clause 13.2(a) in the previous week or earlier (as the case may be).

13.3 Payment

- (a) Affinity must pay the full amount demanded by a Bidder Reimbursed Entity (provided the aggregate payment made under this clause 13 does not exceed the Cost Reimbursement Cap) within five Business Days of a written demand by any Bidder Reimbursed Entity for payment provided the Bidder Reimbursed Entity has provided Affinity with copies of its invoices (which copies may redact privileged information) in support of its demand.
- (b) For the avoidance of doubt, Affinity's maximum liability under this clause 13 is the Cost Reimbursement Cap.

13.4 Benefit

The acknowledgements, confirmations and agreements given and made by Affinity in this clause 13 is given to the Bidder on its own behalf and separately as trustee for each of the Bidder Reimbursed Entities.

14 Exclusivity

14.1 No existing discussions

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

- (a) neither itself nor any of its Representatives is a party to any agreement with a third party entered into for the purpose of facilitating a Competing Proposal; and
- (b) neither itself nor any of its Representatives 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 or to Affinity abandoning the Proposed Transaction.

14.2 No-shop

During the Exclusivity Period, Affinity must not, and must ensure that its Representatives do not, directly or indirectly solicit, invite, initiate or encourage any Competing Proposal or any enquiries, proposals, discussions or negotiations with any third party in relation to (or that could reasonably be expected to lead to) a Competing Proposal or to Affinity abandoning the Transaction, or communicate any intention to do any of these things.

14.3 No-talk

Subject to clause 14.7, during the Exclusivity Period, Affinity must not, and must ensure that its Representatives do not, 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 which may reasonably be expected to lead to) a Competing Proposal, even if that person's Competing Proposal was not directly or indirectly solicited, encouraged or initiated by Affinity or any of its Representatives, or that person has publicly announced the Competing Proposal.

14.4 No due diligence

During the Exclusivity Period, except with the prior written consent of Bidder, Affinity must not, and must ensure that its Representatives do not, directly or indirectly:

- (a) solicit, invite, initiate, or encourage, or (subject to clause 14.7) facilitate or permit, any person (other than Bidder) to undertake due diligence investigations in respect of Affinity, 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
- (b) subject to clause 14.7, make available to any person (other than Bidder) or permit any such person to receive any non-public information relating to Affinity, 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.

14.5 Notification of approaches

- (a) During the Exclusivity Period, Affinity must promptly notify Bidder in writing of the fact of:
 - (i) any approach, inquiry or proposal made by any person to Affinity or any of its Representatives, 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 Affinity or any of its Representatives, for any information relating to Affinity, 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) Subject to clause 14.7, a notice given under clause (a) 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 14.5(a)(i), or who made the relevant request for information referred to in clause 14.5(a)(ii) (**Identifying Details**); and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and break free (if any)) of any Competing Proposal or any proposed Competing Proposal (to the extent known).
- (c) During the Exclusivity Period, Affinity must promptly provide the Bidder with:
 - (i) in the case of written materials, a copy of; or
 - (ii) in any other case, a written statement of,any material non-public information relating to Affinity, its related bodies corporate, or any of their businesses and operations made available or

received by any person in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal and which has not previously been provided to the Bidder.

14.6 Affinity's response to Rival Acquirer and the Bidder's right to respond

- (a) If Affinity is permitted by virtue of clause 14.7 to engage in activity that would otherwise breach any of clauses 14.3, 14.4(a), 14.4(b) and 14.5(b)(i) Affinity must enter into a confidentiality agreement with the person who has made the applicable Competing Proposal (**Rival Acquirer**) on customary terms.
- (b) If Affinity receives a Competing Proposal and as a result, any Independent Director proposes to either:
 - (i) change, withdraw or modify his or her recommendation of the Proposed Transaction; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Competing Proposal (other than a confidentiality agreement contemplated by clause 14.6(a)),

Affinity must not make an announcement regarding the matters in clause 14.6(b)(i) or enter into any agreement, commitment, arrangement or understanding set out in clause 14.6(b)(ii):

- (iii) unless the Competing Proposal is bona fide; and
- (iv) until each of the following has occurred:
 - A. the Independent Directors have made the determination contemplated by clause 14.7(b) in respect of that Competing Proposal;
 - B. Affinity has given the Bidder written notice (**Relevant Notice**) of the Independent Directors' proposal to take the action referred to in clauses 14.6(b)(i) or 14.6(b)(ii) (subject to the Bidder's rights under clause 14.6(c));
 - C. subject to 14.6(c), Affinity has given the Bidder all information that would be required by clause 14.5(b) as if it was not subject in any way to clause 14.7;
 - D. the Bidder's rights under clause 14.6(c) have been exhausted; and
 - E. the Independent Directors have made the determination contemplated by clause 14.7(b) in respect of that Competing Proposal after the Bidder's rights under clause 14.6(c) have been exhausted and after evaluation of any Counter Proposal.
- (c) Prior to giving the Bidder the Identifying Details, Affinity must advise the Rival Acquirer that the Rival Acquirer's name and other details which may identify the Rival Acquirer will be provided by Affinity to the Bidder

on a confidential basis. If consent is refused, Affinity may only withhold the Identifying Details from the Bidder if the Independent Directors, acting in good faith and after having taken advice from its external Australian legal adviser practising in the area of corporate law, that failing to do so would be likely to involve a breach of the fiduciary or statutory duties owed by the Independent Directors.

- (d) If Affinity gives a Relevant Notice to the Bidder under clause 14.6(b)(iv)B, the Bidder will have the right, but not the obligation, at any time during the period of 2 Business Days following the receipt of the Relevant Notice, to amend the terms of the Proposed Transaction including increasing the amount of consideration offered under the Proposed Transaction or proposing any other form of transaction (each a **Counter Proposal**), and if it does so then the Independent Directors must review the Counter Proposal in good faith. If the Independent Directors determine that the Counter Proposal would be more favourable, or at least no less favourable, to Affinity and the Affinity Shareholders than the Competing Proposal (having regard to the matters noted in clause 14.7(b)), then Affinity and the Bidder 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 Affinity must recommend the Counter Proposal to the Shareholders and not recommend the applicable Competing Proposal.

14.7 Fiduciary out

The restrictions in clauses 14.3, 14.4(a) and 14.4(b) and the obligations in clauses 14.5(a) and 14.5(b)(i) do not apply to the extent they restrict Affinity or any Independent Director from taking or refusing to take any action with respect to a Competing Proposal (in relation to which there has been no contravention of clauses 14.1 or 14.2) provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the Independent Directors reasonably consider is of sufficient commercial standing to implement the Competing Proposal; and
- (b) the Independent Directors have determined in good faith after:
 - (i) consultation with Affinity's financial advisers; and
 - (ii) receiving written advice from Affinity's external Australian legal adviser practising in the area of corporate law,

that: (A) the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal and (B) failing to take the action or refusing to take the action (as the case may be) with respect to the Competing Proposal would be likely to constitute a breach of the fiduciary or statutory obligations of the Independent Directors.

15 Notices

Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must be addressed as shown below:

Affinity

Address: Level 14, 100 Creek Street, Brisbane QLD 4000
Facsimile: (07) 3236 3994
Email: Paul.Cochrane@affinityeducation.com.au
For the attention of: Company Secretary / Directors
with a copy to: Braddon Jolley (braddon.jolley@corrs.com.au)
Sandy Mak (sandy.mak@corrs.com.au)

Bidder

Address: c/- Level 39, 259 George Street, Sydney NSW 2000
Facsimile: 02 8259 7778
Email: simon.woodhouse@anchoragecapital.com.au
For the attention of: Directors
with a copy to: callen.obrien@anchoragecapital.com.au

(or as otherwise notified by that party to the other party from time to time);

- (c) must be signed or sent by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered to the address, or sent by fax or email to the number or email address, of the addressee, in accordance with clause 15(b); and
- (e) will be deemed to be received by the addressee:
 - (i) **(in the case of email)** four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered;
 - (ii) **(in the case of fax)** at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and

- (iii) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in clause 15(b), 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.

16 Releases

16.1 Affinity Parties

- (a) Without limiting Bidder's rights under clause 12, Bidder (for itself and as agent of every member of the Bidder Group) releases all rights against and agrees with Affinity that it will not make a Claim against, any Affinity Party (other than Affinity) in connection with:
 - (i) Affinity's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of Affinity in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any Affinity Party including in the Due Diligence Material or the Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,except to the extent the relevant Affinity Party has not acted in good faith or has engaged in wilful misconduct or to the extent the Claim is actually covered under an insurance policy that is paid for by the Affinity Group where the relevant insurer accepts liability for the Claim.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Affinity receives and holds the benefit of this clause as trustee for each other Affinity Party.

16.2 Bidder Parties

- (a) Without limiting Affinity's rights under clause 12, Affinity releases its rights against, and agrees with Bidder that it will not make a Claim against, any Bidder Party (other than Bidder) in connection with:
 - (i) Bidder's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of Bidder in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any Bidder Party that contains any statement which is false or misleading whether in content or by omission,except to the extent that the relevant Bidder 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. Bidder receives and holds the benefit of this clause as trustee for each other Bidder Party.

16.3 Directors' and officers' insurance

Bidder acknowledges that Affinity will:

- (a) prior to the Effective Date, arrange for the cover currently provided under its directors' and officers' insurance policy (**Policy**) to be extended for a further period of 12 months; and
- (b) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a 7 year period from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

16.4 Obligations in relation to directors' and officers' insurance

From the Implementation Date, Affinity must not:

- (a) vary or cancel the Policy; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim by a director or officer of Affinity under the Policy as extended under clause 16.3(b) above.

Nothing in clauses 16.3 or 16.4 shall require Bidder or Affinity to incur any additional premium after the Implementation Date or require Affinity to not fulfil its contractual obligations under the Policy.

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 expressly provided in this deed, where an amount is required to be paid to a party (the 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 GST

- (a) Any reference in this clause 17.4 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 17.4(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.
- (d) This clause 17.4(d) does not apply to any taxable supply under or in connection with this deed that is expressly stated to include GST.
- (e) The amount on account of GST payable in accordance with this clause 17.4 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided subject to the Recipient receiving a tax invoice.
- (f) 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.

17.5 Stamp duty

Bidder 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 pursuant to the Scheme).

17.6 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.

17.7 Amendments

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

17.8 Assignment

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.

17.9 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.

17.10 Counterparts

- (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 facsimile machine to the facsimile number of the other party specified in clause 13.6, 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.

17.11 Entire agreement

- (a) This deed:
 - (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 17.11(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.

17.12 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 expressly 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 expressly set out in this deed.

17.13 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.

17.14 Governing law

- (a) This deed is governed by and will be construed according to the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and of the courts competent to determine appeals from those courts.

Schedule 1

Indicative Timetable

| Indicative timetable | |
|--|--|
| Event | Date |
| Enter into Scheme Implementation Deed | Tuesday, 15 September 2015 |
| Anchorage to notify Affinity if Financing Condition has been satisfied | No later than 10.00 am Monday, 21 September 2015 |
| Lodge Scheme Booklet with ASIC for review and comment | Monday, 28 September 2015 |
| First Court Date | Wednesday, 14 October 2015* |
| Explanatory Booklet registered with ASIC | Thursday, 15 October 2015 |
| Dispatch Explanatory Booklet to Affinity Shareholders | Wednesday, 21 October 2015 |
| Scheme Meeting | Friday, 20 November 2015 |
| Second Court Date | Monday, 30 November 2015* |
| Effective Date – lodge office copy of Court order approving the Scheme with ASIC | Tuesday, 1 December 2015 |
| Record Date | 7:00 pm on Tuesday, 8 December 2015 (5th Business Day after Effective Date) |
| Implementation Date – pay Scheme Consideration | Tuesday, 15 December 2015 (5th Business Day after Record Date) |

* Subject to court availability.

Note: This is an indicative timetable only and is subject to change, including following any regulatory consultation and as may be required by the court.

Schedule 2

Deed Poll

Anchorage Childcare Pty Limited

Deed Poll

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Date

Parties

Anchorage Childcare Pty Limited ACN 607 819 081 of c/- Level 39, 259 George Street Sydney NSW 2000 (**Anchorage**)

Background

- A On 15 September 2015 Affinity and Anchorage entered into a 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 Anchorage in return for the Scheme Consideration.
- C Anchorage enters this deed poll to covenant in favour of Scheme Shareholders to:
- (i) perform the actions attributed to it under the Scheme; and
 - (ii) provide the Scheme Consideration in accordance with the Scheme.
-

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this document:

Affinity Affinity Education Group Limited ACN 163 864 195 Level 14, 100 Creek Street, Brisbane QLD 4000 as trustee for the Scheme Shareholders

Scheme means the Scheme Implementation Deed dated 15 September 2015 between Affinity and Anchorage.
Implementation Deed

1.2 Terms defined in Scheme Implementation Deed

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.

2 Nature of this deed poll

Anchorage agrees 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

3.1 Conditions

The obligations of Anchorage under clause 4 are subject to the Scheme becoming Effective.

3.2 Termination

Subject to clause 6, this deed poll and the obligations of Anchorage 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 before the Scheme becomes Effective, or
- (b) the Scheme is not Effective on or before the End Date or any later date as the Court, with the consent of Affinity and Anchorage, may order.

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 them:

- (a) Anchorage is released from its obligation to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against Anchorage 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, Anchorage undertakes in favour of Scheme Shareholders to:

- (a) perform the actions attributed to it under the Scheme and otherwise comply with the Scheme as if Anchorage was a party to the Scheme; and
- (b) comply with its obligations under the Scheme Implementation Deed, in so far as that agreement relates to the Scheme, and do all things necessary or expedient on its part to implement the Scheme.

4.2 Provision of Scheme Consideration

Subject to clause 3, Anchorage 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.

5 Warranties

Anchorage represents and warrants 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 valid and binding on it and enforceable against it 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) its constitution or other constituent documents; or
 - (ii) 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, deregistration 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) Anchorage having fully performed its obligation 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 unless:

- (a) before the Second Court Date, the variation is agreed to in writing by Affinity; or

- (b) on or after the Second Court Dale, the variation is agreed to in writing by Affinity and is approved by the Court,

in which event Anchorage will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the amendment.

7 Notices

Any notice, demand or other communication (a **Notice**) to Anchorage 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 or fax to the address or fax number specified in the Details; and
- (c) will be conclusively taken to be duly given or made:
 - (i) in the case of delivery in person, when delivered at the address of the addressee as provided in clause 7(b), 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, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

8 General Provisions

8.1 Assignment

- (a) The rights and obligations of Anchorage 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 Affinity and Anchorage.
- (b) Any purported dealing in contravention of clause 8.1(a) is invalid.

8.2 Cumulative rights

The rights, powers and remedies of Anchorage 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 provision of, or a right under, this deed poll may not be waived except in writing signed by the person granting the waiver.

8.4 Stamp duty

Anchorage:

- (a) must pay or procure the payment of all stamp duty (if any) and 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) indemnifies and undertakes to keep indemnified each Scheme Shareholder against any liability arising from failure to comply with clause 8.4(a).

8.5 Further assurances

Anchorage will, at its own expense, do all things reasonably required of it to give full effect to this deed poll.

8.6 Governing law and jurisdiction

This deed poll is governed by the laws of New South Wales. In relation to it and related non-contractual matters Anchorage irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

Executed as a deed poll

Executed by **Anchorage Childcare**)
Pty Limited in accordance with section)
127 of the *Corporations Act 2001* (Cth):

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director
(print)

.....
Name of Director (print)

Schedule 3

Scheme

Affinity Education Group Limited

Scheme Shareholders

Scheme of Arrangement

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Parties

Affinity Education Group Limited ACN 163 864 195 Level 14, 100 Creek Street,
Brisbane QLD 4000 (**Affinity**)

Each Scheme Shareholder

Background

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

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Scheme, unless the context requires otherwise:

| | |
|-----------------------------|--|
| Affinity Registry | means Link Market Services Limited or any replacement provider of share registry services to Affinity. |
| Affinity Shareholder | means a person who is registered in the register maintained by Affinity under section 168(1) of the Corporations Act as a holder of one or more Shares |
| Anchorage | means Anchorage Childcare Pty Limited ACN 607 819 081 c/- Level 39, 259 George Street, Sydney NSW 2000 |
| Anchorage Group | means Anchorage and each of its Subsidiaries (excluding, at any time, Affinity and its Subsidiaries to the extent that Affinity and its Subsidiaries are Subsidiaries of Anchorage at that time). A reference to a member of the Anchorage Group or a Anchorage Group Member is a reference to Anchorage or any such Subsidiary. |
| 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. |

| | |
|----------------------------|---|
| Business Day | means a business day as defined in the Listing Rules |
| CHESS | means the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ABN 49 008 504 532. |
| Corporations Act | means the <i>Corporations Act 2001</i> (Cth). |
| Court | means the Federal Court of Australia or such other court of competent jurisdiction determined by Affinity (after consultation, in good faith, with Anchorage). |
| Deed Poll | means the deed poll dated [insert] executed by Anchorage under which Anchorage covenants in favour of the Scheme Shareholders to perform the actions attributed to it under this Scheme. |
| Delivery Time | means, in relation to the Second Court Date, 2 hours before the commencement of the hearing or, if the commencement of the hearing is adjourned, 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. |
| Implementation Date | means the fifth Business Day after the Record Date or such other date after the Record Date agreed to in writing between Affinity and Anchorage. |
| Listing Rules | means the official listing rules of ASX as amended from time to time. |
| Performance Right | means a performance right in respect of a Share, granted under Affinity's 2015 Equity Incentive Plan. |
| Record Date | means 7.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between Affinity and Anchorage. |
| Registered Address | means, in relation to an Affinity Shareholder, the address shown in the Share Register as at the Record Date. |
| Scheme | means this scheme of arrangement under Part 5.1 of the Corporations Act between Affinity and the Scheme Shareholders, subject to any alterations or conditions agreed between Affinity and Anchorage and approved by |

| | |
|-----------------------------------|---|
| | the Court or any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Affinity and Anchorage. |
| Scheme Consideration | means, in respect of each Scheme Share held by a Scheme Shareholder, \$0.92 per Share. |
| Scheme Implementation Deed | means the scheme implementation deed dated 15 September 2015 between Affinity and Anchorage. |
| Scheme Meeting | means the meeting of Affinity 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 Share | means a Share on issue as at the Record Date. |
| 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. |
| Share | means an issued fully paid ordinary share in the capital of Affinity. |
| Share Register | means the register of members of Affinity maintained in accordance with the Corporations Act. |
| Subsidiary | has the meaning given to that term in section 46 of the Corporations Act. |
| Trust Account | means an Australian dollar denominated trust account operated by Affinity as trustee for the benefit of Scheme Shareholders. |

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless 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 or schedule is a reference to a clause of or schedule to 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 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 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 includes a modification or reenactment 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** and **\$** is to Australian currency.
- (l) All references to time are to Sydney, Australia time.
- (m) Mentioning anything after *includes*, *including*, *for example*, or similar expressions, does not limit what else might be included.
- (n) A reference to, an **officer** or subsidiary is to that term as it is defined in the Corporations Act.

1.3 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.

1.4 Listing requirements included in law

A listing rule or business rule of a financial market 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.

2 Preliminary

2.1 Affinity

- (a) Affinity is a public company limited by shares, registered in Queensland and admitted to the official list of ASX.
- (b) The Shares are officially quoted on ASX as at [insert]:
 - (i) 231,451,639 Shares were on issue which are officially quoted on ASX; and
 - (ii) 1,327,141 Performance Rights were on issue which are not quoted on any financial market.

2.2 Anchorage

Anchorage is a proprietary company limited by shares registered in New South Wales, Australia.

2.3 General

- (a) Affinity and Anchorage have agreed by executing the Scheme Implementation Deed to implement this Scheme.
- (b) This Scheme attributes actions to Anchorage but does not itself impose an obligation on it to perform those actions, as Anchorage is not a party to this Scheme. Anchorage has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the provision of the Scheme Consideration to the Scheme Shareholders.

2.4 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) Anchorage 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, will be transferred to Anchorage, and Affinity will enter Anchorage in the Share Register as the holder of the Scheme Shares with the result that Affinity will become a wholly-owned subsidiary of Anchorage.

3 Conditions

3.1 Scheme 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 clauses 3 and 4.1 of the Scheme Implementation Deed (other than the condition in clause 4.1 (f) of the Scheme Implementation Deed (Court approval)) 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 Deed Poll having been terminated in accordance with their terms by no later than 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;
 - (iv) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are acceptable to the parties, having been satisfied; and
 - (v) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date Affinity and Anchorage agree in writing).
- (b) The satisfaction of the conditions referred to in clause 3.1 of this document is a condition precedent to the operation of clauses 3.3 and 5.

3.2 Termination of Scheme Implementation Deed

Without limiting rights under the Scheme Implementation Deed, in the event that the Scheme Implementation Deed is terminated in accordance with its terms before the Delivery Time on the Second Court Date, Affinity and Anchorage are both released from:

- (a) any further obligation to take steps to implement the Scheme; and
- (b) any liability with respect to the Scheme.

3.3 End dates

The Scheme will lapse and be of no further force or effect if the Scheme has not become Effective on or before 1 March 2016, or such other date as Affinity and Anchorage agree in writing.

4 Implementation

4.1 Lodgement of Court orders

Affinity 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 possible and in any event no later than by 5.00pm on the first Business Day after the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the payment by Affinity of the Scheme Consideration in the manner contemplated by clause 5.2(b), the Scheme Shares, together

with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Anchorage, without the need for any further act by any Scheme Shareholder (other than acts performed by Affinity or its officers as agent and attorney of the Scheme Shareholders under clause 8.6 or otherwise), by:

- (i) Affinity delivering to Anchorage a duly completed and executed share transfer form to transfer all the Scheme Shares to Anchorage, executed on behalf of the Scheme Shareholders by Affinity; and
 - (ii) Anchorage duly executing such transfer form and delivering it to Affinity for registration; and
- (b) immediately after receipt of the transfer form in accordance with clause 4.2(a)(ii) Affinity must enter, or procure the entry of, the name of Anchorage in the Share Register in respect of the Scheme Shares transferred to Anchorage in accordance with this Scheme.

5 Scheme Consideration

5.1 Amount of Scheme Consideration

Each Scheme Shareholder is entitled to receive the Scheme Consideration.

5.2 Payment of Scheme Consideration

- (a) Anchorage must, by no later than the Business Day before the Implementation Date, deposit in cleared funds into the Trust Account an amount equal to the aggregate amount of the total Scheme Consideration payable to all Scheme Shareholders, such amount to be held by Affinity on trust for the Scheme Shareholders and for the purpose of sending the aggregate Scheme Consideration to the Scheme Shareholders (except that any interest on the amount will be for the account of Anchorage).
- (b) On the Implementation Date and subject to funds having been deposited in accordance with clause 5.2(a), Affinity must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Trust Account by doing any of the following at its election:
 - (i) sending (or procuring the Affinity Registry to send) it to the Scheme Shareholder's Registered Address by cheque in Australian currency drawn out of the Trust Account; or
 - (ii) depositing (or procuring the Affinity Registry to deposit) it into an account with any Australian ADI (as defined in the Corporations Act) notified to Affinity (or the Affinity Registry) by an appropriate authority from the Scheme Shareholders.
- (c) To the extent that, following satisfaction of Affinity's obligations under clause 5.2(b), there is a surplus in the amount held in the Trust Account, that surplus may be paid by Affinity to Anchorage.

5.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent at the sole discretion of Affinity, either to the holder whose name appears first in the Share Register as at the Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded, at the sole discretion of Affinity, either to the holder whose name appears first in the Share Register as at the Record Date or to the joint holders.

5.4 Fractional entitlements

Where the calculation of the Scheme Consideration to be paid to a Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

5.5 Unclaimed monies

To the extent that a cheque properly dispatched by or on behalf of Anchorage pursuant to this clause 5.5 is returned to Affinity as undelivered, or the cheque is not presented by a Scheme Shareholder earlier than six months after the Implementation Date (**Unclaimed Consideration**):

- (a) Affinity must deal with the Unclaimed Consideration in accordance with any applicable unclaimed moneys legislation; and
- (b) subject to Affinity complying with its obligations under clause 5.5(a), Affinity is discharged from liability to any Scheme Shareholder in respect of the Unclaimed Consideration.

5.6 Order of a court

If:

- (a) written notice is given to Affinity (or the Share Registry) of an order or direction made by a court of competent jurisdiction that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Affinity in accordance with this clause 5, then Affinity may procure that payment is made in accordance with that order or direction; or
- (b) written notice is given to Affinity (or the Share Registry) of an order or direction made by a court of competent jurisdiction that prevents Affinity from making a payment to any particular Scheme Shareholder in accordance with clause 5.2(b), or such payment is otherwise prohibited by applicable law, Affinity may retain an amount equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 5 is permitted by that order or direction or otherwise by law,

and the payment or retention by Affinity (or the Share Registry) will constitute the full discharge of Affinity's obligations under clause 5.2(b) with respect of the amount so paid or retained until, in the case of clause 5.6(b), it is no longer required to be retained.

5.7 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 Registered Address of that Scheme Shareholder as at the Record Date; or
- (b) delivery to the Registered Address of that Scheme Shareholder as at the Record Date by any other means at no cost to the recipient.

6 Dealings in Shares

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in 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 CHESS, the transferee is registered in the Share Register as the holder of the relevant Shares on or before the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before the Record Date occurs at the place where the Share Register is kept,

and Affinity will not accept for registration, nor recognise for any purpose (except a transfer to Anchorage under this Scheme and any subsequent transfer by Anchorage or its successors in title), 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)** Affinity 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 Record Date (provided that for the avoidance of doubt nothing in this clause 6.2 requires Affinity to register a transfer that would result in an Affinity Shareholder holding a parcel of Shares that is less than a 'marketable parcel' (as defined in the Settlement Rules)).
- (b) **(No registration after Record Date)** Affinity will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Shares received after the Record Date, other than to Anchorage in accordance with this Scheme and any subsequent transfer by Anchorage or its successors in title.

- (c) **(Maintenance of Share Register)** For the purpose of determining entitlements to the Scheme Consideration, Affinity 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 Record Date)** From the Record Date until registration of Anchorage in respect of all Scheme Shares under clause 3.3, no Affinity Shareholder may dispose or otherwise deal with Shares in any way except as set out in this Scheme and any attempt to do so will have no effect and Affinity shall be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Record Date)** All statements of holding for Shares will cease to have effect from the Record Date as documents of title in respect of those shares. As from the Record Date, each entry current at that date on the Share Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Shares relating to that entry.
- (f) **(Provision of Scheme Shareholder details)** As soon as practicable after the Record Date and in any event within one Business Day after the Record Date, Affinity will ensure that details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder are available to Anchorage in the form Anchorage reasonably requires.

7 Quotation of Shares

- (a) Affinity will apply to ASX to suspend trading on the ASX in Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Anchorage, and only after the transfer of the Scheme Shares has been registered in accordance with clause 4.2(b), Affinity will apply:
 - (i) for termination of the official quotation of 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) Affinity may, by its counsel or solicitors, consent on behalf of all persons concerned to those alterations or conditions to which Anchorage has consented in writing; and

- (b) each Scheme Shareholder agrees to any such alterations or conditions to which counsel for Affinity has consented.

8.2 Binding effect of Scheme

This Scheme binds Affinity 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 Affinity.

8.3 Scheme Shareholders' agreements and acknowledgment

Each Scheme Shareholder:

- (a) agrees to the transfer of their Shares together with all rights and entitlements attaching to those Shares in accordance with this Scheme;
- (b) agrees to any variation, cancellation or modification of the rights attached to their Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of Anchorage, destroy any share certificates relating to their Shares; and
- (d) acknowledges and agrees that this Scheme binds Affinity 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 Affinity, in its own right and for the benefit of Anchorage, that as at the Implementation Date:
 - (i) all of its Shares which are transferred to Anchorage under this Scheme, including any rights and entitlements attaching to those 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 Shares which are transferred to Anchorage under this Scheme will, on the date on which they are transferred to Anchorage, be fully paid;
 - (iii) it has full power and capacity to transfer its Shares to Anchorage together with any rights attaching to those shares; and
 - (iv) it has no existing right to be issued any Shares, Performance Rights, Affinity convertible notes or any other Affinity securities, other than, in the case of any Scheme Shareholder who is also the holder of Performance Rights, the right to be issued Shares on the

exercise of those Performance Rights before the Record Date in accordance with their terms.

- (b) Affinity undertakes that it will provide the warranties in clause 8.4(a) to Anchorage 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 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, immediately after the payment by Affinity of the Scheme Consideration in the manner contemplated in clause 5.2(b), Anchorage will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Affinity of Anchorage in the Share Register as the holder of the Scheme Shares.

8.6 Authority given to Affinity

- (a) Scheme Shareholders will be deemed to have authorised Affinity 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, as agent and attorney of each Scheme Shareholder, a share transfer or transfers in relation to Scheme Shares as contemplated by clause 4.2.
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints Affinity and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of 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.

8.7 Appointment of sole proxy

Immediately after the payment by Affinity of the Scheme Consideration in the manner contemplated in clause 5.2(b) until Affinity registers Anchorage as the holder of all Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed Anchorage as its attorney and agent (and directed Anchorage in such capacity) to appoint an officer or agent nominated by Anchorage as its sole proxy and, where applicable, corporate representative to attend shareholders’ meetings of Affinity, 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 as under clause 8.7(a);

- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Anchorage reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.7(a), Anchorage and any officer or agent nominated by Anchorage under clause 8.7(a) may act in the best interests of Anchorage as the intended registered holder of the Scheme Shares.

8.8 Instructions and elections

If not prohibited by law, all instructions, notifications or elections by a Scheme Shareholder to Affinity binding or deemed binding between the Scheme Shareholder and Affinity relating to Affinity or Shares (including any email addresses, instructions relating to communications from Affinity, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from Affinity) will be deemed from the Implementation Date (except to the extent determined otherwise by Anchorage in its sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to Anchorage until that instruction, notification or election is revoked or amended in writing addressed to Anchorage at its registry.

9 General

9.1 Stamp duty

Anchorage must pay all stamp duty payable in connection with the transfer of the Scheme Shares to Anchorage.

9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to Affinity, 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 Affinity's registered office or at the office of the Affinity Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non- receipt of such a notice by any 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) Affinity 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 Affinity 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 New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme.