

14 July 2017

Programmed Maintenance Services Ltd
ACN 054 742 264

Programmed Board unanimously recommends acquisition proposal from PERSOL¹

- Programmed Maintenance Services Limited (Programmed or the Company) (ASX.PRG) has entered into a Scheme Implementation Deed with PERSOL HOLDINGS CO., LTD (PERSOL) under which PERSOL proposes to acquire 100% of the issued share capital of Programmed for a cash price of \$3.02 (Offer Price) per share (Proposal) by way of a scheme of arrangement (Scheme).
- The Proposal represents a:
 - 68% premium to the last closing price of Programmed shares on 13 July 2017 of \$1.80;
 - 64% premium to the 1-month VWAP of Programmed shares of \$1.84;² and
 - 69% premium to the 3-month VWAP of Programmed shares of \$1.79.²
- Under the Proposal, Programmed may declare and pay a fully-franked special dividend on or shortly before the implementation date of the Scheme. The proposed quantum of the special dividend will be advised to Programmed shareholders in due course. The cash consideration of \$3.02 cash per share will be reduced by the amount of any such special dividend.
- No impact on Programmed's operations, customers and employees.
- Programmed Directors unanimously recommend the Scheme, in the absence of a superior proposal and subject to an Independent Expert's Report concluding and continuing to conclude that the Scheme is in the best interests of Programmed shareholders.

Commentary

Programmed Chairman, Mr Bruce Brook, said: "The Programmed Board has unanimously concluded that the 100% cash proposal from PERSOL represents compelling value for Programmed's shares and provides an attractive opportunity for Programmed shareholders to realise this value.

"We consider that the Offer Price of \$3.02 per share fairly reflects the considerable value PERSOL places on our strategic plan, the capability of Programmed people to deliver it, and our strong market positions. PERSOL has made it clear that it intends to work with the Programmed management team to support and invest in delivering Programmed's current growth strategy. We are pleased that our Managing Director / CEO, Chris Sutherland and other senior management have committed to continue with the business, and customers can be assured it will be business as usual if shareholders support the Scheme and it is ultimately implemented. The Programmed Board believes that PERSOL will be a well-capitalised, supportive owner of Programmed if the Scheme proceeds."

¹ In the absence of a superior proposal and provided that an Independent Expert concludes and continues to conclude that the Scheme is in the best interests of Programmed shareholders.

² Volume weighted average price based on cumulative trading volume and value up to and including 13 July 2017.

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Programmed Board unanimously recommends the Scheme

The Board of Programmed unanimously recommends that Programmed shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Programmed shareholders. Each Director of Programmed intends to vote all the Programmed shares that he or she holds or controls in favour of the Scheme, subject to those same qualifications.

The Programmed Board highlights the following positive features of the proposal:

- **Offer Price premium:** the Offer Price of \$3.02 per share represents attractive premiums of:
 - 68% to the last closing price of Programmed shares on 13 July 2017 of \$1.80;
 - 64% to the 1-month VWAP of Programmed shares of \$1.84;³ and
 - 69% to the 3-month VWAP of Programmed shares of \$1.79.³
- **Attractive acquisition multiple:** the Offer Price of \$3.02 represents an enterprise value of \$992 million, implying a FY17 EV / EBITDA⁴ multiple of 10.3x.
- **Certainty of value:** the 100% cash consideration provides Programmed shareholders with certainty of value and the opportunity to realise in full their investment for cash.
- **Limited conditionality:** the Scheme is not subject to financing or due diligence conditions, and the other conditions to the Scheme are customary for a transaction such as this.
- **No impact on operations, customers and employees:** no impact on Programmed's existing operations and customers. Programmed employees will continue to operate in the present structure.
- **Future growth opportunity:** Platform established for future growth of maintenance / facility management operations into Asia.

Overview of PERSOL

PERSOL Group is one of the largest staffing companies in Japan with 32,000 employees and operations throughout Asia Pacific. The group provides a range of services including temporary staffing, permanent placements, recruitment, IT outsourcing and design development.

PERSOL was founded by Yoshiko Shinohara, who was on holiday in Sydney working for a marketing company when she saw a business providing temporary staff. Recognising this was a new business model in the Japanese market, she started the business Temp Staff in her one-bedroom Tokyo apartment in 1973; this was the forerunner of PERSOL Group today. Ms. Shinohara is now recognised as one of the top business women in the world, has received awards such as "The Top 50 Women in World Business (Financial Times, 2011)" and "Asia's 50 Power Businesswomen (Forbes, 2012)", and remains a significant shareholder in the company.

The company today is listed on the Tokyo Stock Exchange (TSE 1:2181), with a market capitalisation of ¥492 billion⁵ (A\$5.7 billion⁶). For the year ended 31 March 2017, it reported revenue of ¥592 billion (A\$6.8 billion⁶) and NPAT of ¥18 billion (A\$205 million⁶). At March 2017, it had net cash of ¥44 billion (A\$504 million⁶).

³ Volume weighted average price based on cumulative trading volume and value up to and including 13 July 2017.

⁴ FY17 EBITDA before non trading items of \$96.5 million.

⁵ PERSOL closing share price of ¥2,105 on 12 July 2017.

⁶ JPY/AUD exchange rate of 86.8755 as at 12 July 2017.

Programmed managing director and CEO Mr Chris Sutherland said: “Currently, PERSOL operates across Asia Pacific and we are proud that it has now chosen Programmed as its platform for growth in the Australia and New Zealand markets. We look forward to continuing to implement our current business plan with a very strong, global and supportive shareholder.

“We also look forward to supporting Asia Pacific wide staffing solutions and the opportunity to extend our maintenance / facility management business into Asia at some time in the future.

“It is important to emphasise that Programmed will remain an Australian company operating across Australia and New Zealand, employing thousands of Australians and New Zealanders, with its headquarters in Perth, Western Australia. Our commitment to the core behaviours that define the Programmed culture will not change, which are personal safety leadership, care and empathy, and good old-fashioned customer service.”

Details of the Scheme Implementation Deed

The implementation of the Scheme is subject to a number of customary conditions, including the approval of Programmed shareholders, the Federal Court of Australia and FIRB; there being no material adverse change or prescribed occurrence; and an Independent Expert’s Report concluding that the Scheme is in the best interest of shareholders (and not changing or withdrawing that conclusion).

The Scheme Implementation Deed (**SID**) contains customary exclusivity provisions (with suitable fiduciary carve-outs, where appropriate), as well as providing for certain notification and matching rights in favour of PERSOL. It also details circumstances under which a reimbursement fee of 1% of the aggregate implied equity value of Programmed under the Proposal may be payable by either of Programmed or PERSOL, depending on the circumstances. Full details of the conditions to the Scheme and other agreed terms are set out in the SID, a copy of which is attached to this announcement.

Other matters contemplated by the Proposal

Suspension of Dividend Reinvestment Plan

Pursuant to the SID, PERSOL and Programmed have agreed that Programmed's Dividend Reinvestment Plan (**DRP**) will be suspended in respect of the FY17 Final Dividend of 3.5 cents (announced on 24 May 2017).

Accordingly, Programmed notifies shareholders of that suspension, effective immediately and until further notice, in accordance with the rules of the DRP. This means that no Programmed shareholders will be issued new Programmed shares under the DRP, regardless of if, or when, they have elected to participate in the DRP. A revised Appendix 3A.1 (Notification of Dividend / Distribution) will also be lodged with ASX today.

To avoid any doubt, the DRP will also not operate in respect of any special dividend payable in connection with the Proposal.

Payment of the FY17 Final Dividend of 3.5 cents will not be impacted by the Proposal, and will be paid in cash as scheduled (on 31 July 2017).

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Performance rights

Under the SID, Programmed is required to ensure (insofar as is permissible and practicable) that all Programmed performance rights on issue vest prior to the applicable record dates under the Proposal. As such, the Programmed Board has determined that, in accordance with and as permitted by the terms of Programmed's Long Term Incentive Plan and Managing Director's Long Term Incentive Plan (**MDLTIP**), and subject to receiving any confirmations or waivers that are required from ASX, it will exercise its discretion to accelerate the vesting of all outstanding Programmed performance rights such that the resulting shares will be capable of participating in the Scheme process.

For completeness, Programmed notes the upcoming 2017 AGM, at which Programmed shareholders will consider, among other things, a resolution relating to the grant of certain 2017 Programmed performance rights to the Managing Director under the MDLTIP. This resolution is not impacted by the Proposal and the Board's approach to dealing with performance rights (as set out above in this announcement), will also apply to these additional performance rights if shareholders approve their grant at the AGM. If shareholders wish to reconsider their proxy directions in light of the Proposal (and the consequence of this on the vesting of the 2017 performance rights proposed to be granted to the Managing Director) they should contact Programmed's share registry, Computershare, for a replacement proxy form and further assistance.

Indicative timetable and next steps

Programmed shareholders do not need to take any action at the present time.

The Scheme Booklet containing information relating to the Scheme, the Independent Expert's Report (opining on whether the Scheme is in the best interests of Programmed shareholders), the reasons for the Directors' recommendation, and details of the Scheme Meeting is expected to be mailed to Programmed shareholders in early September 2017.

An indicative timetable of key dates in relation to the Scheme is set out in the SID; however, this remains subject to change and Programmed will continue to keep shareholders updated as the Scheme process unfolds.

At this stage, it is expected that Programmed shareholders will have the opportunity to vote on the Scheme at a Scheme Meeting to be held in early October 2017. Subject to the conditions of the Scheme being satisfied, the Scheme is expected to be implemented on or around the middle of October 2017. These dates are indicative and subject to change.

Macquarie Capital (Australia) Limited and Ashurst are advising Programmed.

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About Programmed

Programmed is a leading provider of staffing, maintenance and facility management services. The company employs directly more than 20,000 people across a broad range of government and private sector businesses. Services are provided to more than 10,000 customers, often under long-term contracts, and are delivered through over 100 branches throughout Australia and New Zealand. Programmed's business model is built around its ability to recruit, deploy, manage and maintain a large directly employed workforce of professional, skilled and semi-skilled staff with a wide range of capabilities.

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Scheme Implementation Deed

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Execution Version

Scheme Implementation Deed

Programmed Maintenance Services Limited

ABN 61 054 742 264

AND

PERSOL HOLDINGS CO., LTD.

Corporate Number 801100105817

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Annexure

- A Scheme of Arrangement (Scheme)
- B Deed Poll

BETWEEN:

- (1) **Programmed Maintenance Services Limited** ABN 61 054 742 264 whose registered office is at 47 Burswood Road, Burswood, Western Australia, 6100, Australia (**Programmed**); and
- (2) **PERSOL HOLDINGS CO., LTD.**, a company incorporated in Japan under Corporate Number 8011001058176 whose registered office is at 2-1-1, Yoyogi, Shibuya-ku, Tokyo 151-0053, Japan (**Persol**).

RECITALS:

Subject to the terms of this document, Programmed and Persol have agreed that:

- (A) BidCo (which will either be a wholly-owned subsidiary of Persol that is incorporated in Australia under the Corporations Act in accordance with clause 6(b) or, if no subsidiary is so incorporated, then Persol itself) will acquire all of the Scheme Shares for the Scheme Consideration by means of the Scheme;
- (B) Programmed will propose a scheme of arrangement under Part 5.1 of the *Corporations Act 2001* (Cth) between Programmed and the holders of its ordinary shares in accordance with this document; and
- (C) Persol will, to the extent that BidCo is a subsidiary of Persol and not Persol itself, guarantee all of BidCo's obligations in connection with this document, the Scheme and the Deed Poll.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

ACCC means the Australian Competition and Consumer Commission.

Announcement means a press release, announcement or other public statement (other than a draft explanatory statement, an explanatory statement or supplementary explanatory statement as required under Part 5.1 of the Corporations Act).

Announcement Date means 14 July 2017.

ASIC means the Australian Securities & Investments Commission.

ASIC Review Draft means the draft of the Scheme Booklet that is provided to ASIC for approval under section 411(2) of the Corporations Act.

ASX means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691), as the context requires.

ASX Listing Rules means the listing rules of ASX, as they apply to Programmed from time to time.

Authorisation means:

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- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it from or by a Government Agency; and
 - (b) in relation to anything that could be prohibited or restricted by law, if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken.

BidCo means a wholly-owned subsidiary of Persol that is a proprietary company limited by shares registered in Australia under the Corporations Act and is nominated by notice in writing to Programmed no later than 10 Business Days before the date specified in the Timetable as the First Court Date, or if no such notice is given, Persol;

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Perth, Western Australia and Tokyo, Japan.

Claim, in relation to a person, means any claim, allegation, cause of action, proceeding, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Condition means a condition precedent set out in clause 3.2.

Confidentiality Deed means the deed of that name dated 17 January 2017 between Programmed and Persol.

Consultation and Planning Committee means the committee to be established under clause 8 to consult and plan for the transition of ownership and control of Programmed Group, its business and assets to Persol on and from Implementation.

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

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

Court means the Federal Court of Australia (Western Australia Registry), or such other court of competent jurisdiction under the Corporations Act agreed to in writing between Programmed and Persol.

Deed Poll means a document in the form attached as Annexure B, or in such other form as is agreed in writing between Programmed and Persol, in favour of all Scheme Shareholders.

Dividend Reinvestment Plan means the dividend reinvestment plan of Programmed.

EBITDA means earnings before interest, tax, depreciation and amortisation.

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 the Scheme.

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

Electronic Data Room means the ansarada online data room, established by or on behalf of Programmed, to which Persol and its Representatives had access in the period from 14 June 2017 to the date of this document.

End Date means 15 December 2017, subject to any extension to that date made under clause 3.6.

Excluded Shares means all Programmed Shares held by any person on behalf of, or for the benefit of, any member of the Persol Group (if any).

Exclusivity Period means the period commencing on the date of this document and ending on the earlier of:

- (a) termination of this document in accordance with its terms;
- (b) the Implementation Date; and
- (c) the End Date.

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

Final Dividend means the final dividend of Programmed for the financial year ended 31 March 2017, being an amount of \$0.035 per Programmed Share.

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

Government Agency means a government, government department or a governmental, semi-governmental, administrative, statutory or judicial entity, agency, authority, commission, department, tribunal, or person charged with the administration of a law or agency, whether in Australia or elsewhere, including the ACCC, ASIC, ASX, the Takeovers Panel, and any self-regulatory organisation established under statute or by ASX.

GST Law means the same as "GST Law" as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

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

Implementation means the implementation of the Scheme in accordance with this document and **Implement** has the corresponding meaning.

Implementation Date means the fifth Business Day following the Scheme Record Date, or such other date as ordered by the Court or agreed in writing between Persol and Programmed.

Impugned Amount means all or any part of the payment required to be made under clause 17.2 or 17.3 that is:

- (a) determined to be unenforceable or unlawful by a court of competent jurisdiction; or
- (b) declared by the Takeovers Panel to constitute Unacceptable Circumstances,

after all proper avenues of appeal and review, judicial and otherwise, have been exhausted.

Independent Expert means Lonergan Edwards & Associates Limited ABN 53 095 445 560.

Independent Expert's Report means a report prepared by the Independent Expert in accordance with ASIC Regulatory Guide 111 *Content of expert reports*.

Insolvency Event means, in respect of a person:

- (a) an administrator or a liquidator or provisional liquidator being appointed to the person or an event occurs which gives any other person a right to seek such an appointment;
- (b)
 - (i) a controller or analogous person being appointed to any of the person's property or an event occurs which gives any other person a right to seek such an appointment;
 - (ii) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property; or
 - (iii) an appointment of the kind referred to in subparagraph (ii) being made (whether or not following a resolution or application);
 - (iv) the holder of a Security Interest or any agent on its behalf, appointing a controller or taking possession of any of the person's property (including seizing the person's property within the meaning of section 123 of the PPSA) or otherwise enforcing or exercising any rights under the Security Interest or Chapter 4 of the PPSA, in each case where the amount owed to that creditor exceeds \$10 million;
- (c) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) an application being made to a court for an order for its winding up;
- (e) an order being made, or the person passing a resolution, for its winding up;
- (f) the person:
 - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
 - (ii) being unable to pay its debts or threatens to stop pay its debts or becoming otherwise insolvent;
- (g) any of its indebtedness is subject to a moratorium;
- (h) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (i) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (j) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation.

Loss includes any loss, damage, liability, obligation, compensation, fine, penalty, charge, payment, cost or expense (including any reasonable legal cost and expense) however it arises and whether it is present or future, fixed or unascertained, actual or contingent but excluding any consequential or indirect loss, economic loss or loss of profits.

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LTIP means the Programmed Maintenance Services Limited Long Term Incentive Plan, approved by the Programmed Board on 1 July 2012.

Material Adverse Effect means any event, occurrence, matter, condition, thing or change in circumstances which occurs or becomes known to Persol (**Specified Event**) and which individually, or when aggregated with all other Specified Events, diminishes or could reasonably be expected to diminish:

- (a) the consolidated net assets of the Programmed Group by \$45 million or more; or
- (b) the consolidated EBITDA of the Programmed Group in any financial year by \$12 million or more,

other than a Specified Event:

- (c) contemplated or required to be done or procured by Programmed pursuant to this document, the Scheme or the Deed Poll;
- (d) to the extent that it was fairly disclosed in the Programmed Due Diligence Information;
- (e) to the extent that it was fairly disclosed in documents that were publicly available prior to the date of this document from public filings of Programmed with ASX;
- (f) resulting from any actions taken or not taken at the written request of Persol, or with Persol's prior written consent, provided that Programmed has notified Persol that such actions taken or not taken will have a Material Adverse Effect;
- (g) comprising a change to legislation or regulation, any judicial or administrative interpretation of the law or any practice or policy of a Government Agency (whether or not retrospective in effect), including in relation to tax; or
- (h) relating to any material adverse change or disruption to the existing financial markets or economic conditions of Australia, the United Kingdom, the United States of America, Hong Kong or China.

Material Authorisation means any Authorisation held by a member of the Programmed Group at the date of this document which, if that Authorisation had been terminated or revoked, would have materially adversely impacted the ability of that member of the Programmed Group to perform its obligations under a Material Contract during the 2017 financial year.

Material Contract means any agreement, contract or other arrangement or instrument to which any member of the Programmed Group is a party or by or to which any member of the Programmed Group or any of its respective assets may be bound or subject to, and which generated revenue in excess of \$50 million in the 2017 financial year for the Programmed Group.

Material Lease means any property lease to which under which any member of the Programmed Group is the lessee at the date of this document and under which that member of the Programmed Group was required to pay aggregate amount of \$400,000 or more in the 2017 financial year.

Material Licence means any licence under which any member of the Programmed Group is the licensee at the date of this document and which, if that licence had been terminated, would have materially adversely impacted the ability of that member of the Programmed Group to perform its obligations under a Material Contract during the 2017 financial year.

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MDLTIP means the Programmed Maintenance Services Limited Managing Director Long Term Incentive Plan, approved by the Programmed Board on 1 July 2012, and last approved by Programmed Shareholders on 27 July 2016.

Meeting Date means the date on which Programmed Shareholders vote on a resolution to approve the Scheme under section 411(4)(a)(ii) of the Corporations Act.

Persol Committee Members means:

- (a) Mr. Toshihiro Ozawa, Director, EVP, CIO;
- (b) Mr. Kiyoshi Seki, Director, EVP, CFO;
- (c) Mr. Daisuke Hayashi, Executive Officer, CLO;
- (d) Mr. Motonari Migidera, GM, Strategic Initiatives;
- (e) Mr. Hiroya Mori, Executive GM, Finance;
- (f) Mr. Tatsuyoshi Oba, GM, HR; and
- (g) Mr. Hideki Katata, Manager, Finance.

Persol Group means Persol, its subsidiaries and other related bodies corporate (including, to avoid any doubt, any entity that is incorporated as BidCo in accordance with clause 6(b), from the time at which it is so incorporated).

Persol Liquidated Amount has the meaning given in clause 17.3.

Persol Material means all information given by Persol to Programmed for inclusion in the Scheme Booklet other than information about the Programmed Group disclosed by Programmed in the Programmed Due Diligence Information or in any ASX announcement made by Programmed.

Potential Competing Proposal means any offer, proposal or expression of interest (whether or not conditional, complete, written or binding) which is not, but could reasonably be expected to become, a Programmed Competing Proposal.

PPS Security Interest means a security interest as defined in section 12 of the PPSA.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Programmed Board means the board of directors of Programmed as constituted from time to time.

Programmed Committee Members means:

- (a) Chris Sutherland (Managing Director);
- (b) Stephen Leach (Chief Financial Officer and Joint Company Secretary);
- (c) Jim Sherlock (Group General Manager, People);
- (d) Anna Bagley (Group General Manager, Risk and Legal); and
- (e) Katina Nadebaum (Joint Company Secretary).

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Programmed Competing Proposal means any proposal (including a scheme of arrangement), offer or transaction that would, if entered into or completed substantially in accordance with its terms, result in any person or persons other than Persol or a member of the Persol Group (directly or indirectly and either alone or together with one or more persons other than Persol or a member of the Persol Group):

- (a) acquiring, becoming the holder of or having a right to acquire a legal or economic interest in all or a substantial part of the assets or business of Programmed, which includes any asset or business of the Programmed Group that together contribute 20% or more of the consolidated EBITDA of the Programmed Group or that represents 20% or more of the total consolidated assets of the Programmed Group;
- (b) acquiring or being entitled to acquire a relevant interest or any other direct or indirect legal or economic interest in:
 - (i) 20% or more of the Programmed Shares;
 - (ii) 20% or more of the shares in any other member of the Programmed Group that contributes 20% or more of the consolidated EBITDA of the Programmed Group or whose assets represent 20% or more of the total consolidated assets of the Programmed Group;
- (c) acquiring control of Programmed within the meaning of section 50AA of the Corporations Act or any other member of the Programmed Group that contributes 20% or more of the consolidated EBITDA of the Programmed Group or whose assets represent 20% or more of the total consolidated assets of the Programmed Group; or
- (d) otherwise acquiring or merging with Programmed (including by way of reverse takeover, reverse scheme of arrangement or dual listed company structure) or any other member of the Programmed Group that contributes 20% or more of the consolidated EBITDA of the Programmed Group or whose assets represent 20% or more of the total consolidated assets of the Programmed Group,

or which would otherwise require Programmed to abandon, or otherwise fail to proceed with, the Scheme (excluding the Atlas Transaction on terms consistent with those announced by Programmed to ASX on 24 May 2017 and fairly disclosed in the Programmed Due Diligence Information).

Programmed Debt has the meaning given in clause 12.1(g).

Programmed Disclosure Material means the Programmed Due Diligence Information and information available on the Public Registers prior to the date of this document.

Programmed Due Diligence Information means the written information provided or made available by or on behalf of the Programmed Group to Persol or its Representatives:

- (a) prior to the date of this document in the Electronic Data Room, an index to which has been initialled for the purposes of identification by Motonari Migidera on behalf of Persol and Chris Sutherland on behalf of Programmed; and
- (b) the written answers or written confirmations provided to Persol or its Representatives before the date of this document in response to requests for information, copies of which have been compiled and initialled for the purposes of identification by Motonari Migidera on behalf of Persol and Chris Sutherland on behalf of Programmed.

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Programmed Excluded Transaction means:

- (a) the transactions between applicable entities in the Programmed Group and Atlas Professionals Australia Pty Ltd ACN 617 748 544 announced to ASX by Programmed on 24 May 2017 (**Atlas Transaction**) and fairly disclosed in the Programmed Due Diligence Information, and includes, to avoid any doubt, any transaction required to implement or give effect to the Atlas Transaction, in each case, on terms consistent with those announced by Programmed to ASX on 24 May 2017 and fairly disclosed in the Programmed Due Diligence Information;
- (b) a transaction fairly disclosed in the Programmed Due Diligence Information;
- (c) any expenditure or commitment referred to in or otherwise contemplated by the Programmed FY18 Budget;
- (d) a transaction required to be done or procured by Programmed under this document or the Scheme;
- (e) a transaction in relation to which Persol has expressly consented in writing;
- (f) the payment in cash of the Final Dividend and the Special Dividend and applicable franking distributions; and
- (g) the grant of Programmed Performance Rights in the ordinary course, which includes, for the avoidance of doubt, the grant of 300,000 Programmed Performance Rights to Chris Sutherland, as contemplated by Programmed's notice of 2017 annual general meeting released to ASX on 9 June 2017 if approved by Programmed Shareholders, and the issue of any Programmed Shares on vesting of Programmed Performance Rights.

Programmed FY18 Budget means the budget and expenditure plan in relation to Programmed and its businesses for the financial year ending 31 March 2018, as disclosed in the Programmed Disclosure Material (document number 02.03.01.06 and titled "PRG FY2018 Budget Presentation") and as acknowledged by Persol.

Programmed Group means Programmed and its subsidiaries (each of Programmed and each such subsidiary being a member of the Programmed Group).

Programmed Liquidated Amount has the meaning given in clause 17.2.

Programmed Material means all information included in the Scheme Booklet other than the Persol Material and the Independent Expert's Report.

Programmed Performance Right means a right to be issued or transferred a Programmed Share, granted under the:

- (a) LTIP; or
- (b) MDLTIP.

Programmed Performance Right Share has the meaning given in clause 9(a).

Programmed Prescribed Event means the occurrence of any of the following:

- (a) Programmed converting all or any of its shares into a larger or smaller number of shares;

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- (b) any member of the Programmed Group resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
 - (c) any member of the Programmed Group:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
 - (d) any member of the Programmed Group announcing, declaring, paying or distributing any dividend, bonus or other share of its profits or assets or other distribution (whether in cash or in specie), or returning or agreeing to return any capital to its members (other than dividends within the wholly owned group consistent with past practices); or
 - (e) any member of the Programmed Group:
 - (i) issuing shares or securities convertible into shares, or granting an option, performance right, or similar right over its shares, or agreeing to make such an issue or grant such an option, performance right, or similar right (other than an issue of shares in Programmed pursuant to the conversion of the convertible securities or the exercise of options, existing as at, and the issue of which has been notified to the ASX before, the date of this document);
 - (ii) issues, or agrees to issue, convertible notes or any other securities convertible into shares;
 - (iii) making any change to its constitution;
 - (iv) being deregistered as a company or otherwise dissolved except in the case of a Programmed Group member with less than \$1 million in assets as at the date of this document;
 - (v) granting, or agreeing to grant, any Security Interest over the whole, or a substantial part, of its business, property or assets;
 - (f) an Insolvency Event occurring in relation to a member of the Programmed Group; or
 - (g) Programmed Shares cease to be quoted on the official list of the ASX,
excluding any Programmed Excluded Transaction.

Programmed Share means each fully paid ordinary share in Programmed.

Programmed Shareholder means each person entered in the Register as a holder of Programmed Shares.

Programmed Shareholder Approval means a resolution in favour of the Scheme passed by the required majorities of Programmed Shareholders under section 411(4)(a)(ii) of the Corporations Act (as may be modified by the Court in accordance with section 411(4)(a)(ii)(A) of the Corporations Act).

Public Registers means the records made available for public inspection by ASIC and which are revealed on an electronic search under Programmed's name, ACN or ABN and the announcements to ASX made by Programmed prior to the date of this document.

Register means the register of members of Programmed maintained by or on behalf of Programmed under the Corporations Act.

Relevant Date means, in relation to a Condition, the date or time specified in this document for its fulfilment or, if no date or time is specified, 8.00 am on the Second Court Date, subject, in either case, to extension to that date made under clause 3.6.

Representatives means, in relation to an entity:

- (a) each of the entity's subsidiaries; and
- (b) each of the directors, officers, employees and legal, financial and other expert advisers of the entity or any of its subsidiaries.

Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between Programmed and the Programmed Shareholders in the form of Annexure A or in such other form as is agreed in writing between Programmed and Persol, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved by each party.

Scheme Booklet means the information memorandum in respect of the Scheme to be approved by the Court and dispatched to Programmed Shareholders, and includes the Scheme, a copy of the Deed Poll executed by Persol, an explanatory statement as that term is defined in section 412 of the Corporations Act, the Independent Expert's Report and a notice of meeting and proxy form.

Scheme Consideration means \$3.02 for each Scheme Share held by a Scheme Shareholder, less the cash amount of the Special Dividend (if any) and the amount or value of any dividend other than the Final Dividend (or the Special Dividend) that is declared or paid by Programmed after the date of this document.

Scheme Meeting means the meeting of Programmed Shareholders to be convened, as ordered by the Court under section 411(1) of the Corporations Act, to consider the Scheme.

Scheme Record Date means 5.00 pm on the day which is five Business Days after the Effective Date, or any other date (after the Effective Date) agreed by the parties to be the record date to determine entitlements to receive Scheme Consideration under the Scheme.

Scheme Resolution means a resolution to approve the Scheme.

Scheme Shareholder means each person who is registered in the Register as the holder of one or more Scheme Shares as at the Scheme Record Date.

Scheme Share means a Programmed Share on issue on the Scheme Record Date that is not an Excluded Share.

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

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Security Interest means any security interest, including:

- (a) a PPS Security Interest;
- (b) any other mortgage, charge, pledge or lien; or
- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

Special Dividend has the meaning given in clause 10.

Special Dividend Payment Date has the meaning given in clause 10.

Special Dividend Record Date has the meaning given in clause 10.

Superior Proposal means a bona fide, written Programmed Competing Proposal which the Programmed Board receives after the date of this document that:

- (a) does not result from a breach of any provision of clauses 13 to 15 (inclusive); and
- (b) the Programmed Board acting in good faith and after written taking advice from Programmed's financial and legal advisers, determines:
 - (i) is capable of being valued and implemented within a reasonable timeframe and in accordance with its terms, including its conditions precedent, and taking into account the financial, regulatory and other aspects of the proposal, including the ability of the proposing party to consummate the transactions contemplated by the Programmed Competing Proposal; and
 - (ii) would be more favourable to Programmed Shareholders than the Scheme, taking into account all the terms and conditions of the Programmed Competing Proposal and the Scheme.

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

Third Party Consent means any consent, agreement, waiver, licence or approval from or by a person (other than Persol or a subsidiary of Persol) in respect of a contract involving Programmed or a subsidiary of Programmed.

Timetable means the timetable for the Implementation of the Scheme as set out in Schedule 1, subject to any modifications as the parties may agree in writing.

Unacceptable Circumstances has the meaning given to that term in section 657A of the Corporations Act.

1.2 **Rules for interpreting this document**

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

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;

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- (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a clause, schedule or annexure is a reference to a clause, schedule or annexure of or to this document (and the schedules and annexes form part of this document);
 - (v) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (vi) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
 - (c) A word which suggests one gender includes the other genders.
 - (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
 - (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
 - (f) The words **associate, controller, entity, officer, related bodies corporate, relevant interest** and **subsidiary** have the same meanings as given by the Corporations Act.
 - (g) A reference to **\$** or **dollar** is to Australian currency.
 - (h) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
 - (i) Where a representation or warranty in clause 19 or an obligation in clause 5(x)(i)(B) is qualified by reference **to the knowledge** of a person or any similar expression, that person will be deemed to know or be aware of all matters or circumstances of which (in the case of Programmed) any member of the Programmed Board, or any key management personnel listed in Programmed's most recent annual report (in each case, provided that they are still so appointed or employed as at the date of this document), is actually aware as at the date the statement is made.
 - (j) A reference to an event, occurrence or matter being **fairly disclosed** in particular information means fairly disclosed in sufficient detail so that the nature, scope and effect of the relevant event, occurrence, matter or fact on the Programmed Group could reasonably have been deduced, concluded or inferred from that information.
 - (k) Terms defined in the GST Law have the same meaning in clause 23 unless the context otherwise requires.
 - (l) A reference to time in this document is a reference to time in Perth, Australia.
 - (m) Nothing in this document is to be construed adversely to a party just because that party prepared this document or prepared or proposed the relevant part of this document.

- (n) This document provides that Persol may incorporate and nominate to Programmed, in accordance with clause 6(b), a wholly-owned subsidiary to be BidCo for the purposes of this document. However, if no subsidiary is so incorporated and nominated, then Persol itself will be BidCo for the purposes of this document. In either instance, references to Persol and BidCo are to be given sensible meanings having regard to the context in which they are used and the identity of BidCo (that is, whether it is ultimately a subsidiary of Persol, or Persol itself).

1.3 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day the person must do it on or by the next Business Day.

1.4 **Reasonable endeavours**

Except as otherwise expressly provided in this document, any provision of this document which requires a party to use reasonable endeavours or all reasonable endeavours, or to take all steps reasonably necessary, to procure that something is performed or occurs, does not impose any obligation to:

- (a) commence any legal action or proceeding against any person;
- (b) procure absolutely that that thing is done or happens; or
- (c) accept any undertakings or conditions required by any third party if those undertakings or conditions, in the reasonable opinion of the party required to give such undertakings or satisfy such conditions, are materially adverse to its commercial interests or fundamentally or materially alter the basis on which it originally agreed to the transaction the subject of this document.

2. **SCHEME**

2.1 **Agreement to propose and implement Scheme**

- (a) Programmed agrees to propose and implement the Scheme in accordance with Part 5.1 of the Corporations Act and subject to the terms of this document, and must use all reasonable endeavours to do so in accordance with the Timetable.
- (b) Persol agrees to assist and procure that BidCo assists Programmed to propose and implement the Scheme in accordance with Part 5.1 of the Corporations Act and subject to the terms of this document, and must use all reasonable endeavours to do so in accordance with the Timetable.
- (c) If any date in the Timetable is not able to be achieved due to events outside the control of the parties, the parties must consult in good faith with a view to amending the Timetable to the extent required to permit the Scheme to be implemented before the End Date.

2.2 **Outline of Scheme**

Subject to the terms of this document, on the Implementation Date, all of the Scheme Shares held by Scheme Shareholders will be transferred to BidCo and the Scheme Shareholders will be entitled to receive the Scheme Consideration.

2.3 **No amendments to Scheme without consent**

Programmed must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of Persol.

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2.4 Scheme Consideration

Persol agrees with Programmed that in consideration for and simultaneously with the transfer to BidCo of all of the Scheme Shares held the Scheme Shareholders under the terms of the Scheme, Persol will procure that, subject to the terms of this document, the Deed Poll and the Scheme, BidCo pays to each Scheme Shareholder the Scheme Consideration for each Programmed Share held by that Scheme Shareholder at the Scheme Record Date.

3. CONDITIONS

3.1 Obligations not binding until Conditions satisfied

The Scheme will not become Effective and the obligations of Persol under clauses 2.4 and 6(k) do not become binding unless and until each Condition is satisfied or waived in accordance with clause 3.

3.2 Conditions

The Conditions are as follows.

CONDITION	PARTY ENTITLED TO BENEFIT	PARTY RESPONSIBLE
<p>1. Independent Expert's Report</p> <p>The Independent Expert issues the Independent Expert's Report, which concludes that the Scheme is in the best interests of Programmed Shareholders and the Independent Expert does not change its conclusions in any written update to its Independent Expert's Report or withdraw the Independent Expert's Report prior to 8.00am on the Second Court Date.</p>	Persol and Programmed	Programmed
<p>2. Orders convening Scheme Meeting</p> <p>The Court makes orders convening the Scheme Meeting under section 411(1) of the Corporations Act.</p>	Persol and Programmed	Programmed
<p>3. Programmed Shareholder Approval</p> <p>Programmed Shareholder Approval is obtained at the Scheme Meeting (or any adjournment or postponement of it) convened in accordance with the orders made under section 411(1) of the Corporations Act.</p>	Persol and Programmed	Programmed
<p>4. Court approval of Scheme</p> <p>Subject to clause 3.7, the Court makes orders under section 411(4)(b) of the Corporations Act approving the Scheme.</p>	Persol and Programmed	Programmed
<p>5. FIRB approval</p> <p>Before 8.00 am on the Second Court Date BidCo gives the Treasurer of the Commonwealth of Australia notice in accordance with the FATA that BidCo proposes to acquire all of the Scheme Shares under the Scheme (the Action) and pays any applicable fee, and one of the following occurs:</p> <p>(a) unless BidCo receives a no objection notice</p>	Persol and Programmed	Persol and Programmed

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CONDITION	PARTY ENTITLED TO BENEFIT	PARTY RESPONSIBLE
<p>(within the meaning of the FATA) in respect of the Action, the day that is 10 days after the end of the decision period mentioned in section 77 of the FATA passes without an order prohibiting the Action having been made under section 67 or 68;</p> <p>(b) unless BidCo receives a no objection notice (within the meaning of the FATA) in respect of the Action, if an interim order is made under section 68 of the FATA, the end of the period specified in the order passes without an order prohibiting the Action under section 67 having been made; or</p> <p>(c) BidCo receives a no objection notice (within the meaning of the FATA) in respect of the Action, the notice being unconditional or subject only to standard tax conditions or conditions which are acceptable to BidCo, acting reasonably.</p> <p>For the purpose of this clause, a standard tax condition is included in the list of tax conditions published on the Foreign Investment Review Board website at https://firb.gov.au/files/2016/05/Tax_conditions.pdf.</p>		
<p>6. Other Authorisations</p> <p>All other Authorisations, which Programmed and Persol agree in writing are necessary for Implementation.</p>	<p>Persol and Programmed</p>	<p>Persol and Programmed</p>
<p>7. No regulatory actions</p> <p>At 8.00 am on the Second Court Date, there is not in effect:</p> <p>(d) any preliminary or final decision, order or decree issued by a Government Agency; or</p> <p>(e) any action or investigation by any Government Agency,</p> <p>in consequence of or in connection with the Scheme which restrains, prohibits or impedes the implementation of the Scheme or any part of it.</p>	<p>Persol and Programmed</p>	<p>Persol and Programmed</p>
<p>8. No restraint adversely affecting Implementation</p> <p>At 8.00am on the Second Court Date, no temporary restraining order, preliminary or permanent injunction or other order or other restraint or prohibition issued by any court of competent jurisdiction preventing the acquisition of any or all the Scheme Shares by BidCo or otherwise preventing Implementation is in effect.</p>	<p>Persol and Programmed</p>	<p>Persol and Programmed</p>
<p>9. Material Adverse Effect</p> <p>No Material Adverse Effect occurs or becomes known to BidCo between the date of this document and 8.00am on the Second Court Date.</p>	<p>Persol</p>	<p>Programmed</p>

CONDITION	PARTY ENTITLED TO BENEFIT	PARTY RESPONSIBLE
<p>10. No Programmed Prescribed Event</p> <p>During the period commencing on the date of this document and ending at 8.00 am on the Second Court Date, no Programmed Prescribed Event occurs.</p>	Persol	Programmed
<p>11. Programmed representations and warranties</p> <p>Each of the representations and warranties given or made by Programmed under clause 19 is true and correct as at each time it is given or made.</p>	Persol	Programmed
<p>12. Persol Insolvency Event</p> <p>During the period commencing on the date of this document and ending at 8.00 am on the Second Court Date, no Insolvency Event occurs in respect of Persol.</p>	Programmed	Persol
<p>13. Persol representations and warranties</p> <p>Each of the representations and warranties given or made by Persol under clause 19 is true and correct as at each time it is given or made.</p>	Programmed	Persol

3.3 Waiver of Conditions

- (a) If a Condition has been included for the benefit of:
- (i) one party only, only that party may, in its sole and absolute discretion, waive the breach or non-fulfilment of the Condition;
 - (ii) more than one party, the breach or non-fulfilment of the Condition may be waived only by the consent of all those parties.

However, a party for whom a Condition has been included must not waive the Condition if it would result in a breach of law.

- (b) The breach or non-fulfilment of a Condition may only be waived in writing.
- (c) If a party waives the breach or non-fulfilment of a Condition, that waiver precludes the party from suing another party for any breach of this document that resulted in the breach or non-fulfilment of the Condition.

3.4 Fulfilment of Conditions

Each party must:

- (a) use its reasonable endeavours (other than waiver) to ensure and procure that each Condition is satisfied as soon as practicable after the date of this document;
- (b) not take any action or refrain from taking any action (except as required by law and excluding an extension period raised in writing by the Foreign Investment Review Board) designed to prevent the Conditions being satisfied, without the prior consent of the other party;
- (c) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;

- (d) promptly inform the other party of any circumstances of which it becomes aware which may result in any of the Conditions not being satisfied in accordance with its terms; and
- (e) promptly advise the other party of the satisfaction of a Condition.

3.5 **Parties to provide certificate to Court**

Each of Programmed and Persol must provide to the other and to the Court before or at 8:00am on the Second Court Date, a certificate or such other evidence as the Court requests, confirming whether or not the conditions set out in clause 3.2 included for its benefit, other than the Condition in item 4 of clause 3.2, have been satisfied (or waived by it) in accordance with the terms of this document.

3.6 **If a Condition is not fulfilled or waived**

If:

- (a) a Condition set out in items 1 to 3 of clause 3.2 inclusive and items 5 to 13 of clause 3.2 inclusive has not been fulfilled by the Relevant Date and is not waived;
- (b) a Condition set out in item 4 of clause 3.2 has not been fulfilled by the End Date;
- (c) the Effective Date does not occur on or prior to the End Date; or
- (d) there is an act, failure to act, event or occurrence which will prevent a Condition being fulfilled by:
 - (i) in the case of a Condition in items 1 to 3 of clause 3.2 inclusive and items 5 to 13 of clause 3.2, the Relevant Date; or
 - (ii) in the case of a Condition in item 4 of clause 3.2, the End Date,(and the breach or non-fulfilment of the Condition which would otherwise occur has not been waived),

the parties:

- (e) must consult in good faith to determine whether the Scheme may proceed by way of alternative means or method so as to achieve a commercial outcome which reflects the Scheme; and
- (f) may agree to extend the Relevant Date or the End Date, or both.

3.7 **Court approval**

If the Court's approval of the Scheme in accordance with section 411(4) of the Corporations Act would impose any terms or conditions other than those set out in the Scheme, then each such term or condition must be approved in writing by Persol and Programmed (both acting reasonably) prior to the Court granting the final orders and if not so agreed, the Condition in item 4 of clause 3.2 will not be satisfied.

4. **OBLIGATIONS OF THE PARTIES**

Each party must use reasonable endeavours, including by procuring that its Representatives work in good faith and in a timely and co-operative manner with the other party and its Representatives, to give effect to the Scheme in accordance with this document and all applicable laws and regulations applicable to the Scheme.

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5. PROGRAMMED OBLIGATIONS

Without limiting clauses 2 and 4, Programmed must take all necessary steps to propose and implement the Scheme as expeditiously as practicable (and use all reasonable endeavours to do so in accordance with the Timetable) including taking each of the following steps:

- (a) **(Announcement)** on the date of this document, make an Announcement, in a form agreed between Programmed and Persol which includes a statement (on the basis of written statements made to it by each of its directors) that each director of Programmed:
- (i) considers the Scheme to be in the best interests of Programmed Shareholders and recommends to Programmed Shareholders that they vote in favour of the Scheme; and
 - (ii) who holds or controls Programmed Shares intends to vote those Programmed Shares in favour of the Scheme,
- subject to no superior proposal emerging and the Independent Expert's Report concluding that the Scheme is in the best interests of Programmed Shareholders;
- (b) **(directors' recommendation and voting intentions)** subject to clause 5(c), must use, to the extent that it is able to do so, reasonable endeavours to procure that each director of Programmed:
- (i) recommends that Programmed Shareholders vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert's Report concluding (and continuing to conclude) that the Scheme is in the best interests of Programmed Shareholders; and
 - (ii) undertakes to vote, or procure the voting of, all Programmed Shares held or controlled by him or her in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert's Report concluding (and continuing to conclude) that the Scheme is in the best interests of Programmed Shareholders;
- (c) **(directors' change to recommendation or voting intentions)** must use, to the extent that it is able to do so, reasonable endeavours to procure that no director of Programmed adversely changes, qualifies or withdraws the recommendation referred to in clause 5(b)(i) or the undertaking referred to in clause 5(b)(ii) or makes any statement or acts in any way inconsistent with that recommendation or that undertaking unless:
- (i) the Independent Expert's Report concludes that the Scheme is not in the best interests of Programmed Shareholders or, having previously concluded that the Scheme is in the best interests of Programmed Shareholders, changes that conclusion; or
 - (ii) Programmed receives a Superior Proposal;
- (regulatory approvals)** consult with Persol on all material aspects of communications with Government Agencies in relation to the Scheme and, as expeditiously as practicable provide Persol with all information reasonably requested in connection with the application for the FIRB Approval for which Persol must apply under clause 6(c), provided that business secrets and other confidential material may be redacted;

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- (d) **(Independent Expert's Report)** appoint the Independent Expert, commission the preparation of and obtain the Independent Expert's Report and provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
 - (e) **(information provided to the Independent Expert)** ensure that all information provided by or on behalf of Programmed to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive in any material respect, including by omission;
 - (f) **(prepare Scheme Booklet)** prepare the Scheme Booklet and ensure that the Scheme Booklet includes:
 - (i) all information required by applicable laws, ASIC policy, Takeovers Panel policy and guidance notes and the ASX Listing Rules, subject to Persol complying with its obligations under clauses 6(d) and 6(e) in respect of the Persol Material;
 - (ii) responsibility statements in a form to be agreed between the parties, to the effect that:
 - (A) Programmed has provided, and is responsible for, the Programmed Material, and that none of Persol, BidCo and their respective officers and employees assumes any responsibility for the accuracy or completeness of the Programmed Material;
 - (B) Persol has provided, and is responsible for, the Persol Material, and that neither Programmed nor its officers and employees assumes any responsibility for the accuracy or completeness of the Persol Material; and
 - (C) the Independent Expert has provided and is responsible for the Independent Expert's Report, and that none of Persol, BidCo, Programmed and their respective officers and employees assumes any responsibility for the accuracy or completeness of the Independent Expert's Report;
 - (iii) a statement by each of the directors of Programmed reflecting the recommendation and undertaking referred to in clause 5(b); and
 - (iv) Programmed Material which, in the form and context in which it appears in the Scheme Booklet, is true and correct in all material respects and is not misleading or deceptive in any material respect, including by omission as at the date the Scheme Booklet is sent to Programmed Shareholders;
 - (g) **(continuing obligation of disclosure)** subject to any order of the Court and applicable law, ensure that the Scheme Booklet (but in respect of the Persol Material, subject to Persol complying with its obligations under clauses 6(d) and 6(e)) is updated by all such further or new information which may arise after the Scheme Booklet has been dispatched until the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission) and otherwise complies with all applicable laws, relevant ASIC policy, Takeovers Panel policy and guidance notes and the ASX Listing Rules;

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- (h) **(Court documents)** prepare all documents necessary for the Court proceedings relating to the Scheme in accordance with all applicable laws and requirements of the Court;
 - (i) **(consult with Persol)** in a timely manner consult with Persol as to the form and content of all documents required for the purposes of the Scheme, including:
 - (i) giving Persol successive drafts of the Scheme Booklet in a timely manner, giving Persol a reasonable opportunity to review those drafts and considering in good faith the reasonable comments of Persol and its Representatives when preparing revised drafts of the Scheme Booklet (in the case of the Independent Expert's Report, Persol acknowledges and agrees that its review will be limited to matters of factual accuracy);
 - (ii) as soon as practicable after preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC give that draft to Persol and procure that a meeting of the Programmed Board is convened to approve it for submission to ASIC for review; and
 - (iii) in relation to each Court hearing held in relation to the Scheme, including any appeal, giving Persol drafts of all documents required to be given by Programmed or its Representatives to the Court (including the originating process, affidavits, submissions and draft Court orders) and must consider in good faith the reasonable comments of Persol and its Representatives on those documents;
 - (j) **(Court hearings)** in relation to each Court hearing held in relation to the Scheme, including any appeal, must engage Senior Counsel to represent it at the hearing and must, if required, consent to the separate representation of Persol by counsel; and
 - (k) **(lodgement of ASIC Review Draft)**
 - (i) as soon as practicable, subject to Persol complying with its obligations under clause 6, provide a draft of the Scheme Booklet to ASIC as contemplated by section 411(2) of the Corporations Act; and
 - (ii) keep Persol informed of any matters raised by ASIC or ASX in relation to the Scheme Booklet or the Scheme, and use reasonable endeavours, in co-operation with Persol, to resolve any such matters, taking into consideration in good faith any reasonable issues raised or comments made by Persol (which will include Programmed using reasonable endeavours to procure that Persol and/or its Representatives are able to participate in meetings or discussions between Programmed and ASIC or ASX);
 - (l) **(apply to ASIC)** before the First Court Date apply to ASIC for a letter stating that ASIC does not intend to appear before the Court at the hearing held on the First Court Date;
 - (m) **(apply to Court for order to convene Meeting)** apply to the Court under section 411(1) of the Corporations Act for an order directing Programmed to convene the Scheme Meeting;
 - (n) **(convene Meeting)** convene the Scheme Meeting in accordance with any order made by the Court under section 411(1) of the Corporations Act;
 - (o) **(explanatory statement)** take all reasonable measures necessary to cause ASIC to register the Scheme Booklet under section 412 of the Corporations Act;

- (p) **(Scheme Booklet)** as expeditiously as practicable following an order made by the Court under section 411(1) of the Corporations Act, dispatch a copy of the Scheme Booklet to each Programmed Shareholder and to all other persons entitled to receive notice of the Scheme Meeting;
- (q) **(tracing beneficial ownership of shares)** comply with any reasonable request by Persol to give directions in accordance with Part 6C.2 of the Corporations Act and give Persol the information obtained as a result of giving such directions;
- (r) **(Register details)** cause its share registry to provide to Persol, in the form reasonably requested by Persol, details of the Register and all other information about the Programmed Shareholders which Persol reasonably requires in order to:
- (i) canvas approval of the Scheme by Programmed Shareholders;
 - (ii) facilitate the provision by Persol of the Scheme Consideration in accordance with this document, the Scheme and the Deed Poll,
- other than information that its share registry is prohibited by law or by the operating rules of any financial market or clearing and settlement facility from providing (and, if required by Programmed, Persol must reimburse Programmed for its reasonable costs in complying with any such request);
- (s) **(proxies)** cause its share registry to report to Programmed and Persol on the status of proxy forms received by its share registry for the Scheme Meeting:
- (i) on the day that is 15 Business Days before the Scheme Meeting; and
 - (ii) on each Business Day following the day that is 15 Business Days before the Scheme Meeting, up to the deadline for receipt of proxy forms; and
 - (iii) immediately following such deadline,
- and provide such other information as it may receive concerning the voting intentions of Programmed Shareholders to Persol;
- (t) **(inform shareholders)** if it becomes aware of information after the date of dispatch of the Scheme Booklet which is material for disclosure to Programmed Shareholders in deciding whether to approve the Scheme, subject to and in accordance with applicable laws and any order of the Court, inform shareholders of such information in an appropriate and timely manner;
- (u) **(section 411(17)(b) statement)** if Programmed Shareholder Approval is obtained, apply to ASIC for the production of a statement under section 411(17)(b) of the Corporations Act in relation to the Scheme;
- (v) **(Court approval)** subject to satisfaction or waiver of all Conditions other than the Condition in item 4 of clause 3.2, apply to the Court for orders approving the Scheme under section 411(4) of the Corporations Act;
- (w) **(no Programmed Prescribed Event)** ensure that no Programmed Prescribed Event occurs during the period commencing on the date of this document and ending at 8.00 am on the Second Court Date and, if a Programmed Prescribed Event occurs, immediately inform Persol;
- (x) **(certificate)** before commencement of the hearing by the Court of the application for the order under section 411(4)(b) of the Corporations Act, give:
- (i) to Persol a certificate signed by Programmed stating:

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- (A) whether or not each representation or warranty given by Programmed is true and correct as at the time it is given or made under clause 19; and
- (B) that, to Programmed's knowledge, no event giving Programmed a termination right under clause 18 has occurred; and
- (ii) to Persol and the Court the certificate referred to in clause 3.5;
- (y) **(board changes)** procure that:
- (i) such persons as Persol nominates by notice to Programmed no later than two Business Days before the Implementation Date and who have provided to Programmed a signed consent to act by that time are appointed as additional directors of Programmed on the Implementation Date, unless Programmed has demonstrated that those persons cannot be so appointed under applicable laws; and
- (ii) unless otherwise agreed by Persol in writing, each member of the Programmed Board, other than Chris Sutherland and those persons appointed in accordance with clause 5(y)(i), resigns as a director of Programmed with effect from the Implementation Date and acknowledges in writing that he or she has no claim against any member of the Programmed Group other than for accrued directors fees and expenses;
- (z) **(promote merits of Scheme)** provide all reasonable cooperation to Persol in promoting the merits of the Scheme to Programmed Shareholders, including procuring that senior executives of the Programmed Group, as may be reasonably available:
- (i) meet with key Programmed Shareholders if reasonably requested to do so by Persol;
- (ii) communicate with the employees, customers and suppliers of the Programmed Group; and
- (iii) provide Persol with such information and assistance as Persol reasonably requests to enable it to be able to promote the merits of the Scheme;
- (aa) **(not act inconsistently)** subject to clause 13, not act in a manner inconsistent with obtaining Court approval for the Scheme (provided that nothing in this paragraph prevents any action by or on behalf of Programmed or its directors if failure to take the action would, in the reasonable opinion of the Programmed Board, be likely to involve a breach of duties of the directors of Programmed. The reasonable opinion of the Programmed Board must be based on specific written external legal and other appropriate advice);
- (bb) **(lodge copy of order)** if the Court approves the Scheme under section 411(4) and section 411(6) of the Corporations Act:
- (i) promptly lodge an office copy of the Court order with ASIC in accordance with section 411(10) of the Corporations Act and in any event no later than the first Business Day after the day on which the Court approves the Scheme; and
- (ii) close the Register as at the Scheme Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration;

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- (cc) (**Scheme Shareholders**) give to the share registry of Persol details of the names, registered addresses and holdings of Programmed Shares of every Programmed Shareholder as shown in the Register on the Scheme Record Date, in such form as Persol may reasonably require, and determine Programmed Shareholders' respective entitlements to the Scheme Consideration in accordance with the Scheme;
- (dd) (**Non-satisfaction of Headcount Test**) if the Scheme Resolution is not passed by reason only of the non-satisfaction of the Headcount Test, and it appears to either party, acting reasonably, that there are reasonable grounds on which an application could be made to the Court under section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test (**Order**), that party may give notice to the other within three Business Days after the Scheme Meeting setting out those grounds and if such notice is given:
- (i) Programmed must promptly after the notice is given apply to Court for the Order; and
 - (ii) the cost of the application for the Order is to be borne equally between the parties;
- (ee) (**register transfers**) register all transfers of Scheme Shares to BidCo on the Implementation Date (subject to provision of the Scheme Consideration in accordance with the Scheme and Deed Poll); and
- (ff) (**quotation**) use its reasonable endeavours to ensure that the Programmed Shares continue to be quoted on ASX (even if suspended from trading) until close of business on the day after the Implementation Date.

6. **PERSOL OBLIGATIONS**

Without limiting clauses 2 and 4, Persol must take all necessary steps to assist Programmed to propose and implement the Scheme as expeditiously as practicable (and use all reasonable endeavours to do so in accordance with the Timetable) including taking each of the following steps:

- (a) (**Announcement**) on the date of this document make an Announcement, in a form agreed between Programmed and Persol;
- (b) (**incorporate BidCo**) if BidCo will not be Persol itself, then incorporate a (direct or indirect) wholly-owned subsidiary of Persol that is a proprietary company limited by shares registered in Australia under the Corporations Act and nominate that subsidiary by notice in writing to Programmed no later than 10 Business Days before the date specified in the Timetable as the First Court Date. To avoid any doubt, if no entity is so incorporated and nominated to Programmed, Persol will be irrevocably deemed to be BidCo for the purposes of this document;
- (c) (**FIRB Approval**) consult with Programmed on all aspects of communications with Government Agencies in respect of the Scheme and as expeditiously as practicable:
 - (i) apply for the FIRB Approval referred to in item 5 of clause 3.2 and provide Programmed with a copy of all applications;
 - (ii) take all steps it is responsible for in the approval process;
 - (iii) respond to requests for information from the relevant Government Agencies at the earliest practicable time;

- (iv) so far as it is able, at Programmed's request, allow Programmed's Representatives the opportunity to be present at any meetings with any Government Agency about the FIRB Approval;
- (d) **(Scheme Booklet):**
- (i) as expeditiously as practicable, give to Programmed for inclusion in the Scheme Booklet such information regarding Persol as is required under all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules to be included in the Scheme Booklet (in reasonable time to allow Programmed to prepare the Scheme Booklet in accordance with this document); and
 - (ii) provided that Programmed has incorporated the Persol Material in a manner approved by Persol, confirm in writing to Programmed before 8.00 am on the First Court Date that:
 - (A) the Persol Material is not misleading or deceptive in any material respect (including because of any material omission) and otherwise complies with all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules; and
 - (B) the Scheme Booklet includes all information regarding Persol as is required under all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules;
- (e) **(provide comments promptly)** promptly (having regard to its internal review processes and the Timetable) provide comments on documents which Programmed and Persol are required to consult with one another on in accordance with clause 5(i) (including the Scheme Booklet and all material documents required to be given to the Court in relation to the Scheme);
- (f) **(further information):**
- (i) inform Programmed in writing if it becomes aware that the Persol Material (or any part of it) is or has become misleading or deceptive in any material respect (including because of any material omission) or otherwise does not comply with all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules; and
 - (ii) as expeditiously as practicable, give to Programmed any further information reasonably required by Programmed before the Meeting Date to ensure that the Persol Material is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and complies with all applicable laws, relevant ASIC regulatory guides, Takeovers Panel policy and guidance notes and the ASX Listing Rules;
- (g) **(material correspondence to be promptly disclosed)** as expeditiously as practicable, disclose to Programmed all material correspondence in respect of the Scheme or anything contemplated by it or this document, between Persol or any of its wholly owned subsidiaries and any Government Agency relevant to the satisfaction of a Condition, provided that business secrets and other confidential or commercially sensitive material may be redacted;
- (h) **(Deed Poll)** before the First Court Date, duly execute, and procure that BidCo duly executes, the Deed Poll;

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- (i) **(certificates)** before commencement of the hearing by the Court of the application for the order under section 411(4)(b) of the Corporations Act, give:
- (i) to Programmed a certificate signed by Persol stating:
 - (A) whether or not each representation or warranty given by Persol is true and correct as at the time it is given or made under clause 19; and
 - (B) that, to Persol's knowledge, no event giving Persol a termination right under clause 18 has occurred; and
 - (ii) to Programmed and the Court the certificate referred to in clause 3.5;
- (j) **(not act inconsistently)** not act in a manner inconsistent with obtaining Court approval for the Scheme (provided that nothing in this paragraph prevents any action by or on behalf of Persol or its directors if failure to take the action would, in the reasonable opinion of the board of directors of Persol, be likely to involve a breach of duties of the directors of Persol. The reasonable opinion of Persol's board of directors must be based on specific legal and other appropriate advice); and
- (k) **(Scheme Consideration)** if Implementation occurs, procure that BidCo provides, or procures the provision of, the Scheme Consideration as contemplated by the Scheme and in accordance with the Deed Poll on the Implementation Date.

7. PRE-IMPLEMENTATION OBLIGATIONS

7.1 Conduct of the business – general obligations

During the period commencing on the date of this document and ending on the Implementation Date, Programmed must (and must procure that each of its subsidiaries):

- (a) carries on its business in the ordinary course, in substantially the same manner and at the same locations, and does not make any significant change to the nature or scale of its business or enter any business or undertake any activities in which it is not engaged as at the date of this document;
- (b) conducts its businesses and operations substantially in accordance with all applicable laws and regulations;
- (c) promptly notify Persol if anything material occurs in respect of the conduct of its business and operations that is not in the ordinary and usual course;
- (d) use reasonable efforts to:
 - (i) preserve intact its business organisation;
 - (ii) keep available the services of its officers and employees;
 - (iii) preserve its relationship with relevant Government Agencies and all customers, suppliers, licensors, licensees and others having business dealings with it; and
- (e) maintain its business and assets, including maintaining at least its current level of insurance.

7.2 Conduct of business – specific restrictions

During the period commencing on the date of this document and ending on the Implementation Date, Programmed must not (and must procure that each of member of the Programmed Group does not):

- (a) acquire, offer to acquire or agree to acquire any one or more assets (including any one or more shares in any company) having a market value that in aggregate is, or the consideration for which in aggregate is, \$20 million or more;
- (b) dispose, offer to dispose or agree to dispose of any one or more assets (including any one or more shares in any company), or an interest in any one or more assets, having a market value that in aggregate is, or the consideration for which in aggregate is, \$10 million or more (and, for the avoidance of doubt, "dispose" includes sell, transfer, grant an option over, declare or create a trust over, surrender, allow to lapse or encumber);
- (c) amend in a material respect or terminating, or offer or agree to amend in a material respect or terminate, any existing shareholders' agreement, joint venture agreement or other similar investor agreements or arrangements, or enter into, or offer or agree to enter into, any joint venture, partnership or other similar investor arrangements or merger of businesses or of corporate entities (including through a multiple listed companies structure) in respect of any one or more assets (including any one or more shares in any company) or undertakings having a market value that in aggregate is, or involving a commitment or liability that in aggregate is, \$10 million or more;
- (d) incur any additional material financial indebtedness by way of borrowings and other financial facilities including operating and finance leases (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the Programmed Group, other than in the usual and ordinary course of business and consistent with past practice or to fund the Special Dividend;
- (e) make any material change to the terms of employment of any director or any key management personnel listed in Programmed's most recent annual report, or any employee whose total employment costs are or would be in excess of \$500,000 per annum, except as:
 - (i) required by law;
 - (ii) publicly disclosed (prior to the date of this document);
 - (iii) provided for in an existing contract in place as at the date of this document;
 - (iv) results from the vesting of performance rights as contemplated by clause 9;
or
 - (v) contemplated by the Programmed FY18 Budget;
- (f) incur or enter into commitments involving capital expenditure of more than \$2 million whether in one transaction or a series of related transactions;
- (g) enter into any new financing arrangement, agreement or otherwise provide financial accommodation in excess of \$7.5 million other than with members of the Programmed Group or with respect to any receivables owing by a customer of the Programmed Group (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument;

- (h) enter into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this document and disclosed in the Programmed Due Diligence Information;
- (i) accelerate the rights of any director of Programmed or any employee of any member of the Programmed Group to receive any benefit under the LTIP or MDLTIP except as contemplated by clause 9;
- (j) do anything (including acquiring land in New Zealand) which it knows, or ought to know, will result in any member of the Persol Group or the Programmed Group being required to obtain any Authorisation necessary to effect Implementation (other than the FIRB approval);
- (k) change in any material way any accounting policy applied by it to report its financial position other than any change in policy required by a change in applicable accounting standards or law;
- (l) agree, promise or announce, or make any statement of an intention, to do anything described in paragraphs (a) to (k); or
- (m) undertake or otherwise allow a Programmed Prescribed Event to occur.

7.3 **Exception**

Neither clause 7.1 (save for clause 7.1(b)) nor clause 7.2 applies:

- (a) to the extent Programmed is required to do, permitted to or is permitted not to do, under or in accordance with this document or the Scheme;
- (b) to anything in respect of which the Persol consents in writing (such consent not to be unreasonably withheld or delayed); or
- (c) to anything which is a Programmed Excluded Transaction.

7.4 **Access to information**

From the date of this document and up to and including the Implementation Date, subject to applicable laws, Programmed must:

- (a) except to the extent that the provision of such access is prohibited by law or any confidentiality obligations owed to third parties, give (and must procure each of its subsidiaries gives) Persol and its Representatives reasonable access to its records (subject to any existing confidentiality obligations owed to third parties), premises and personnel and reasonably co-operate for the purpose of:
- (i) enabling Persol and its financiers to understand the financial position, financial performance and prospects of it and its subsidiaries including the cashflow and working capital position of each of them;
- (ii) enabling Persol to prepare for the future transition of ownership of the Programmed Group to Persol;
- (iii) understanding the operations of the business of it and its subsidiaries;

- (iv) Implementation; and
- (v) any other purpose which is agreed in writing between the parties.

8. INTEGRATION PLANNING

8.1 Consultation and Planning Committee

Subject to clause 8.5:

- (a) as soon as practicable after the date of this document, Programmed and Persol will establish the Consultation and Planning Committee, which will comprise the Programmed Committee Members and Persol Committee Members and such other persons as the parties may agree in writing from time to time;
- (b) it is acknowledged and agreed that the Consultation and Planning Committee is to be a forum for consultation and planning in respect of the transition of ownership and control of the Programmed Group, its business and assets to Persol on and from Implementation;
- (c) the Consultation and Planning Committee will meet:
 - (i) during the period from the date of this document until the date that the Programmed Shareholder Approval is obtained at the Scheme Meeting, at least once per month; and
 - (ii) during the period from the date that the Programmed Shareholder Approval is obtained at the Scheme Meeting until the Implementation Date, at least once per fortnight,(unless otherwise agreed in writing by the parties), and meetings may be held via telephone conference;
- (d) to avoid any doubt, nothing in this clause requires either party to act at the direction of the other, and each party acknowledges that:
 - (i) the business of each party and its subsidiaries will continue to operate independently until the Implementation Date;
 - (ii) in the case of Programmed, the Programmed Board and management will, subject to the terms of this document, have sole responsibility for all decision making in relation to the Programmed Group until Implementation; and
 - (iii) nothing in this document is intended to create a partnership or joint venture (or similar arrangement).

8.2 Programmed customers/material arrangements

- (a) The parties must seek to identify any change of control or similar provisions in any Material Leases, Material Licences, and other Material Contracts to which a member of the Programmed Group is a party and any Material Authorisations issued to a member of the Programmed Group which would be triggered by the Scheme and, if requested by Persol, Programmed must, in respect of each such Material Lease, Material Licence and Material Contract only, and in all cases only if and after Programmed Shareholder Approval is obtained (and subject at all times to that occurring):
 - (i) initiate contact with the relevant counterparties or Government Agency;

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- (ii) procure that any notifications required to be given to such counterparties or Government Agency in relation to the transaction contemplated by the Scheme (**Notifications**) are given;
 - (iii) request that such counterparties or Government Agency provide any consents required in relation to the transaction contemplated by the Scheme, in all cases subject to the Scheme becoming Effective (**Consents**);
 - (iv) promptly provide to the relevant counterparties or Government Agency all additional information reasonably required by them for the purposes of considering whether or not to give any Consent;
 - (v) make representatives available to meet with the relevant counterparties or Government Agency to address issues arising in relation to Scheme or the Consents;
 - (vi) use reasonable endeavours to comply with any reasonable requirements of the relevant counterparties or Government Agency as a condition of giving any Consent; and
 - (vii) consult with Persol in good faith in relation to the matters referred to in clauses 8.2(a)(i) to 8.2(a)(vi) (including the form and content of any Notifications and Consents) and, to the extent practicable and desirable, invite Representatives of Persol to be involved in material discussions in respect of any material Notifications or Consents.
- (b) The parties acknowledge that failure to obtain any Consent, notwithstanding Programmed having complied with its obligations under clause 8.2, will not prevent, delay or otherwise affect Implementation, and in no circumstances will it give rise to any liability under this document or otherwise in respect of the Scheme on the part of any member of the Programmed Group to any member of the Persol Group (or any other person) to the extent the liability does not arise from an event which gives rise to a payment under clause 17.
- (c) Nothing in clause 7.4 or 8 requires Programmed or any of its subsidiaries to provide information to Persol or BidCo concerning consideration of the Scheme, or Programmed Competing Proposal or Potential Competing Proposal, by directors and management of it or any of its subsidiaries.

8.3 **Appeal if orders not made**

If the Court does not make any order sought by Programmed under clause 5(v) (the **Decision**):

- (a) the parties must consult in good faith as to whether to appeal the Decision; and
- (b) if within 10 Business Days after the Decision the parties agree to appeal the Decision or either party obtains an opinion from independent Senior Counsel, practising in Sydney or Perth in the field of corporate law to the effect that there are reasonable prospects of successfully appealing the Decision:
 - (i) Programmed must appeal the Court's decision;
 - (ii) the cost of any such appeal is to be borne solely by Persol on a full indemnity basis;
 - (iii) if the End Date would otherwise occur before the appeal is finally determined, the End Date is deferred to the date that is five Business Days after the appeal from the Decision is finally determined; and

- (iv) if the appeal is successful and the relevant order is made, the End Date is further deferred to the date which is D days after the original End Date (disregarding the effect of clause 8.3(b)(iii)) where D is equal to the number of days between the date of the Decision and the date on which the appeal from the Court's decision is finally determined, or to such other date as the parties agree in writing.

8.4 **Information on representations and warranties**

Each party must promptly notify, and must procure that each of its subsidiaries promptly notify, the other party in writing details of any matter or occurrence which constitutes or which might reasonably constitute a breach of any representation or warranty given by it or any obligation imposed on it under this document.

8.5 **Information provided subject to confidentiality obligation**

All information provided under or in connection with this document is subject to the terms of the Confidentiality Deed which continues to have full force and effect subject to this document. For the avoidance of doubt, the Confidentiality Deed does not prevent any party taking any action or making any disclosure required under this document.

8.6 **Limitations on obligations**

The obligations in clause 7 and this clause 8 do not require a party to:

- (a) provide information to the other party concerning consideration of the Scheme by directors and management of it or any of its subsidiaries;
- (b) provide any commercially sensitive or competitive information; or
- (c) breach an obligation of confidentiality to any person.

9. **INCENTIVE ARRANGEMENTS**

- (a) Programmed must take such action necessary prior to both the Special Dividend Record Date and the Scheme Record Date to ensure (insofar as is permissible and practicable) that all Programmed Performance Rights which have not already vested vest prior to both the Special Dividend Record Date and the Scheme Record Date, which action may include:
 - (i) the Programmed Board accelerating the vesting of, or waiving any performance criteria applying to, any or all Programmed Performance Rights such that the Programmed Performance Rights convert or are exercised prior to both the Special Dividend Record Date and the Scheme Record Date (subject to, at all times, the proper exercise of the Programmed Board's discretion and the terms of the LTIP and MDLTIP);
 - (ii) the Programmed Board notifying holders of any such Programmed Performance Rights prior to the Scheme Meeting; and
 - (iii) Programmed making all necessary applications for waivers under the ASX Listing Rules (if applicable),

and Programmed must, prior to both the Special Dividend Record Date and the Scheme Record Date, issue that number of Programmed Shares required by the terms of those Programmed Performance Rights on such vesting (each a **Programmed Performance Right Share**), so that the relevant holders of those Programmed Performance Rights are entitled to receive the Special Dividend and

the Scheme Consideration with respect to those Programmed Performance Rights Shares.

- (b) To avoid doubt, the Programmed Performance Rights that are to vest in accordance with and as contemplated by clause 9(a) above (and the number of Programmed Performance Rights Shares that will be issued on such vesting) are set out in Schedule 3.
- (c) The parties acknowledge and agree that, only in circumstances where any Programmed Performance Rights set out in Schedule 3 that are issued under the MDLTIP are incapable of vesting in the manner described in clauses 9(a) and 9(b), the parties must take such actions as may be necessary to:
 - (i) cancel those unvested, outstanding Programmed Performance Rights; or
 - (ii) transfer those unvested, outstanding Programmed Performance Rights to Persol,

on terms acceptable to both parties and where any cancellation or transfer contemplated by this clause 9(c) will be subject to the Scheme becoming Effective.

10. DIVIDENDS

10.1 Special Dividend

- (a) Notwithstanding any other provision of this document, subject to:
 - (i) the Scheme becoming Effective; and
 - (ii) Programmed complying with the requirements of section 254T of the Corporations Act,

Programmed may in its discretion declare and pay in cash only a dividend (**Special Dividend**) to all Programmed Shareholders provided that:

- (iii) the Special Dividend must be declared on or prior to the date of dispatch of the Scheme Booklet to Programmed Shareholders and to all other persons entitled to receive notice of the Scheme Meeting;
 - (iv) the record date for the Special Dividend (**Special Dividend Record Date**) must occur on or before the Scheme Record Date;
 - (v) the Special Dividend is paid only to those Programmed Shareholders are on the Register on the Special Dividend Record Date; and
 - (vi) the payment date for the Special Dividend (**Special Dividend Payment Date**) will be determined by Programmed in its discretion, provided that it occurs on or before the Implementation Date.
- (b) For the avoidance of doubt, clause 10.1(a) does not prevent the determination or payment of a dividend by Programmed if this document is terminated.

10.2 Taxation of Special Dividend

The Special Dividend may be fully franked, provided that Programmed's franking account does not fall into deficit upon payment of the Special Dividend (or would fall into deficit if any claimed or reasonably expected tax refund was received).

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10.3 **Scheme Consideration reduced by amount of the Special Dividend**

The Scheme Consideration will be reduced to the extent of the cash amount of any Special Dividend.

10.4 **Final Dividend**

To avoid doubt, it is acknowledged and agreed that Programmed will pay the Final Dividend and that the Final Dividend will not reduce the amount of the Scheme Consideration.

10.5 **Dividend reinvestment plan**

Programmed must suspend the Dividend Reinvestment Plan no later than the Announcement Date and must notify Programmed Shareholders by making an announcement to ASX in accordance with rules 14 and 16 of the Dividend Reinvestment Plan so that no Programmed Shares are acquired under it in respect of the Final Dividend or the Special Dividend.

11. **ANNOUNCEMENT**

11.1 **No Announcement**

No party may make an Announcement relating to the subject matter of this document or its termination or make public this document (or any of its terms) unless the Announcement or publication:

- (a) is required by this document;
- (b) has the prior approval of the other party; or
- (c) is required to be made by any applicable law, the ASX Listing Rules or the Tokyo Stock Exchange.

11.2 **Notice of Announcement**

If a party is required to make an Announcement under clause 11.1(c), it must, to the extent practicable without that party breaching any applicable law, give to the other party:

- (a) such notice as is reasonable in the circumstances of its intention to make the Announcement; and
- (b) a draft of the Announcement and an opportunity, to the extent practicable in the circumstances, to comment on the contents of the draft Announcement.

12. **STANDSTILL**

12.1 **Restriction on Persol**

Subject to clause 12.2, during the period that is the longer of the:

- (a) Exclusivity Period;
- (b) the period that is 12 months from the date of the Confidentiality Deed (being the "Standstill Period" under that Confidentiality Deed); and
- (c) such other period agreed in writing by the parties,

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Persol must not, and must ensure sure that its associates do not (including, to avoid doubt, members of the Persol Group):

- (d) acquire or offer to acquire a relevant interest in any Programmed Shares;
- (e) enter into any agreement, arrangement or understanding involving the conferring of rights on Persol or an associate of it, the economic effect of which is equivalent, or substantially equivalent, to Persol or its associates acquiring or holding Programmed Shares;
- (f) solicit proxies from Programmed Shareholders or otherwise seek to influence or control the management or policies of Programmed; or
- (g) acquire, purchase or otherwise deal in, or agree to acquire, purchase or other deal in any loan, advance, debt instrument, or other indebtedness or financial accommodation of any nature provided or otherwise made available to Programmed (or its related bodies corporate) (**Programmed Debt**) or any instrument that secures any Programmed Debt.

12.2 **Exceptions**

- (a) Clause 12.1 does not apply to any action required to be taken by Persol, members of the Persol Group or any other person under the Scheme.
- (b) Clause 12.1 ceases to apply if a Programmed Competing Proposal is announced by a person other than Persol or a member of the Persol Group.
- (c) Clause 12.1 does not apply in respect of anything done with the prior written consent or agreement of Programmed.
- (d) Clause 12.1(f) does not prevent Persol from soliciting proxies from Programmed Shareholders for the Scheme Meeting or encouraging approval of the Scheme by Programmed Shareholders.

13. **EXCLUSIVITY**

- (a) Programmed agrees that, during the Exclusivity Period, it will not (and will ensure that none of its related bodies corporate or Representatives, nor any other person on its behalf) directly or indirectly:
 - (i) solicit, encourage, initiate or invite any offer, enquiries, expressions of interest, discussions or proposals in relation to, or that may reasonably be expected to encourage or lead to, a Programmed Competing Proposal, or announce or communicate to any person any intention to do any of these things;
 - (ii) participate in any discussions or negotiations in relation to, or that may reasonably be expected to encourage or lead to, a Programmed Competing Proposal, or otherwise facilitate a Programmed Competing Proposal, or announce or communicate to any person any intention to do any of these things; or
 - (iii) make available to any third party, or cause or permit any third party to receive, any non-public information relating to Programmed or any of its related bodies corporate that may reasonably be expected to assist such third party in formulating, developing or finalising a Programmed Competing Proposal.
- (b) Clause 13(a)(ii) above does not:

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- (i) apply in respect of a Programmed Competing Proposal where:
- (A) there has not been any breach of clause 13(a)(i) in respect of that Programmed Competing Proposal; and
 - (B) the Programmed Board, acting in good faith and after taking written advice from Programmed's financial and legal advisers, determines that such Programmed Competing Proposal is, or may reasonably be expected to constitute, a Superior Proposal if it were proposed and that failing to respond to such Programmed Competing Proposal would likely constitute a breach of the fiduciary duties or statutory obligations of the Programmed Board; or
- (ii) prevent Programmed disclosing non-public information to its auditors or advisers, or a government agency or regulatory body in the ordinary course of its business or as required under Programmed's existing contractual obligations provided it is not done in a manner which is intended to circumvent the intent of clause 13(a).
- (c) The restriction in clause 13(a)(iii) does not apply in respect of a Programmed Competing Proposal if all of the following requirements are satisfied:
- (i) the requirements of clause 13(b)(i) are satisfied;
 - (ii) the third party has first entered into a written agreement in favour of Programmed restricting the use and disclosure by the third party and its affiliates and advisers of the information made available to the third party; and
 - (iii) to the extent that any information made available to the third party has not previously been provided to Persol, Programmed provides that information to Programme at the same time it is provided to the third party,

and also does not apply in the circumstances referred to in clause 13(b)(ii).

14. **NOTIFICATION AND MATCHING RIGHTS**

14.1 **Initial notification**

- (a) During the Exclusivity Period, Programmed must promptly (and in any event within 24 hours) notify Persol if:
- (i) Programmed or any of its related bodies corporate or Representatives receives any Programmed Competing Proposal or any Potential Competing Proposal;
 - (ii) Programmed proposes to take any action in reliance on clause 13(b) or 13(c) (other than clause 13(b)(ii)).
- (b) In the circumstances described in clause 14.1(a), Programmed must as soon as reasonably practicable (and in any event within 24 hours):
- (i) give Persol a notice setting out all material terms of the Programmed Competing Proposal or Potential Competing Proposal including the amount and form of consideration to be offered, the source of cash to the extent known to Programmed, the conditions to which it is likely to be subject and the proposed timetable and any break fee arrangements (if known); and

- (ii) use reasonable endeavours to obtain the consent of the person who has made the Programmed Competing Proposal or Potential Competing Proposal to disclose to Persol on a confidential basis that person's name and other details which identify that person (the **Identifying Details**);
- (c) Programmed must as soon as reasonably practicable disclose the Identifying Details to Persol on a confidential basis except that if the consent referred to in clause 14.1(b)(ii) has not been obtained then Programmed may withhold any part of the Identifying Details from disclosure if the Programmed Board, acting in good faith and on the basis of written advice from its external legal advisers, determines that giving those details to Persol would be likely to constitute a breach of the fiduciary duties or statutory obligations of any member of the Programmed Board.

14.2 **Matching right**

- (a) If the Programmed Board determines that a Programmed Competing Proposal is a Superior Proposal, Programmed must as soon practicable (and in any event within 48 hours of making that determination) give Persol a notice setting out all material terms of the Programmed Competing Proposal including the amount and form of consideration to be offered, the conditions to which it is likely to be subject and the proposed timetable and the Identifying Details (except where Programmed is permitted to withhold the Identifying Details under clause 14.1(c)) (the **Matching Right Notice**).
- (b) During the five Business Day period starting from the time that Programmed gives Persol the Matching Right Notice (the **Matching Period**):
- (i) Programmed must not enter into, or agree to enter into, any binding documentation to give effect or implement the Programmed Competing Proposal or Potential Competing Proposal;
- (ii) Programmed must use best endeavours to ensure that no director of Programmed makes any public statement recommending the Programmed Competing Proposal or Potential Competing Proposal to its shareholders; and
- (iii) Persol may offer to amend the terms of the Scheme, this document or make an alternative proposal to Programmed or the Programmed Shareholders with a view to providing an equivalent or a superior outcome for the Programmed Shareholders than those offered under the relevant Programmed Competing Proposal (a **Counter Proposal**).
- (c) If, during the Matching Period, Persol makes a Counter Proposal:
- (i) Programmed must use its best endeavours to procure that the Programmed Board considers the Counter Proposal in good faith before entering into, or agreeing to enter into, any binding documentation to give effect to or implement the Programmed Competing Proposal; and
- (ii) if the Programmed Board acting in good faith determines that the terms and conditions of the Counter Proposal taken as a whole are no less favourable to shareholders of Programmed than those in the relevant Programmed Competing Proposal or Potential Competing Proposal, then:
- (A) the parties must use their reasonable endeavours to agree and enter into such documentation as is necessary to give effect to and implement the Counter Proposal as soon as reasonably practicable; and

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- (B) Programmed must use its best endeavours to procure that each director of Programmed makes a public statement recommending the Counter Proposal to its shareholders.
- (d) Any material change to a Programmed Competing Proposal or Potential Competing Proposal including:
- (i) any material change to the terms referred to in clause 14.1(b)(i); or
 - (ii) any incomplete or non-binding proposal or expression of interest becoming complete, capable of acceptance or binding on the third party bidder,
- will be taken to constitute a new Programmed Competing Proposal in respect of which Programmed must separately comply with its obligations under clauses 14.2(a) to 14.2(c) (inclusive).

15. STANDSTILL ARRANGEMENTS WITH OTHER PARTIES

During the Exclusivity Period, except with the prior written consent of Persol, Programmed must not amend or waive the terms of any standstill agreement or arrangement between Programmed and any person other than Persol.

16. RETURN OF CONFIDENTIAL INFORMATION

If Programmed has, in the last 12 months before the date of this deed, provided any confidential information to a person (other than Persol or any of its Related Bodies Corporate) in relation to a Programmed Competing Proposal or Potential Competing Proposal, Programmed must promptly request in writing the immediate return or destruction by that person of such confidential information, and must promptly exercise its legal rights to ensure compliance with such a request. Programmed must immediately advise Persol if it becomes aware that any such rights have not been enforced or corresponding obligations of third parties have not been complied with.

17. PAYMENT OF LIQUIDATED AMOUNT

17.1 Background

- (a) Each of Programmed and Persol confirms its belief that the Scheme will provide significant benefits to it and its shareholders and acknowledges that each of them has and will incur significant costs in connection with the consideration of, negotiation of, and performing its obligations under, this document and the Scheme.
- (b) Each of Persol and Programmed:
 - (i) has requested that provisions be made in this document for the payments set out in clauses 17.2 and 17.3, in the absence of which neither of them would have entered into this document;
 - (ii) confirms its belief that it is appropriate to agree to the payment which it agrees to make under this clause 17 in order to secure the other party's participation in the Scheme;
 - (iii) the costs and expenses actually incurred by it and its subsidiaries are of such nature that they cannot accurately be ascertained; and
 - (iv) acknowledges that it has received external legal and financial advice in relation to this clause 17 and the amount it has agreed to pay the other party under this clause 17 is an amount which is appropriate to compensate

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the other party for its reasonable external and internal costs and opportunity costs in connection with the Scheme (and is a genuine and reasonable pre-estimate thereof), including for:

- (A) reasonable advisory costs relating to the Scheme;
- (B) costs of management and directors' time;
- (C) reasonable out-of-pocket expenses relating to the Scheme;
- (D) reasonable opportunity costs incurred by Persol or Programmed (as applicable) in pursuing the Scheme or in not pursuing other alternative acquisitions or strategic initiatives which Persol or Programmed (as applicable) could have developed to further its business and objectives;
- (E) in the case of Persol, commitment fees and other financing costs relating to the financing of the Scheme.

17.2 Payment by Programmed to Persol

Provided that Programmed is not entitled to terminate this document in accordance with clause 18 at the time of the relevant event, Programmed undertakes to pay Persol \$7,915,000 (exclusive of GST) (the **Programmed Liquidated Amount**) if:

- (a) prior to the End Date, any Programmed director fails to make the recommendation referred to in clause 5(b)(i) or to give the undertaking referred to in clause 5(b)(ii) or adversely changes, qualifies or withdraws that recommendation or undertaking once made or makes any statement or acts in any way inconsistent with that recommendation or that undertaking or approves or recommends or makes an announcement or public statement in support of a Programmed Competing Proposal or Potential Competing Proposal or announces or makes a public statement of an intention to do any of these acts, other than:
 - (i) in circumstances where Programmed has terminated this document under clause 18:
 - (A) because any Condition set out in items 5, 6, 7, 8, 12 or 13 of clause 3.2 is incapable of being fulfilled and will not be waived by Programmed; or
 - (B) because Persol is in material breach of this document; or
 - (C) because the Effective Date has not occurred by the End Date; or
 - (ii) because the Independent Expert concludes (either in its Independent Expert's Report or in any written update to that report) that the Scheme is not in the best interests of Programmed Shareholders (unless it reaches that conclusion on reasons that include reference to a Programmed Competing Proposal or a Potential Competing Proposal);
- (b) a Programmed Competing Proposal is announced, made or becomes open for acceptance before the End Date and, whether before or after termination of this document or before or after the End Date but within 12 months after the End Date, a person other than Persol or a member of the Persol Group (directly or indirectly and either alone or together with one or more persons other than Persol or a member of the Persol Group):

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- (i) acquires, becomes the holder of or has a right to acquire a legal or economic interest in all or a substantial part of the assets or business of Programmed, which includes any asset or business of the Programmed Group that together contribute 20% or more of the consolidated EBITDA of the Programmed Group or that represents 20% or more of the total consolidated assets of the Programmed Group;
 - (ii) acquires or is entitled to acquire a relevant interest or any other direct or indirect legal or economic interest in:
 - (A) 20% or more of the Programmed Shares;
 - (B) 20% or more of the shares in any other member of the Programmed Group that contributes 20% or more of the consolidated EBITDA of the Programmed Group or whose assets represent 20% or more of the total consolidated assets of the Programmed Group;
 - (iii) acquires control of Programmed within the meaning of section 50AA of the Corporations Act or any other member of the Programmed Group that contributes 20% or more of the consolidated EBITDA of the Programmed Group or whose assets represent 20% or more of the total consolidated assets of the Programmed Group; or
 - (iv) otherwise acquires or merges with Programmed (including by way of reverse takeover, reverse scheme of arrangement or dual listed company structure) or any other member of the Programmed Group that contributes 20% or more of the consolidated EBITDA of the Programmed Group or whose assets represent 20% or more of the total consolidated assets of the Programmed Group; or
- (c) this document is terminated in accordance with clause 18.3(a) or 18.3(b).

17.3 **Payment by Persol to Programmed**

Provided that Persol is not entitled to terminate this document in accordance with clause 18 at the time of the relevant breach, Persol undertakes to pay Programmed \$7,915,000 (exclusive of GST) (the **Persol Liquidated Amount**) if Persol is in material breach of any provision of this document and this document is terminated in accordance with clause 18.4.

17.4 **Demand for payment**

- (a) If an event referred to in clause 17.2 occurs, any demand by Persol for payment of the Programmed Liquidated Amount under clause 17.2 must be in writing and Programmed must pay the Programmed Liquidated Amount to Persol within 10 Business Days of receipt of the demand.
- (b) If an event referred to in clause 17.3 occurs, any demand by Programmed for payment the Persol Liquidated Amount under clause 17.3 must be in writing and Persol must pay the Persol Liquidated Amount to Programmed within 10 Business Days of receipt of the demand.
- (c) Each party acknowledges and agrees that the amount payable to it under clause 17.2 or clause 17.3 (as the case may be) is the sole and exclusive remedy in respect of the matter giving rise to the payment, provided it does not limit any rights or obligations under the Deed Poll.

17.5 **No payment of liquidated amount if Scheme becomes Effective**

- (a) No amount is payable by Programmed or Persol under this clause 17 if the Scheme becomes Effective, notwithstanding the occurrence of an event in clause 17.2 or clause 17.3 (as the case may be), and any amount paid under this clause 17 in circumstances where the Scheme becomes Effective is immediately repayable by the payee.
- (b) Notwithstanding anything else in this document an amount payable by Programmed or Persol (as applicable) under this clause 17 is payable only once.

17.6 **Other Claims**

- (a) Subject to clause 17.6(c), the maximum aggregate amount that Programmed and Persol is required to pay in relation to this document (including any breach of this document) is the Programmed Liquidated Amount or Persol Liquidated Amount (as the case may be) and in no event will the aggregate liability of Programmed or Persol in connection with this document exceed the Programmed Liquidated Amount or Persol Liquidated Amount (as the case may be).
- (b) Notwithstanding any clause in this document other than clause 17.6(c), if an amount is paid under clause 17.2 or clause 17.3, that amount is received in complete settlement of any and all Claims that the party receiving the Programmed Liquidated Amount or Persol Liquidated Amount (as the case may be) may have against the party paying the relevant amount in respect of the Scheme or in connection with this document.
- (c) This clause 17 does not limit any rights or obligations under the Deed Poll.

17.7 **Compliance with law**

- (a) If the Takeovers Panel or a court of competent jurisdiction determines that an amount paid or payable under clause 17.2 or clause 17.3 is an Impugned Amount and:
 - (i) the period for lodging an application for review or a notice of appeal of that decision has expired without such application or notice having been lodged; or
 - (ii) an application for review or a notice of appeal has been lodged with the Takeovers Panel or a court within the prescribed period and the relevant review Panel or court also determines that the amount is an Impugned Amount,then:
 - (iii) the undertaking under clause 17.2 or clause 17.3 (as applicable) does not apply to the extent of the Impugned Amount; and
 - (iv) if a party has been paid an Impugned Amount under this document, it must refund that Impugned Amount to the other party.
- (b) The parties must not make or cause to be made, any application to the Takeovers Panel or a court of competent jurisdiction for or in relation to a declaration or other order that an amount paid or payable under clause 17.2 or clause 17.3 is an Impugned Amount.

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18. **TERMINATION**

18.1 **Termination for non-fulfilment of Condition**

Subject to clause 18.5, if Persol and Programmed are unable to reach agreement under clause 3.6 within five Business Days after both parties become aware that a Condition will not be fulfilled (and a party who is entitled (itself or jointly) to waive it advises that it will not waive it), any party for whose benefit the Condition is included (see clause 3.2) (whether solely or jointly with the other party) may terminate this document by notice in writing to the other party provided the terminating party has complied in all material respects with its obligations under this document.

18.2 **End date**

Without limiting clause 18.1, a party may terminate this document by giving notice in writing to the other party after the End Date, if the Effective Date does not occur on or before that date provided that party has complied in all material respects with its obligations under this document.

18.3 **Termination by Persol**

Persol may terminate this document by giving notice in writing to Programmed before 8.00 am on the Second Court Date if:

- (a) Programmed is in breach of this document (including a breach of a representation or warranty under clause 19 (save for clause 19.2(k)) and that breach is material and is not remedied by Programmed within five Business Days (or such shorter period ending on the Second Court Date) of it receiving notice from Persol of the details of the breach and its intention to terminate. For the purposes of this clause 18.3(a), a breach of clause 7.2, 8.3, 9 or 10.5 is deemed to be a material breach;
- (b) Programmed is in breach of any of clauses 5(a), 5(f)(ii), any of clauses 13 to 15 where such breach is not insignificant in nature, or the representation and warranty in clause 19.2(k);
- (c) any of Programmed's directors fails to make the recommendation referred to in clause 5(b)(i) or to give the undertaking referred to in clause 5(b)(ii) or adversely changes, qualifies or withdraws that recommendation or undertaking once made or makes any statement or acts in any way inconsistent with that recommendation or that undertaking; or
- (d) Programmed or any of its directors acts in a manner which is inconsistent with obtaining approval for the Scheme (including by recommending a Programmed Competing Proposal).

18.4 **Termination by Programmed**

Programmed may terminate this document by giving notice in writing to Persol if, before 8.00 am on the Second Court Date:

- (a) Persol is in breach of this document (including a breach of a representation or warranty under clause 19) and that breach is material and is not remedied by Persol within five Business Days (or such shorter period ending on the Second Court Date) of it receiving notice from Programmed of the details of the breach and its intention to terminate; or
- (b) the Programmed Board publicly recommends a Superior Proposal that has not resulted from a breach of any provision in clauses 13 to 15 and the Programmed Liquidated Amount has been paid by Programmed to Persol.

18.5 Resolution not passed

If the Condition in item 4 of clause 3.2 is not satisfied in circumstances where the Scheme Meeting is held but the Scheme Resolution is not passed and, if the Resolution is not passed by reason only of non-satisfaction of the Headcount Test, either party may only terminate this document for non-satisfaction of that Condition by giving notice in writing to the other party if:

- (a) either:
 - (i) the period referred to in clause 5(dd) has passed without either party giving notice requiring application to the Court to be made under section 411(4)(a)(ii)(A); or
 - (ii) an application is made under that section but the Court refuses to make an order under that section; and
- (b) the terminating party has complied in all material respects with its obligations under this document.

18.6 Obligations on termination

- (a) If a party terminates this document, all obligations of the parties under this document, other than this clause 18, clauses 11 (Announcement), 17 (Payment of Liquidated Amount), 19 (Representations and warranties), 20 (Indemnities), 21 (Personal Guarantee of BidCo), 22 (Release), 23 (GST), 24 (Notices), 25 (Amendment and Assignment) and 26 (General) (except clause 26.4), immediately cease to be of further effect.
- (b) The termination of this document does not affect any Claim that a party may have against another party where that Claim arose before this document is terminated.

19. REPRESENTATIONS AND WARRANTIES

19.1 Mutual representations and warranties

Each party (including any entity incorporated as BidCo in accordance with clause 6(b)) represents and warrants to the other party that each of the following statements is true, accurate and not misleading:

- (a) **(status)** it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) **(power)** it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enter into this document and carry out the transactions that this document contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this document and carrying out the transactions that this document contemplates in accordance with its terms;
- (d) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that this document contemplates in accordance with its terms;

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- (ii) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,
- and it is complying with any conditions to which any such Authorisation is subject;
- (e) **(document effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
 - (f) **(no contravention)** neither its execution of this document nor the carrying out by it of any of the transactions that it contemplates in accordance with its terms, does or will contravene:
 - (i) any law order, judgment, award, injunction, decree, rule or regulation to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (ii) any Authorisation held by it;
 - (iii) any undertaking, agreement or instrument binding on it or any of its property; or
 - (iv) its constitution;
 - (g) **(no Insolvency Event)** neither it nor any of its subsidiaries is affected by an Insolvency Event; and
 - (h) **(not representative capacity)** it is not entering into this document as trustee of any trust or settlement or otherwise in a representative capacity.

19.2 Programmed representations and warranties

Subject to clause 19.4, Programmed represents and warrants to Persol that each of the following statements is true, accurate and not misleading:

- (a) **(Scheme Booklet not false or misleading)** on the First Court Date, as at the date of dispatch of the Scheme Booklet and on the Second Court Date, the Scheme Booklet (other than the Persol Material) will:
 - (i) not contain any material statement which is false or misleading (including because of any material omission) having regard to applicable disclosure requirements; and
 - (ii) comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, the ASX Listing Rules and ASIC Regulatory Guide 60 Schemes of arrangement;
- (b) **(Information for Independent Expert)** all information provided by or on behalf of Programmed to the Independent Expert to enable its report to be prepared is provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing its report for inclusion in the Scheme Booklet;
- (c) **(continuous disclosure)**
 - (i) Programmed has filed with ASX all documents required to be filed pursuant to the ASX Listing Rules and is not in breach of its continuous and periodic disclosure obligations under the Corporations Act and the ASX Listing Rules

and, except for information contained in the Announcement to be made in accordance with clause 5(a), there is no information to which ASX Listing Rule 3.1 does not apply because of ASX Listing Rule 3.1A; and

- (ii) the documents and announcements released to ASX since 24 June 2015 (the **Programmed Reporting Documents**) do not contain any materially untrue statement of a material fact, except to the extent that such statements have been modified or superseded by a later Programmed Reporting Document or are no longer material due to the passage of time;
- (d) **(complied with applicable laws)** Programmed and its subsidiaries have complied in all material respects with all applicable laws and regulations and the ASX Listing Rules and has all material Authorisations required for them to conduct the business of the Programmed Group as presently being conducted and to Programmed's knowledge no member of the Programmed Group is under investigation with respect to any material violation of such laws, regulations or Authorisations;
- (e) **(Programmed Performance Rights)** as at the date of this document, it has disclosed to Persol or its Representatives the complete set of terms and conditions of the Programmed Performance Rights;
- (f) **(no Security Interest)** on the date of this document there is no material Security Interest over all or any of its (or any of its subsidiaries) material assets or revenues (other than assets which are held in a fiduciary capacity for third parties);
- (g) **(insurance)**
 - (i) the Programmed Group, its assets and undertakings are adequately insured against risks normally insured against by persons carrying on a business of the same nature and scale, and its insurance policies are in full force and effect; and
 - (ii) to Programmed's knowledge, nothing has been done or omitted to be done which could make any material current policy of insurance void or voidable;
- (h) **(Material Contracts)** on the date of this document, to the best of Programmed's knowledge:
 - (i) neither it nor any of its subsidiaries is in default under any Material Contract to which a member of the Programmed Group is a party nor has anything occurred which is or would be with the giving of notice or lapse of time constitute an event of default; and
 - (ii) no person, as a result of the Scheme, the acquisition of any Scheme Share by BidCo under the Scheme, or the delisting of Programmed, if the Scheme is successful is or will be entitled or has stated an intention (in all cases whether absolutely or contingently) to exercise or assert (whether absolutely or contingently) any right under any provision of any contract or understanding to which a member of the Programmed is a party or is bound to:
 - (A) terminate, materially vary the terms of or materially accelerate the performance of obligations under a Material Contract; or
 - (B) acquire or require the disposal of or alter the terms of investment in any company, business, trust, asset or share (or any interest in one or more companies, businesses, assets, trusts or shares) held by any member of the Programmed Group with a value of more than \$5 million in aggregate;

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- (i) **(no litigation)** no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or to its knowledge, threatened which, if adversely decided, could reasonably be expected to give rise to a liability of \$5 million or more or otherwise materially adversely affect Programmed or its subsidiaries;
- (j) **(schedule accurately details Programmed capital)** Schedule 2 accurately records the total number and details of Programmed Shares, securities convertible into Programmed Shares, notes or other securities issued by Programmed at the date of this document and:
- (i) there are no other shares, options or other securities (including equity securities, debt securities or convertible securities) or performance rights or other instruments which are convertible into securities in Programmed nor has Programmed offered, agreed to or represented that it will issue any such shares, options or other securities or performance rights or other instruments to any person; and
 - (ii) no member of the Programmed Group is subject to any obligation (including any contingent obligation) to or represented that it will issue or have transferred to any person securities in or of it or any other member of the Programmed Group other than as disclosed in Schedule 2;
- (k) **(director recommendation and voting intention)** each director of Programmed has confirmed their agreement not to do anything inconsistent with the recommendation referred to in clause 5(b)(i) or the undertaking referred to in clause 5(b)(ii) (including withdrawing, changing or in any way qualifying such their recommendation or undertaking) other than in the circumstances referred to in clause 5(c)(i) or 5(c)(ii);
- (l) **(no other approvals necessary)** to Programmed's knowledge, no consents, approvals or other acts by a Government Agency are necessary to effect Implementation other than the FIRB Approval;
- (m) **(standstill with other parties)** the execution of this document by Programmed will not effect any waiver or amendment of any standstill (or similar) agreement or arrangement between Programmed and any person; and
- (n) **(information)** it has prepared the Programmed Due Diligence Information in good faith and with reasonable care and skill and, at the date of this document, the Programmed Due Diligence Information is materially accurate and not misleading or deceptive in a material respect, including by omission.

19.3 **Persol representations and warranties**

Persol represents and warrants to Programmed that each of the following statements is true, accurate and not misleading:

- (a) **(no false or misleading statement)** on the First Court Date, as at the date of dispatch of the Scheme Booklet, and on the Second Court Date, the Persol Material will:
- (i) not contain any material statement which is false or misleading (including because of any material omission) having regard to applicable disclosure requirements; and
 - (ii) comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, the ASX Listing Rules and ASIC Regulatory Guide 60 *Schemes of arrangement*;

- (b) **(provision of information to the Independent Expert)** all information provided by or on behalf of Persol to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing an Independent Expert's Report;
- (c) **(funding)** before 5.00 pm on the day before the Second Court Date, BidCo will have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to satisfy its obligation to pay the full amount of the Scheme Consideration in accordance with the obligations under this document, the Deed Poll and the Scheme (assuming, for the purposes of this clause 19.3(c), that the Scheme Consideration is not reduced by the payment of any Special Dividend);
- (d) **(no default):**
- (i) neither Persol nor any of its wholly owned subsidiaries is in default under any document or agreement binding on it or its assets; and
 - (ii) nothing has occurred which is or would, with the giving of notice or lapse of time or both, constitute an event of default, prepayment event or similar event under any such document or agreement,
- which individually or in aggregate could reasonably be expected to have a material adverse effect on the ability of Persol to pay the Scheme Consideration;
- (e) **(no litigation)** no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or to its knowledge, threatened which, if adversely decided, could reasonably be expected to have a material adverse effect on the ability of the Persol to pay the Scheme Consideration;
- (f) **(no other approvals necessary)** to Persol's knowledge, no consents, approvals or other acts by a Government Agency are necessary to effect Implementation other than the FIRB Approval referred to in item 5 of clause 3.2.

19.4 **Qualifications to Programmed's representations and warranties**

None of the Programmed representations and warranties in clause 19.2(c), 19.2(d), 19.2(f), 19.2(g), 19.2(h) or 19.2(i) is breached by reason of, and Programmed is not liable to Persol or any other person for breach of any representation or warranty to the extent that any fact, matter or circumstance:

- (a) which was as at fairly disclosed:
 - (i) on a Public Register as at 14 July 2017; or
 - (ii) in the Programmed Due Diligence Information; or
- (b) of which Persol was actually aware before the date of this document.

19.5 **No representations made on future matters**

Each party acknowledges and agrees that the other party makes no representation or warranty other than as set out in this clause 19 and, in particular, at no time has the other party made or given any representation or warranty in relation to the achievability of future matters, including future or forecast costs, prices, revenues or profits.

19.6 **Reliance on representations and warranties**

Each party acknowledges that the other party has executed this document and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made in clauses 19.1, 19.2 and 19.3.

19.7 **When warranties are given**

Each representation and warranty given or made under clauses 19.1, 19.2 and 19.3 is given:

- (a) **(generally)**
 - (i) if expressly provided for, then as at the time(s) provided; or
 - (ii) if not expressly provided for, than as at:
 - (A) the date of this document;
 - (B) the date of dispatch of the Scheme Booklet; and
 - (C) 8.00 am on the Second Court Date; and
- (b) **(by BidCo)** if the party giving the representation or warranty is an entity incorporated as BidCo in accordance with clause 6(b), then:
 - (i) first, at the time at which BidCo is nominated by Persol to Programmed in accordance with clause 6(b); and
 - (ii) subsequently, at any time provided for by clause 19.7(a) above.

20. **INDEMNITIES**

20.1 **Indemnities by Programmed**

Subject to clause 17.6, Programmed indemnifies Persol and members of the Persol Group and their respective directors, officers and employees against, and must pay on demand, any Loss, Claim or damages (including any right to common law damage) arising from or incurred in connection with a breach of the representation and warranty in clause 19.2(a) to the fullest extent permitted by law.

20.2 **Indemnities by Persol**

Subject to clause 17.6, Persol indemnifies Programmed and members of the Programmed Group and their respective directors, officers and employees against, and must pay on demand, any Loss, Claim or damages (including any right to common law damage) arising from or incurred in connection with a breach of the representation and warranty in clause 19.3(a) to the fullest extent permitted by law.

20.3 **Status of indemnities**

Each indemnity made or given under this clause 20 is severable and survives termination of this document and is a continuing obligation.

21. **PERSOL GUARANTEE OF BIDCO**

21.1 **Application**

This clause 21 will apply if Persol incorporates a subsidiary to be BidCo in accordance with clause 6(b), such that BidCo is not Persol itself.

21.2 **Guarantee**

Persol unconditionally and irrevocably guarantees to Programmed on demand, the due and punctual performance of BidCo's obligations in connection with this document, the Scheme and the Deed Poll, and the due and punctual payment of all amounts (including damages) that are payable, owing but not payable, or that otherwise remain unpaid by BidCo in connection with this document, the Scheme or the Deed Poll.

21.3 **Continuing obligation**

This clause 21 is a continuing obligation of Persol and remains in full force and effect for so long as BidCo has any continuing liability or obligation under this document or the Deed Poll and until all of those liabilities or obligations have been fully discharged.

22. **RELEASE**

Each party agrees with each other, and declares and covenants in favour of each party's officers and employees, as follows:

- (a) Subject to applicable law (including section 199A of the Corporations Act) and clause 22(b), no officer or employee of a party, is liable for anything done or purported to be done in connection with Implementation.
- (b) Clause 22(a) does not exclude an officer or employee from any liability which may arise from fraud, wilful misconduct or a grossly negligent act or omission on the part of the person.
- (c) This clause operates as a deed poll in favour of and for the benefit of each officer and each employee of each party and may be relied on and enforced by each such officer and employee in accordance with its terms even though the officer or employee is not named as a party to this document.

23. **GST**

23.1 **GST pass on**

If GST is or will be payable on a supply made under or in connection with this document, to the extent that the consideration otherwise provided for that supply under this document is not stated to include an amount for GST on the supply:

- (a) the consideration otherwise provided for that supply under this document is increased by the amount of that GST; and
- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within seven days of receiving a written demand from the supplier.

23.2 **Tax Invoice**

The right of the supplier to recover any amount in respect of GST under this document on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the

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recipient except where the recipient is required to issue the tax invoice or adjustment note.

23.3 Consideration exclusive of GST

Any consideration otherwise provided for a supply or payment obligation in connection with this document is exclusive of GST unless stated otherwise.

23.4 Adjustments

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier within 14 days of becoming aware of the adjustment event:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the supplier is entitled to a refund or credit from the Commissioner of Taxation; and
- (c) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 28 days of the adjustment event except where the recipient is required to issue an adjustment note or tax invoice in relation to the supply.

23.5 Reimbursements

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party, or used as the basis for calculation of consideration for a supply, under this document must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

24. NOTICES

24.1 How to give a notice

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

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full without error; or
 - (iii) sent in electronic form (such as email).

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24.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day;
- (b) if it is sent by mail:
 - (i) if it is sent by mail:
 - (ii) within Australia – three Business Days after posting; or
 - (iii) to or from a place outside Australia – seven Business Days after posting; and
- (c) if it is sent in electronic form:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day – when sent; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day,

provided that no notice of failure of transmission or other error message is received by the sender.

24.3 **Address for notices**

A person's address and fax number are those set out below, or as the person notifies the sender:

Programmed

Address: 47 Burswood Road, Burswood WA 6100
Fax number: +61 8 6216 2186
Attention: Katina Nadebaum
Email: Katina.Nadebaum@programmed.com.au

Persol

Address: 2-1-1 Yoyogi, Shibuya-ku, Tokyo 151-0053 Japan
Fax number: +81 3 6386 9172
Attention: Chief Legal Officer
Email: daisuke.hayashi@persol.co.jp

25. **AMENDMENT AND ASSIGNMENT**

25.1 **Amendment**

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

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25.2 **Assignment**

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

26. **GENERAL**

26.1 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of Western Australia within the Commonwealth of Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of the State of Western Australia, and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this document. Each party irrevocably waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

26.2 **Service of process**

Promptly after the date of this document, Persol will appoint an agent for service of process in connection with any dispute arising under this document and notify Programmed of the name, address, fax number, email address of such agent.

26.3 **Liability for expenses**

- (a) Persol must pay for all stamp duty payable on this document or any instrument or transaction contemplated in or necessary to give effect to this document.
- (b) Subject to clause 26.3(a), each party must pay its own expenses incurred in negotiating, preparing, executing and registering this document.

26.4 **Giving effect to this document**

Each party must do anything within its power (including execute any document) that the other party may reasonably require to give full effect to this document.

26.5 **Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

26.6 **No partnership or agency**

Nothing in this document is to be treated as creating a partnership and, except as specifically provided in this document, no party may act as agent of or in any way bind another party to any obligation.

26.7 **Operation of this document**

- (a) Subject to clause 8.5:
 - (i) this document, the Scheme, the Deed Poll and the Confidentiality Deed contain the entire agreement between the parties about its subject matter;

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(ii) any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document, the Scheme, the Deed Poll and the Confidentiality Deed and has no further effect.

(b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.

(c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

26.8 **Operation of indemnities**

(a) Each indemnity in this document survives the expiry or termination of this document.

(b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

26.9 **Third party benefit**

If a provision of this document is expressed to be for the benefit of (for example, by conferring an indemnity or an exclusion of liability upon) a person such as an officer, employee, agent or adviser of Programmed or Persol that is not a party to this document (**third party**, for the purposes of this clause 26.9), the third party:

(a) (**benefit, enforcement**) is entitled to the benefit of the provision and may enforce it but only in accordance with this clause;

(b) (**variation, cancellation**) accepts that Programmed and Persol may vary or cancel the provision as they see fit without the consent of and without having regard to the interests of or being responsible for any detriment to the third party;

(c) (**indemnity acceptance**) may accept the benefit of an indemnity only when the third party has suffered a Loss or received a Claim to which the indemnity would apply;

(d) (**time limit**) must accept the benefit of an indemnity and issue and serve any legal proceedings to enforce it within two years after suffering the Loss or receiving the Claim;

(e) (**exclusion acceptance**) may accept the benefit of an exclusion from or limitation of liability only when the third party has received a Claim or a threat of a Claim to which the exclusion would apply; and

(f) (**time limit**) must accept the benefit of an exclusion from or limitation of liability and issue and serve any legal proceedings to enforce it within two years after receiving the Claim or threat of a Claim.

26.10 **Consents**

Where this document contemplates that a party may agree or consent to something (however it is described), unless this document expressly contemplates otherwise, the party may:

(a) agree or consent, or not agree or consent, in its sole and absolute discretion; and

(b) agree or consent subject to conditions.

26.11 **No merger**

No provisions of this document merge on Implementation.

26.12 **Inconsistency with other documents**

If this document is inconsistent with any other document or agreement between the parties, this document prevails to the extent of the inconsistency.

26.13 **Counterparts**

This document may be executed in counterparts.

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SCHEDULE 1

Timetable

Step	Date	Action
1.	Friday, 14 July 2017	Sign Scheme Implementation Deed and announce transaction (the Announcement Date)
2.	Friday, 4 August 2017	Provide ASIC with draft Scheme Booklet
3.	On or before Friday, 18 August 2017	File application with Court with draft orders and submissions
4.	Thursday, 24 August 2017	First Court Date
5.	Friday, 25 August 2017	Scheme Booklet registered by ASIC and lodged with ASX
6.	To be completed by Wednesday, 30 August 2017	Dispatch Scheme Booklet
7.	Friday, 29 September 2017	Hold Scheme Meeting and announce results to ASX
8.	Monday, 2 October 2017	Second Court Date and announce to ASX
9.	Tuesday, 3 October 2017	Effective Date File Court order with ASIC and announce to ASX Programmed securities cease trading at close of trading on ASX
10.	Tuesday, 10 October 2017	Scheme Record Date for entitlements to Scheme Consideration
11.	Tuesday, 17 October 2017 <i>(fifth Business Day after Effective Date)</i>	Implementation Date BidCo pays Scheme Consideration Scheme Shares are transferred to BidCo

SCHEDULE 2

Programmed's Capital

1. **PROGRAMMED SHARES**

Programmed has 257,525,748 fully paid ordinary shares on issue.

2. **PROGRAMMED PERFORMANCE RIGHTS AND PROGRAMMED PERFORMANCE RIGHT SHARES**

Programmed has 4,277,000 Programmed Performance Rights on issue, each of which entitles the holder to be issued one Programmed Share on vesting, granted under the LTIP and MDLTIP as follows:

- (a) 3,657,000 granted under the LTIP; and
- (b) 620,000 granted under the MDLTIP.

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SCHEDULE 3

Programmed Performance Rights

Programmed Performance Rights	Amount of Programmed Performance Rights	Number of Programmed Performance Rights Shares to be issued on vesting
Programmed Performance Rights on issue as at the date of this document	4,277,000	4,277,000
Programmed Performance Rights to be granted to Chris Sutherland following Programmed's 2017 annual general meeting, subject to receipt of approval of Programmed Shareholders	300,000	300,000

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EXECUTED as a Deed.

EXECUTED by **PROGRAMMED
MAINTENANCE SERVICES LIMITED:**

Signature of director

Signature of director/secretary

Name

Name

EXECUTED by **PERSOL HOLDINGS CO.,
LTD.:**

Signature of director

Signature of director

Name

Name

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ANNEXURE A

Scheme of Arrangement (Scheme)

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Scheme of Arrangement

Programmed Maintenance Services Limited

ABN 61 054 742 264

**The holders of fully paid, ordinary shares in
Programmed**

SCHEME OF ARRANGEMENT

Under section 411 of the Corporations Act

BETWEEN:

- (1) Programmed Maintenance Services Limited ABN 61 054 742 264 whose registered office is at 47 Burswood Road, Burswood, Western Australia, 6100, Australia (**Programmed**); and
- (i) Each registered holder of fully paid, ordinary shares in Programmed as at the Scheme Record Date, other than any holder of Excluded Shares.

BACKGROUND

- (A) Programmed is a public company incorporated in Australia. It is registered in Western Australia and is a company limited by shares. It has its registered office at 47 Burswood Road, Burswood, Western Australia, 6100, Australia. Programmed is admitted to the official list of ASX and Programmed Shares are quoted on the financial market conducted by ASX. As at the date of the Scheme Implementation Deed, 257,525,748 Programmed Shares were on issue.
- (B) Persol Holdings Co., Ltd. (**Persol**) is a company incorporated in Japan under Corporate Number 8011001058176. It has its registered office at 2-1-1 Yoyogi, Shibuya-ku, Tokyo 151-0053 Japan and is listed on the Tokyo Stock Exchange. [*insert name of Persol's BidCo*] ACN [●] (**BidCo**) is a company registered in [*insert*], Australia under the Corporations Act and is a wholly-owned subsidiary of Persol.
- (C) Programmed and Persol entered into the Scheme Implementation Deed on or about 14 July 2017 to facilitate the implementation of the Scheme.
- (D) Under the Scheme Implementation Deed, Programmed and Persol have agreed that each of them will perform their respective obligations under the Scheme.
- (E) Persol and BidCo have executed the Deed Poll under which each of Persol and BidCo covenants in favour of Scheme Shareholders to carry out its obligations under the Scheme.

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document:

CHES means the clearing house electronic subregister system for the electronic transfer of securities operated by ASX Settlement Pty Limited, which provides for the electronic transfer, settlement and registration of securities.

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

Court means the Federal Court of Australia (Western Australia Registry), or such other court of competent jurisdiction under the Corporations Act agreed to in writing between Programmed and Persol.

Programmed Share Registry means Computershare Investor Services Pty Limited ABN 48 078 279 277.

Registered Address means, in relation to a Scheme Shareholder, the address of the shareholder shown in the Register.

Scheme Implementation Deed means the Scheme Implementation Deed dated on or about 14 July 2017 between Persol and Programmed.

Scheme Shareholder means each person who is registered in the Register as the holder of one or more Scheme Shares as at the Scheme Record Date.

Scheme Transfer, in relation to Scheme Shares, means a proper instrument of transfer of the Scheme Shares.

Scheme means the scheme of arrangement under Part 5.1 between Programmed and the Scheme Shareholders, set out in this document, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

A term that is not defined in this document and is defined in the Scheme Implementation Deed has the same meaning in this document (as given to the term in the Scheme Implementation Deed), unless the context makes it clear that a definition is not intended to apply.

1.2 **Rules for interpreting this document**

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

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a clause, schedule or annexure is a reference to a clause, schedule or annexure of or to this document (and the schedules and annexes form part of this document);
 - (v) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (vi) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.

- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The term **officer** has the same meaning given in the Corporations Act.
- (g) All references to time in this document are references to time in Perth, Australia.
- (h) A reference to **\$** or **dollar** is to Australian currency.
- (i) Nothing in this document is to be construed adversely to a party just because that party prepared this document or prepared or proposed the relevant part of this document.

1.3 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day, the person must do it on or by the next Business Day.

2. **CONDITIONS PRECEDENT**

2.1 **Conditions precedent to the Scheme**

This Scheme is conditional upon, and will not come into effect unless and until each of the following is satisfied, and clauses 2.3, 2.4 and 3 will not come into effect unless and until each of the following is satisfied:

- (a) as at 8.00 am on the Second Court Date, all the Conditions set out in clause 3.2 of the Scheme Implementation Deed other than the Condition in item 4 of clause 3.2, having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed;
- (b) as at 8.00 am on the Second Court Date, neither the Scheme Implementation Deed nor the Deed Poll having been terminated;
- (c) the Court having made orders under section 411(4)(b) of the Corporations Act approving the Scheme;
- (d) such other Conditions made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Persol and Programmed (each acting reasonably) being satisfied; and
- (e) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to the Scheme.

2.2 **Certificate**

- (a) Programmed and Persol must provide to the Court before or at 8.00 am on the Second Court Date, a certificate or such other evidence as the Court requests, confirming (in respect of the matters within their knowledge) whether or not:
- (i) all the Conditions (other than the Condition in item 4 of clause 3.2 of the Scheme Implementation Deed) have been satisfied or waived in accordance with the terms of the Scheme Implementation Deed; and
- (ii) the Scheme Implementation Deed and the Deed Poll have not been terminated in accordance with their terms,

as at 8.00 am on the Second Court Date.

- (b) The certificates referred to in clause 2.2(a) constitute conclusive evidence that those Conditions are satisfied, waived or taken to be waived, in each case, in accordance with the terms of the Scheme Implementation Deed (to the extent that they are so satisfied, waived or taken to be waived).

2.3 **Effective Date**

Subject to clause 2.4, this Scheme takes effect on the Effective Date.

2.4 **End Date**

Unless Programmed and Persol otherwise agree in writing, this Scheme will lapse and be of no effect if the Effective Date has not occurred on or before the End Date.

3. **THE SCHEME**

3.1 **Effect of the Scheme**

If the Scheme becomes Effective, then:

- (a) all of the Scheme Shares (together with all rights and entitlements attaching to them as at the Implementation Date) will be transferred to BidCo without the need for any further act by any Scheme Shareholder (other than acts performed by Programmed as attorney and agent for Scheme Shareholders under clause 5.3);
- (b) Persol or BidCo will provide, or procure the provision of, the Scheme Consideration to Scheme Shareholders in accordance with the terms of the Scheme and the Deed Poll;
- (c) subject to Persol's or BidCo's compliance with clause 3 of this document and the Deed Poll, all the Scheme Shares will be transferred to BidCo and Programmed will become a wholly owned subsidiary of BidCo; and
- (d) Programmed will enter BidCo's name in the Register as the holder of all of the Scheme Shares in accordance with the terms of this Scheme and the transfer of all of the Scheme Shares will be taken to be effective on the Implementation Date.

3.2 **Programmed to lodge Court orders with ASIC**

Following approval of the Scheme by the Court in accordance with section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act), Programmed must, as soon as reasonably practicable, lodge with ASIC an office copy of the orders in accordance with section 411(11) of the Corporations Act, and in any event, by no later than 5:00pm on the Business Day following the date on which the Court approves the Scheme or such other Business Day as Persol and Programmed agree in writing.

3.3 **Implementation steps**

On the Implementation Date:

- (a) BidCo will pay (and Persol must procure that BidCo will pay) to each Scheme Shareholder the Scheme Consideration for each Scheme Share held by the Scheme Shareholder, in accordance with and subject to the terms of this Scheme and the Deed Poll; and

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- (b) subject to the provision of the Scheme Consideration in accordance with this Scheme and the Deed Poll, and Persol or BidCo having provided Programmed with written confirmation of that having occurred (in a form reasonably acceptable to Programmed), all the Scheme Shares, together with all rights and entitlements attaching to those shares as at the Implementation Date, will be transferred to BidCo without the need for any further act by any Scheme Shareholder (other than acts performed by Programmed or its directors and officers as attorney and agent for the Scheme Shareholders under this Scheme) by Programmed effecting a valid transfer or transfers of all of the Scheme Shares to BidCo under section 1074D of the Corporations Act or, if that procedure is not available for any reason in respect of any Scheme Shares, by:
 - (i) Programmed delivering to BidCo for execution duly completed Scheme Transfers to transfer all of the Scheme Shares to BidCo, duly executed by Programmed or any of its directors and officers as the attorney and agent of each Scheme Shareholder as transferor under clauses 5.2 and 5.3;
 - (ii) BidCo executing the Scheme Transfers as transferee and delivering the executed and, if necessary, stamped Scheme Transfers to Programmed; and
 - (iii) Programmed, upon receipt of the Scheme Transfers under clause 3.3(b)(ii), entering or procuring entry of the name and address of BidCo in the Programmed Register as the holder of all the Scheme Shares.

3.4 **Provision of Scheme Consideration**

BidCo's and Persol's obligations under clause 3.3(a) will be satisfied as follows:

- (a) by no later than the day that is two Business Days prior to the Implementation Date, BidCo must deposit in, or Persol must procure the deposit of, cleared funds an amount equal to the aggregate amount of the Scheme Consideration payable to each Scheme Shareholder, in an Australian dollar denominated trust account operated by Programmed as trustee for the Scheme Shareholders (except that any interest on the amounts deposited, less bank fees and other charges, will be to BidCo's account); and
- (b) on the Implementation Date, Programmed must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the trust account referred to in clause 3.4(a) (based on the number of Scheme Shares held by the Scheme Shareholder as set out in the Register on the Scheme Record Date), in Programmed's absolute discretion:
 - (i) where a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Programmed Share Registry to receive dividend payments from Programmed by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
 - (ii) otherwise, whether or not the Scheme Shareholder has made an election referred to in clause 3.4(b)(i), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Shareholder (or, in the case of joint holders, in accordance with the procedures set out in clause 3.5),

to the extent that there is a surplus in the amount held by Programmed as trustee for the Scheme Shareholders in the trust account referred to in clause 3.4(a), that

surplus may be paid by Programmed to BidCo (again, less any applicable bank fees and other charges).

3.5 **Joint holders**

In the case of Scheme Shares held in joint names:

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

3.6 **Unclaimed monies**

- (a) Programmed may cancel a cheque issued under this Scheme if the cheque:
 - (i) is returned to Programmed; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the one year period commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Programmed (or to the Programmed Share Registry), Programmed must reissue a cheque that was previously cancelled under this clause 3.6.
- (c) The applicable legislation relating to unclaimed monies will apply in relation to any Scheme Consideration which becomes unclaimed money within the meaning of that legislation.

3.7 **Scheme Shares transferred free from encumbrance and warranties by Scheme Shareholders**

- (a) To the extent permitted by law, all of the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares, other than any right to receive the Special Dividend to the extent that any Special Dividend is determined by Programmed) transferred to BidCo under the Scheme will be transferred (subject to Programmed's constitution) free from all Security Interests and interests of third parties of any kind, whether legal or otherwise.
- (b) Each Scheme Shareholder is deemed to have warranted to BidCo and, to the extent enforceable, appointed and authorised Programmed as its agent to warrant to BidCo that all its Scheme Shares (including any rights and entitlements attaching to those Scheme Shares, other than any right to receive the Special Dividend to the extent that any Special Dividend is determined by Programmed) will, as at the time of the transfer of them to BidCo, be fully paid and (subject to Programmed's constitution) free from all Security Interests and interests of third parties of any kind, whether legal or otherwise, and from any restrictions on transfer of any kind, and that it has full power and capacity to sell and to transfer its Scheme Shares (including any rights and entitlements attaching to those shares, other than any right to receive the Special Dividend to the extent that any Special Dividend is determined by Programmed) to BidCo under the Scheme. Programmed undertakes in favour of each Scheme Shareholder that it will be taken to have provided such warranty to BidCo on behalf of the Scheme Shareholder (as its agent) as at the time of transfer of all of the Scheme Shares.

3.8 **Person beneficially entitled to Scheme Shares**

On and from the Implementation Date, BidCo will be beneficially entitled to all of the Scheme Shares transferred to it under this Scheme pending registration by Programmed of the name and address of BidCo in the Register as the holder of all of the Scheme Shares.

4. **DEALINGS IN PROGRAMMED SHARES**

4.1 **Programmed Share dealings that are recognised**

To establish the persons who are Scheme Shareholders, dealings in Programmed Shares will be recognised only if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the Programmed Shares at the Scheme Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Programmed Share Registry by 5:00pm on the Scheme Record Date (in which case Programmed must register such transfers or transmission applications before 7:00pm on that day),

and Programmed will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of Programmed Shares received after the Scheme Record Date, 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 (except a transfer of Programmed Shares to BidCo pursuant to this Scheme or any subsequent transfer by BidCo to its successors in title).

4.2 **Programmed to register transfer and transmission applications**

Programmed will register registrable transfers and transmission applications of the kind referred to in clause 4.1 by the Scheme Record Date.

4.3 **Transfers received after Scheme Record Date not recognised**

If the Scheme becomes Effective, each Scheme Shareholder (and any person claiming through that Scheme Shareholder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them on or after the Scheme Record Date otherwise than pursuant to the Scheme, and any such disposal will be void and of no legal effect whatsoever, and Programmed will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of any Scheme Shares received after the Scheme Record Date.

4.4 **Programmed to maintain Register to determine entitlements**

In order to determine entitlements to the Scheme Consideration, Programmed will maintain, or procure the maintenance of, the Register in accordance with this clause 4 until the Scheme Consideration has been paid to Scheme Shareholders and the Register in this form will solely determine entitlements to the Scheme Consideration.

4.5 **Holding statements no effect from Scheme Record Date**

From the Scheme Record Date, all holding statements for Scheme Shares will cease to have effect as documents of title (or evidence thereof), and each entry on the Register at the Scheme Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

4.6 **Programmed to provide contact information for Scheme Shareholders**

As soon as practicable on or after Scheme Record Date and in any event at least three Business Days before the Implementation Date, Programmed will give to BidCo or procure that BidCo be given details of the name, Registered Address and the number of Programmed Shares held by each Scheme Shareholder, as shown in the Register at the Scheme Record Date, in whatever form BidCo reasonably requires.

4.7 **Quotation of Programmed Shares**

- (a) Programmed must apply to ASX to suspend trading in Programmed Shares on the financial market conducted by ASX from the close of trading on the Effective Date.
- (b) On the Business Day immediately after the Implementation Date, Programmed will apply for termination of the official quotation of Programmed Shares on the financial market conducted by ASX and to have itself removed from the official list of ASX.

5. **GENERAL PROVISIONS**

5.1 **Programmed giving effect to the Scheme**

Programmed must, at its own expense, do anything (including execute any document), and must, to the extent that it is able to do so, procure that its employees and agents do anything (including execute any document), that is reasonably necessary, expedient or incidental to give full effect to the Scheme and the transactions contemplated by it. Without limiting Programmed's power under the Scheme, Programmed has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Scheme Implementation Deed.

5.2 **Scheme Shareholders' agreements and consents**

Each Scheme Shareholder irrevocably:

- (a) agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Shares (other than any right to receive the Special Dividend to the extent that any Special Dividend is determined by Programmed), to BidCo, in accordance with the Scheme;
- (b) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from the Scheme;
- (c) acknowledges that the Scheme binds Programmed and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against the Scheme, at the Scheme Meeting); and
- (d) consents to Programmed doing all things and executing all deeds, instruments, transfers or other documents as may be reasonably necessary, expedient or incidental to Implementation and to give full effect to the Scheme and the transactions contemplated by it and Programmed, as attorney and agent for each Scheme Shareholder, may sub-delegate its functions under this document to any of its directors and officers, jointly and severally,

without the need for any further act by the Scheme Shareholder.

5.3 **Appointment of Programmed as attorney and agent of Scheme Shareholders**

Each Scheme Shareholder without the need for any further act, irrevocably appoints Programmed and each of its directors and officers, jointly and severally, on and from the Effective Date, as the Scheme Shareholder's attorney and agent:

- (a) to execute any document or do any other act necessary, expedient or incidental to give full effect to the Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or execution and delivery of any Scheme Transfer) under clause 3; and
- (b) to enforce the Deed Poll against either or both of Persol and BidCo,

and Programmed accepts such appointment. Programmed may as attorney and agent of each Scheme Shareholder sub-delegate any of its functions, authorities or powers under this clause to all or any of its directors and officers (jointly, severally, or jointly and severally).

5.4 **Appointment of BidCo as agent, attorney and sole proxy in respect of Scheme Shares**

Upon the Scheme becoming Effective and until BidCo's name is entered in the Register as the holder of all Scheme Shares, each Scheme Shareholder:

- (a) appoints and is deemed to irrevocably appoint BidCo as its attorney and agent, and directs Persol in each such capacity, to appoint any of the directors and officers of BidCo as sole proxy and, where applicable, corporate representative, of that Scheme Shareholder to:
 - (i) attend shareholders' meetings of Programmed;
 - (ii) exercise the votes attaching to the Programmed Shares registered in the name of the Scheme Shareholder; and
 - (iii) sign any Programmed Shareholders' resolution;
- (b) must take all other action in the capacity of a registered holder of Scheme Shares as BidCo reasonably directs;
- (c) undertakes not to attend any shareholders' meetings of Programmed or exercise the votes attaching to the Scheme Shares registered in the name of that Scheme Shareholder or sign any Programmed Shareholders resolutions (whether in person, by proxy or by corporate representative) other than in accordance with clause 5.4; and
- (d) acknowledges and agrees that in exercising the powers conferred under this clause 5.4(a), BidCo and any director or officer of BidCo appointed under clause 5.4(a) may act in the best interests of BidCo as the intended registered holder of all of the Scheme Shares.

5.5 **Binding effect of Scheme**

The Scheme binds Programmed and all Scheme Shareholders, including those who do not attend the Scheme Meeting, do not vote at that meeting or vote against the Scheme.

5.6 **Alteration or condition to Scheme**

If the Court proposes to approve the Scheme subject to any alteration or condition:

- (a) Programmed may, by its counsel or solicitors, but subject to the prior approval of Persol, consent on behalf of all persons concerned, including each Scheme Shareholder, to those alterations or conditions; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which counsel for Programmed has consented to.

5.7 **Deed Poll**

Programmed undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against either or both of Persol and BidCo for and on behalf of each Scheme Shareholder as agent and attorney for the Scheme Shareholders.

5.8 **Notices**

Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to Programmed, it will be deemed to be received on the date (if any) on which it is actually received at Programmed's registered office or at the Programmed Share Registry and on no other date.

5.9 **Costs and stamp duty**

- (a) Subject to clause 5.9(b), Programmed will pay all the costs of the Scheme.
- (b) BidCo will (and Persol must procure that BidCo will):
 - (i) pay all stamp duty and any related fines, penalties and other costs payable under Australian law in connection with the transfer of all of the Scheme Shares to BidCo in accordance with the terms of the Scheme Implementation Deed; and
 - (ii) indemnify each Scheme Shareholder against any liability arising from BidCo's or Persol's (as the case may be) failure to comply with clause 5.9(b)(i).

5.10 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of Western Australia within the Commonwealth of Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of the State of Western Australia, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings in connection with the Scheme. Each party irrevocably waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

ANNEXURE B

Deed Poll

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Deed Poll

[insert name of Persol's Australian BidCo]

ACN [●]

Persol Holdings Co., Ltd.

A company incorporated in Japan under Corporate Number 8011001058176

Deed Poll relating to proposed Scheme of Arrangement between
Programmed Maintenance Services Limited and its members

2017

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DEED POLL

THIS DEED POLL is made on

2017

BY

[insert name of Persol's Australian subsidiary] ACN [●] of **[insert registered address]** (**BidCo**); and

Persol Holdings Co., Ltd. a company incorporated in Japan under Corporate Number 8011001058176 whose registered office is at 2-1-1 Yoyogi, Shibuya-ku, Tokyo 151-0053 Japan (**Persol**)

IN FAVOUR AND FOR THE BENEFIT OF

Each holder of fully paid, ordinary shares in Programmed Maintenance Services Limited ABN 61 054 742 264 whose registered office is at 47 Burswood Road, Burswood, Western Australia, 6100, Australia (**Programmed**) as at the Scheme Record Date, other than any holder of Excluded Shares (each a **Scheme Shareholder** and together the **Scheme Shareholders**).

RECITALS

- (A) Programmed and Persol have entered into a Scheme Implementation Deed dated on or about 14 July 2017 (**Scheme Implementation Deed**).
- (B) Under the Scheme Implementation Deed, Programmed has agreed to propose the Scheme, pursuant to which (among other things) Persol:
 - (1) will procure that BidCo provides the Scheme Consideration to each Scheme Shareholder and the Scheme Shareholders will transfer to BidCo, and BidCo will acquire, all the Scheme Shares;
 - (2) unconditionally and irrevocably guarantees the due and punctual performance of BidCo's obligations described in Recital (E)(1).
- (F) Each of Persol and BidCo is executing this document to covenant in favour of each Scheme Shareholder to perform its obligations under the Scheme.

PERSOL AND BIDCO DECLARE AS FOLLOWS

1. INTERPRETATION

1.1 Definitions

Words and expressions that are defined in the Scheme Implementation Deed (other than words and expressions defined in this document) have the same meaning in this document as given to them in the Scheme Implementation Deed, unless the context makes it clear that a definition is not intended to apply.

1.2 Rules for interpreting this document

The rules in clauses 1.2 and 1.3 of the Scheme Implementation Deed apply in interpreting this document, unless the context makes it clear that a rule is not intended to apply.

2. NATURE OF THIS DOCUMENT

Each of Persol and BidCo acknowledges and agrees that:

- (a) this document is a deed poll and may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholder is not a party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints Programmed and each of its directors and officers, jointly and severally, as its attorney and agent to enforce this document against it.

3. CONDITIONS PRECEDENT AND TERMINATION

3.1 Conditions

Persol's and BidCo's obligations under this document are subject to the Scheme becoming Effective.

3.2 Termination

Persol's and BidCo's obligations under this document will automatically terminate if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Effective Date has not occurred on or before the End Date,

unless Persol and Programmed otherwise agree in writing (and, if required, as approved by the Court) in accordance with the Scheme Implementation Deed.

3.3 Consequences of termination

If this document is terminated pursuant to clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to the Scheme Shareholders:

- (a) each Scheme Shareholder retains any rights, powers or remedies it has against either or both of Persol and BidCo in respect of any breach of this document which occurred before this document was terminated; and
- (b) each of Persol and BidCo is released from its further obligations under this document, except for those obligations in clause 8.1 and any other obligations which by their nature survive termination.

4. SCHEME CONSIDERATION

4.1 Performance of obligations generally

Subject to clause 3, each of Persol and BidCo:

- (a) must comply with its obligations under the Scheme Implementation Deed and the Scheme (as if, in the case of BidCo where BidCo is not Persol, BidCo were a party to the Scheme Implementation Deed and the Scheme and were bound by the terms of these documents); and
- (b) will, on its own behalf and to the extent authorised by the Scheme, on behalf of each Scheme Shareholder, do all things and execute all deeds, instruments transfers or other documents as may be necessary or desirable to give full effect to the provisions of this document and the transactions contemplated by it (including, without limitation, to Implement the Scheme).

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4.2 **Provision of Scheme Consideration**

Subject to clause 3, in consideration of the transfer of all of the Scheme Shares to BidCo in accordance with the terms of the Scheme:

- (a) BidCo undertakes in favour of each Scheme Shareholder to provide or procure the provision of the Scheme Consideration in accordance with the Scheme and clause 4.3; and
- (b) Persol:
 - (i) undertakes in favour of each Scheme Shareholder to procure that BidCo complies with its obligations under this clause 4.2; and
 - (ii) unconditionally and irrevocably guarantees the due and punctual performance of BidCo's obligations under this clause 4.2.

4.3 **Payment of Scheme Consideration**

The obligation of BidCo to pay the Scheme Consideration to Scheme Shareholders under clause 4.2 will be satisfied by:

- (a) no later than the day that is two Business Days prior to the Implementation Date, BidCo depositing (or Persol or procuring the deposit of) an amount equal to the aggregate Scheme Consideration payable to all Scheme Shareholders in cleared funds into an Australian dollar denominated trust account, operated by Programmed as trustee for the Scheme Shareholders for the purpose of paying the Scheme Consideration to each Scheme Shareholder (except that any interest on the amounts deposited, less bank fees and other charges, will be to BidCo's account); and
- (b) on the Implementation Date, BidCo executing the Scheme Transfer as contemplated by clause 3.3 of the Scheme effecting the transfer of the Programmed Shares from the Scheme Shareholders to BidCo and delivering the executed Scheme Transfer to Programmed for registration.

5. **REPRESENTATIONS AND WARRANTIES**

Each of Persol and BidCo represents and warrants in favour of each Scheme Shareholder that:

- (a) **(status)** it is a validly existing corporation under the laws of the place of its incorporation;
- (b) **(power)** it has full legal capacity and power to enter into this document and carry out the transactions that this document contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this document and its carrying out of the transactions that this document contemplates in accordance with its terms;
- (d) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that this document contemplates in accordance with its terms; and
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence,

and it is complying with any conditions to which any such Authorisation is subject;

- (e) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(funding)** before 5.00 pm on the day before the Second Court Date, BidCo will have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to satisfy its obligation to pay the full amount of the Scheme Consideration in accordance with the obligations under the Scheme and this document;
- (g) **(no breach or default)** this document does not conflict with, or result in the breach of or default under, any provision of its constituent documents, or any writ, order or injunction, judgement, law, rule or regulation to which it is a party or subject to or by which it is bound;
- (h) **(no Insolvency Event)** neither it nor any of its subsidiaries is affected by an Insolvency Event; and
- (i) **(not representative capacity)** it is not entering into this document as trustee of any trust or settlement or otherwise in a representative capacity.

6. CONTINUING OBLIGATIONS

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

- (a) Persol and BidCo having fully performed its obligations under this document; or
- (b) termination of this document in accordance with clause 3.

7. NOTICES

7.1 How to give a notice

A notice or other communication to a person in respect of this document is only effective if it is:

- (a) in writing in English, and signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full without error; or
 - (iii) sent in electronic form (such as email).

7.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered or sent by fax:

- (i) by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
- (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day (in the place of receipt of the fax);
- (b) if it is sent by mail:
- (i) within Australia – three Business Days after posting; or
- (ii) to or from a place outside Australia – seven Business Days after posting; and
- (c) if it is sent in electronic form:
- (i) by 5.00 pm (local time in the place of receipt) on a Business Day – when sent; or
- (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day,
- provided that no notice of failure of transmission or other error message is received by the sender.

7.3 **Address for notices**

Persol's and BidCo's address and fax number are those set out below, or as Persol or BidCo otherwise notifies:

Persol and BidCo

Address: 2-1-1 Yoyogi, Shibuya-ku, Tokyo 151-0053 Japan
Fax number: +81 3 6386 9172
Attention: Chief Legal Officer
Email: daisuke.hayashi@persol.co.jp

8. **GENERAL**

8.1 **Costs and stamp duty**

BidCo must (and Persol must procure that BidCo does):

- (a) bear and be responsible for its own costs arising out of the negotiation, preparation and execution of this document; and
- (b) pay or procure the payment of any and all stamp duty (including any related fines or penalties) payable on or in respect of this document, or any transaction contemplated by it (including any transfer of Scheme Shares pursuant to the Scheme); and
- (c) indemnify each Scheme Shareholder on demand against any liability arising from its failure to comply with clause 8.1(b).

8.2 **Amendment**

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

- (a) before the Second Court Date, the amendment or variation is agreed to in writing by Programmed (on behalf of each Scheme Shareholder but without the need for

such agreement to be given or withheld with reference to or approval by any Scheme Shareholder) and Persol and, if required, is approved by the Court; or

- (b) on or after the Second Court Date, the amendment or variation is agreed to in writing by Programmed (on behalf of each Scheme Shareholder but without the need for such agreement to be given or withheld with reference to or approval by any Scheme Shareholder) and Persol, and is approved by the Court,

and, in either case, Persol and BidCo must execute a further deed poll in favour of each Scheme Shareholder giving effect to that amendment or variation.

8.3 **Assignment**

The rights and obligations of Persol, BidCo and of each Scheme Shareholder under this document are personal and, cannot be assigned, encumbered, charged or otherwise dealt with. Any purported dealing in contravention of this clause 8.3 is invalid.

8.4 **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again;
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right; and
- (d) the exercise, or partial exercise, of a right does not prevent any further exercise of that right or of any other right.

8.5 **Operation of this document**

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

8.6 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of Western Australia within the Commonwealth of Australia.
- (b) Each of Persol and BidCo submits to the non-exclusive jurisdiction of the courts of the State of Western Australia, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings in connection with the Scheme. Each of Persol and BidCo irrevocably waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

EXECUTED as a deed poll.

EXECUTED by **PERSOL HOLDINGS CO., LTD.:**

Signature of director

Signature of director

Name

Name

[**Note:** Execution block for BidCo to be inserted.]

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