

ASX Announcement

24 June 2015

SKILLED Group to be acquired by Programmed Maintenance Services

- SKILLED has entered into a Scheme Implementation Agreement with Programmed under which, subject to shareholder and court approval, 100% of SKILLED shares will be acquired by Programmed for consideration of 0.55 Programmed shares plus \$0.25 cash per SKILLED share. It is SKILLED's intention that the cash component of the consideration will take the form of a fully franked dividend.
- SKILLED shareholders to own 52.4% of the combined entity post-transaction.
- In excess of \$20m of pre-tax synergies expected within 12 months of implementation; increasing to over \$35m within three years post implementation.
- Double-digit accretion expected in pro-forma Programmed FY16 and FY17 earnings per share (EPS)^{1,2}.
- The transaction will create a market-leading diversified staffing, maintenance and facilities management business.
- Expected transaction completion mid-October 2015.

SKILLED Group Limited (ASX: SKE) today announced that it has entered into a scheme implementation agreement (SIA) with Programmed Maintenance Services Limited (ASX: PRG) under which, subject to shareholder and court approval, Programmed will acquire all outstanding SKILLED shares by way of a scheme of arrangement (Scheme).

If the Scheme proceeds, SKILLED shareholders will receive 0.55 Programmed shares plus \$0.25 cash per SKILLED share, resulting in SKILLED shareholders owning 52.4% of the combined entity. The SKILLED Board may declare a fully franked final dividend in respect of the year ending 30 June 2015 and a fully franked special dividend, which in aggregate must not exceed \$0.25 per share. If SKILLED does declare such dividend(s) the cash consideration under the Scheme will be reduced by an equivalent amount.

The offer is valued at \$1.79 per share based on Programmed's last closing price³ and represents a 45.5% premium to SKILLED's closing price on 22 May 2015, the

¹ Excluding one-off transaction and integration costs and the amortisation of intangible assets.

² Based on FY16 and FY17 broker consensus estimates for SKILLED and Programmed as at 19 June 2015.

³ Based on Programmed closing price of \$2.80 as at 19 June 2015.

trading day before the announcement of discussions between SKILLED and Programmed. The SKILLED Directors recommend that SKILLED shareholders vote in favour of the Scheme, in the absence of a superior proposal and subject to an independent expert concluding that the Scheme is in the best interests of SKILLED shareholders⁴. The SKILLED Directors intend to vote their personal shareholdings in favour of the Scheme in the absence of a superior proposal and subject to an independent expert concluding that the Scheme is in the best interests of SKILLED shareholders.

SKILLED Chairman, Ms Vickki McFadden said, “The near term financial benefits to SKILLED shareholders resulting from this transaction are compelling. The combination of SKILLED and Programmed creates the opportunity to unlock substantial synergies in the first year following implementation, and beyond. The combination will create a larger, more diverse business with the funding flexibility to support a range of organic growth and acquisition opportunities, and an enhanced equity market position.

“Our two organisations share a focus on delivering solutions that make our clients more productive and competitive. The company’s enlarged scale in staffing, maintenance and facilities management will facilitate lower costs, better customer service and enhanced organic growth opportunities.”

Subject to the conditions of the Scheme being satisfied or waived, the Scheme is expected to be implemented in mid-October, 2015. Upon implementation of the Scheme, all SKILLED Directors will resign from SKILLED’s Board.

Chris Sutherland, Programmed CEO, will lead the combined organisation and as such, Angus McKay, SKILLED CEO, will leave the company.

Transaction rationale

The SKILLED Board believes that a combination with Programmed presents a number of financial and other benefits to SKILLED shareholders.

- **Substantial synergies:** In excess of \$20m of pre-tax synergies within 12 months of implementation, increasing to over \$35m within three years of implementation.
- **Compelling financial metrics:** Expected to result in double-digit accretion in pro-forma Programmed FY16 and FY17 earnings per share (EPS).⁵
- **Increased scale:** Significantly increases the scale of both groups’ staffing, maintenance and facility management activities allowing lower costs and improved quality of customer service delivery and enhanced organic growth opportunities.

⁴ SKILLED Director Max Findlay has absented himself from discussions and abstained from making a recommendation due to his significant shareholding in Programmed. In respect of his personal shareholding in SKILLED, Mr Findlay intends to vote in favour of the Scheme, in the absence of a superior proposal and subject to an independent expert concluding that the Scheme is in the best interests of SKILLED shareholders.

⁵ Excluding one-off transaction and integration costs and the amortisation of intangible assets.

- **Improved sector and customer diversification:** The combined business will benefit from improved geographic and sector diversification leading to lower earnings volatility and reduced exposure to individual sectors or customers.
- **Enhanced trading liquidity and equity market benefits:** Based on the SKILLED and Programmed closing prices on 19 June 2015, the combined business is likely to have a market capitalisation of over \$700m and gain entry into the S&P/ASX 200 index, attracting a greater level of investor interest and trading liquidity.
- **Greater flexibility with respect to future funding options:** Following the acquisition of SKILLED, Programmed's balance sheet will have appropriate leverage and funding flexibility to support organic growth and acquisition opportunities

Scheme Implementation Agreement

The SIA is attached to this announcement.

For the Scheme to proceed, approval by 75% of votes cast and a majority of SKILLED's shareholders voting is required, in addition to Court approval and the satisfaction or waiver of conditions precedent under the SIA.

The SIA contains customary conditions in relation to mutual break fees and exclusivity arrangements.

Indicative timetable

SKILLED Scheme Booklet submitted to ASIC	Early August 2015
First Court Date	Mid August 2015
Scheme Booklet distributed to SKILLED shareholders	Late August 2015
Scheme Meeting for SKILLED shareholders	Late September 2015
Second Court Date	Early October 2015
Effective Date	Early October 2015
Implementation Date	Mid October 2015

UBS is acting as financial adviser and Clayton Utz as legal adviser to SKILLED.

Investor conference call

Investors and analysts are invited to participate in a conference call at 10:30am (AEST) on Wednesday 24 June, 2015.

Dial in Details

Toll Free	1800 554 798
Australia, Melbourne	+61 3 8338 0900
Confirmation Code	7008660

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About SKILLED Group

SKILLED Group Limited is Australia's leading provider of labour hire and workforce services. SKILLED Group has over 80 offices across Australasia with annualised revenues of around A\$1.9billion. SKILLED partners with clients to improve their workforce efficiency, enhance safety performance and increase productivity levels. SKILLED is listed on the Australian Securities Exchange (ASX: SKE) and has approximately 7,600 shareholders, predominantly in Australia.

Attachment: Scheme Implementation Agreement

Scheme Implementation Agreement

Programmed Maintenance Services Limited ACN 054 742 264
Programmed

SKILLED Group Limited ACN 005 585 811
SKILLED

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Our reference 13515/18887/80162615

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Scheme implementation agreement

Date

24 June 2015

Parties

SKILLED Group Limited ACN 005 585 811 of 2 Luton Lane, Hawthorn VIC 3122
(SKILLED)

Programmed Maintenance Services Limited ACN 054 742 264 of 47 Burswood Road, Burswood WA 6100 (Programmed)

Background

- A. Programmed proposes that it will acquire all of the SKILLED Shares pursuant to a scheme of arrangement under section 411 of the Corporations Act between SKILLED and the holders of SKILLED Shares.
- B. SKILLED has agreed to propose the Scheme and issue the Explanatory Memorandum at the request of Programmed, and SKILLED and Programmed have agreed to implement the Scheme on the terms and conditions of this agreement.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

In this agreement:

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12 of the Corporations Act.

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

Business Day means a day which is a "Business Day" within the meaning given in the Listing Rules.

Cash Consideration means the consideration provided to Scheme Shareholders under the terms of the Scheme as described in clause 5.2(a).

Competing Proposal means a proposed transaction or arrangement (whether by way of takeover, share acquisition, scheme of arrangement, reverse takeover, synthetic merger, capital reconstruction, acquisition of assets, dual listed structure, or otherwise), whether existing before, on or after the date of this agreement, which, if implemented substantially in accordance with its terms, could result in a Third Party (either directly or indirectly):

- (a) acquiring or having a right to acquire, or obtaining an economic interest in all or a substantial part of the business, assets or undertakings of the SKILLED Group;
- (b) acquiring Control of the SKILLED Group;

- (c) acquiring a Relevant Interest in any SKILLED Shares, as a result of which the Third Party, together with any Associates, will have Relevant Interests in 20% or more of the SKILLED Shares in aggregate;
- (d) otherwise acquire SKILLED; or
- (e) entering into an agreement or understanding with one or more members of the SKILLED Group requiring the abandonment, or otherwise the failure to proceed with, the Transaction.

Condition means each condition specified in clause 3.1.

Confidentiality Agreement means the Mutual Confidentiality Agreement between SKILLED and Programmed dated 26 May 2015.

Control has the meaning given in the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cth).

Court means the Supreme Court of Victoria or such other court of competent jurisdiction as SKILLED and Programmed agree in writing.

Deed Poll means a deed poll to be executed by Programmed and Programmed Acquirer in favour of the Scheme Shareholders, substantially in the form set out in Annexure B or in such other form as SKILLED and Programmed agree in writing.

Effective means, when used in relation to the Scheme, the coming into effect, pursuant to 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.

Eligible Scheme Shareholder means a Scheme Shareholder other than an Ineligible Overseas Shareholder.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the date 6 months after signing this agreement or such other date agreed in writing between SKILLED and Programmed.

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

- (a) the End Date;
- (b) the date this agreement is terminated in accordance with its terms; and
- (c) the Implementation Date.

Explanatory Memorandum means the explanatory memorandum to be prepared by SKILLED pursuant to section 412 of the Corporations Act in respect of the Scheme in accordance with the terms of this agreement and to be dispatched to the SKILLED Shareholders.

First Court Date means the first day of the hearing of an application made to the Court for an order pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Implementation Date means the date which is 5 Business Days after the Record Date or such other date as SKILLED and Programmed agree in writing.

Independent Expert means the independent expert to be engaged by SKILLED to express an opinion on whether the Scheme is in the best interests of the SKILLED Shareholders.

Independent Expert's Report means the report (including any supplementary reports) from the Independent Expert in respect of whether the Scheme is in the best interests of the SKILLED Shareholders.

Ineligible Overseas Shareholder means a Scheme Shareholder whose address shown in the SKILLED Share Register on the Record Date is a place outside Australia and its external territories and New Zealand, unless Programmed determines that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New Programmed Shares when the Scheme becomes Effective.

Insolvency Event means in relation to an entity:

- (a) the entity resolving that it be wound up or the making of an application or order for the winding up or dissolution of the entity, other than where the application or order (as the case may be) is set aside within 14 days;
- (b) a liquidator or provisional liquidator of the entity being appointed;
- (c) a court making an order for the winding up of the entity;
- (d) an administrator of the entity being appointed;
- (e) the entity ceasing, or threatening to cease to, carry on a substantial part of the business which is material to it and its Related Body Corporates, taken as a whole, as at the date of this agreement;
- (f) the entity being or becoming unable to pay its debts when they fall due;
- (g) the entity executing a deed of company arrangement; or
- (h) a receiver, or a receiver and manager, being appointed in relation to the entity, or a substantial part, of the property of the entity.

Interested SKILLED Director means Max Findlay.

Listing Rules means the official listing rules of the ASX.

Material Contract means a contract which generates revenue in excess of \$100 million in the FY15 financial year for the SKILLED Group or the Programmed Group (as relevant).

New Programmed Shares means a fully paid ordinary share in Programmed to be provided to Scheme Shareholders under the Scheme.

Policy means the SKILLED Group directors and officers insurance policy in effect at the date of this agreement.

Programmed Acquirer means any wholly owned subsidiary of Programmed nominated by Programmed pursuant to, and in accordance with, clause 2.3 for the purpose of acquiring the Scheme Shares.

Programmed Announcement means an announcement by Programmed, a draft of which has been provided to SKILLED on or before the date of this agreement.

Programmed Board means the board of directors of Programmed.

Programmed Due Diligence Materials means the written information and responses to questions raised by SKILLED included at the date of this agreement by or on behalf of the Programmed Group in the online data room established for the purpose of this Transaction, the index for which is initialled by the parties for the purposes of identification.

Programmed Executive Team means:

- (a) Managing Director;
- (b) Chief Financial Officer;
- (c) Company Secretary; and
- (d) Group General Manager, Human Resources.

Programmed FY15 Final Dividend means a fully franked dividend declared and paid in respect of the financial year ending 31 March 2015 of \$0.115 per Programmed Share.

Programmed FY16 Interim Dividend means any dividend declared and paid in respect of the half year ending 30 September 2015.

Programmed Group means Programmed and each of its Subsidiaries.

Programmed Indemnified Parties means Programmed and its Related Bodies Corporate and their respective directors, officers and employees.

Programmed Information means:

- (a) all information regarding Programmed and its Related Bodies Corporate and the Scheme Consideration that is required by the Corporations Act and the Regulatory Guides to be included in the Explanatory Memorandum including all the information that would be required under sections 636(1)(c), (f), (h), (i), (k), (l) and (m) of the Corporations Act to be included in a bidder's statement if Programmed were offering the Scheme Consideration as consideration under a takeover bid;
- (b) the information to be incorporated in the Explanatory Memorandum with respect to the merged company, including pro forma financial information except to the extent that it comprises information provided by SKILLED to Programmed for the purposes of Programmed preparing the information with respect to the merged company; and
- (c) any other information that the parties agree is Programmed Information for the purposes of this agreement, but does not include the SKILLED Information or the Independent Expert's Report.

Programmed Long Term Incentive Plan means the Long Term Incentive Plan operated by Programmed.

Programmed Material Adverse Change means Specified Events which, individually or when aggregated with all such events, have or which could reasonably be expected to have a material adverse effect on the assets, liabilities, business, results, operations, trading or financial position of the Programmed Group, and which would include:

- (a) reducing the consolidated net assets of the Programmed Group (calculated in accordance with the accounting policies and practices applied by Programmed as at the date of this agreement) by an amount of at least \$20 million; or
- (b) reducing the consolidated net profit after tax of the Programmed Group (calculated in accordance with the accounting policies and practices applied by Programmed as at the date of this agreement) by an amount of at least \$3 million for any financial year ending after 31 March 2015.

other than an event, occurrence or matter:

- (c) contemplated or required to be done or procured by Programmed pursuant to the Transaction Documents;
- (d) to the extent that it was fairly disclosed in the Programmed Due Diligence Materials;
- (e) to the extent that it was fairly disclosed in documents that were publicly available prior to the date of this agreement from public filings of Programmed with ASX;
- (f) comprising a change to legislation or regulation, any judicial or administrative interpretation of the law or any practice or policy of a Regulatory Authority (whether or not retrospective in effect), including in relation to Tax; or
- (g) 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.

Programmed Payment means the amount of \$3.5 million (representing the amounts referred to in clause 10.1(c)).

Programmed Performance Options means options in respect of Programmed Shares issued pursuant to the Programmed Long Term Incentive Plan.

Programmed Performance Rights means performance rights in respect of Programmed Shares issued or agreed to be issued pursuant to the Programmed Long Term Incentive Plan.

Programmed Prescribed Occurrence means the occurrence of any of the following events:

- (a) Programmed converts all or any of its securities into a larger or smaller number of securities;
- (b) Programmed or another member of the Programmed Group (other than a wholly-owned Subsidiary of Programmed) resolves to reduce its capital in any way or resolves to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its shares;
- (c) Programmed or another member of the Programmed Group (other than a wholly-owned Subsidiary of Programmed):
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) any member of the Programmed Group issues shares, or grants an option or a performance right over its shares or agrees to make such an issue or grant such an option or a performance right (other than in satisfaction of Programmed Performance Rights or Programmed Performance Options granted and disclosed to SKILLED before the date of this agreement);
- (e) any member of the Programmed Group issues, or agrees to issue, convertible notes or any other security convertible into shares or debt securities;
- (f) any member of the Programmed Group agrees to pay, declares or pays a dividend or any other form of distribution of profits or return of capital to its members other than:

- (i) the declaration and payment by a member of the Programmed Group of a dividend where the recipient of that dividend is Programmed or a wholly-owned Subsidiary of Programmed;
- (ii) the payment of the Programmed FY15 Final Dividend or the Programmed FY16 Interim Dividend;
- (g) any member of the Programmed Group disposes of the whole, or a substantial part, of its business and property which is material to the Programmed Group as a whole;
- (h) any member of the Programmed Group creates, or agrees to create, any Encumbrance over, or declares itself the trustee of, any part of its business or property which is material to the Programmed Group as a whole;
- (i) an Insolvency Event occurs in relation to any member of the Programmed Group which is material to the Programmed Group as a whole;

other than an event:

- (j) contemplated or required to be undertaken or procured by the Programmed Group pursuant to the Transaction Documents;
- (k) to which SKILLED has provided its prior written consent; or
- (l) fairly disclosed in the Programmed Due Diligence Material or any announcement to the ASX made by Programmed regarding the Programmed Group prior to the parties entering into this agreement, except to the extent the parties otherwise agree.

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

Programmed Warranties means the warranties made by Programmed set out in clause 12.1.

Recommendation has the meaning in clause 7.1(a)(i).

Record Date means 7.00 pm (Sydney time) on the date which is 3 Business Days after the Effective Date or such other time and date agreed in writing between Programmed and SKILLED.

Regulator's Draft has the meaning given in clause 4.2(i).

Regulatory Authority means:

- (a) any government or local authority, any department, minister or agency of any government and any other governmental, administrative, fiscal, monetary or judicial body; and
- (b) any other authority, agency, commission or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange,

in Australia.

Regulatory Guides means all regulatory guides published by ASIC and in force at the date of this agreement.

Regulatory Review Period means the period from the date on which SKILLED provides the Regulator's Draft to ASIC in accordance with clause 4.2(i) to the date on which ASIC provides a letter indicating whether or not it proposes to appear to make submissions, or will intervene to oppose the Scheme, when the application made to the Court for orders under section

411(1) of the Corporations Act convening the Scheme Meeting to consider the Scheme is heard.

Related Body Corporate of a corporation means a related body corporate of that corporation within the meaning of section 50 of the Corporations Act.

Relevant Interest has the meaning given in the Corporations Act.

Representatives means, in relation to a party, all directors, officers, employees, professional advisers (including financiers, financial advisers, corporate advisers, legal advisers or technical or other expert advisers or consultants) and agents of the party or of its Related Bodies Corporate.

Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between SKILLED and the Scheme Shareholders substantially in the form set out in Annexure A or in such other form as SKILLED and Programmed agree in writing.

Scheme Consideration means, for each Scheme Share held by a Scheme Shareholder the Cash Consideration and Share Consideration ascertained in accordance with clause 5.2 and adjusted in accordance with clause 5.3.

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

Scheme Share means a SKILLED Share on issue as at the Record Date.

Scheme Shareholder means each person registered in the SKILLED Share Register as the holder of the Scheme Shares as at the Record Date.

Second Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Security Interest has the meaning given in section 12 of the Personal Property Securities Act 2009 (Cth).

Share Consideration means the consideration to be provided to Scheme Shareholders under the terms of the Scheme, as described in clause 5.2(b).

SKILLED Announcement means an announcement by SKILLED a draft of which has been provided to Programmed on or before the date of this agreement.

SKILLED Board means the board of directors of SKILLED.

SKILLED CEO Performance Rights means not more than 179,333 SKILLED Performance Rights being the pro-rated entitlement of the Chief Executive Officer of SKILLED and which are included in the 1.2 million SKILLED Performance Rights and SKILLED Options referred to in clause 8(a)(ii).

SKILLED Divided Cap means \$0.25 per SKILLED Share.

SKILLED Due Diligence Materials means the written information and responses to questions raised by Programmed included as at the date of this agreement by or on behalf of the SKILLED Group in the online data room established for the purpose of this Transaction, the index for which is initialled by the parties for the purposes of identification.

SKILLED Executive Team means:

- (a) Chief Executive Officer and Managing Director;

- (b) Chief Financial Officer;
- (c) Group General Manager, Finance & Investor Relations; and
- (d) Company Secretary and Group General Counsel

SKILLED FY15 Final Dividend means a fully franked dividend declared and paid by SKILLED in respect of the financial year ending 30 June 2015.

SKILLED Group means SKILLED and each of its Subsidiaries.

SKILLED Indemnified Parties means SKILLED and its Related Bodies Corporate and their respective directors, officers and employees.

SKILLED Information means all information included in the Explanatory Memorandum, other than the Programmed Information, the Independent Expert's Report.

SKILLED Long Term Incentive Plan means the Long Term Incentive Plan operated by SKILLED.

SKILLED Material Adverse Change means Specified Events which, individually or when aggregated with all such events, have or which could reasonably be expected to have a material adverse effect on the assets, liabilities, business, results, operations, trading or financial position of the SKILLED Group, and which would include:

- (a) reducing the consolidated net assets of the SKILLED Group (calculated in accordance with the accounting policies and practices applied by SKILLED as at the date of this agreement) by an amount of at least \$25 million; or
- (b) reducing the consolidated net profit after tax of the SKILLED Group (calculated in accordance with the accounting policies and practices applied by SKILLED as at the date of this agreement) by an amount of at least \$4 million for any financial year ending on or after 30 June 2015.

other than an event, occurrence or matter:

- (c) contemplated or required to be done or procured by SKILLED pursuant to the Transaction Documents;
- (d) to the extent that it was fairly disclosed in the SKILLED Due Diligence Materials;
- (e) to the extent that it was fairly disclosed in documents that were publicly available prior to the date of this agreement from public filings of SKILLED with ASX;
- (f) comprising a change to legislation or regulation, any judicial or administrative interpretation of the law or any practice or policy of a Regulatory Authority (whether or not retrospective in effect), including in relation to Tax; or
- (g) 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.

SKILLED Options means options in respect of SKILLED Shares issued pursuant to the SKILLED Long Term Incentive Plan

SKILLED Payment means the amount of \$3.5 million (representing the amounts referred to in clause 10.1(c)).

SKILLED Performance Rights means performance rights in respect of SKILLED Shares issued pursuant to the SKILLED Long Term Incentive Plan.

SKILLED Prescribed Occurrence means the occurrence of any of the following events:

- (a) SKILLED converts all or any of its securities into a larger or smaller number of securities;
- (b) SKILLED or another member of the SKILLED Group (other than a wholly-owned Subsidiary of SKILLED) resolves to reduce its capital in any way or resolves to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its shares;
- (c) SKILLED or another member of the SKILLED Group (other than a wholly-owned Subsidiary of SKILLED):
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) any member of the SKILLED Group issues shares, or grants an option or a performance right over its shares or agrees to make such an issue or grant such an option or a performance right (other than in satisfaction of SKILLED Performance Rights or SKILLED Options referred to in clause 8(a)(ii));
- (e) any member of the SKILLED Group issues, or agrees to issue, convertible notes or any other security convertible into shares or debt securities;
- (f) any member of the SKILLED Group agrees to pay, declares or pays a dividend or any other form of distribution of profits or return of capital to its members other than:
 - (i) the declaration and payment by a member of the SKILLED Group of a dividend where the recipient of that dividend is SKILLED or a wholly-owned Subsidiary of SKILLED;
 - (ii) the payment of the SKILLED FY15 Final Dividend or the SKILLED Special Dividend;
- (g) any member of the SKILLED Group disposes of the whole, or a substantial part, of its business and property which is material to the SKILLED Group as a whole;
- (h) any member of the SKILLED Group creates, or agrees to create, any Encumbrance over, or declares itself the trustee of, any part of its business or property which is material to the SKILLED Group as a whole;
- (i) an Insolvency Event occurs in relation to any member of the SKILLED Group which is material to the SKILLED Group as a whole;

other than an event:

- (j) contemplated or required to be undertaken or procured by the SKILLED Group pursuant to the Transaction Documents;
- (k) to which Programmed has provided its prior written consent; or
- (l) fairly disclosed in the SKILLED Due Diligence Material or any announcement to the ASX made by SKILLED regarding the SKILLED Group prior to the parties entering into this agreement, except to the extent the parties otherwise agree.

SKILLED Share Register means the register of members of SKILLED maintained by or on behalf of the SKILLED in accordance with section 168(1) of the Corporations Act.

SKILLED Shareholder means a person who is registered in the SKILLED Share Register as a holder of SKILLED Shares.

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

SKILLED Special Dividend means a fully franked dividend declared and paid on or before the Implementation Date by SKILLED in addition to any SKILLED FY15 Final Dividend.

SKILLED Warranties means the warranties made by SKILLED set out in clause 12.5.

Specified Events means an event, occurrence or matter that:

- (a) occurs after the date of this agreement;
- (b) occurs before the date of this agreement but is only announced or publicly disclosed after the date of this agreement; or
- (c) will occur after the date of this agreement and which has not been publicly announced prior to the date of this agreement.

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

Superior Proposal means a bona fide Competing Proposal (in connection with which there has not been a breach of clause 9) which in the determination of the SKILLED Board, acting in good faith in the interests of SKILLED and its shareholders and in order to satisfy what the SKILLED Board reasonably considers to be its fiduciary or statutory duties, and after receiving advice from its external legal and external financial advisors, would, if it is completed, be more favourable to SKILLED Shareholders (as a whole) than the Transaction, taking into account all aspects of the Competing Proposal, including:

- (a) the value of the consideration payable to SKILLED Shareholders under the Competing Proposal and the Tax consequences related to payment of that consideration (as compared to the consideration available under the Transaction);
- (b) the conditions of the Competing Proposal, the likelihood of those conditions being satisfied and the level of certainty in respect of the funding required for the Competing Proposal; and
- (c) the likely timing required to implement or complete the Competing Proposal.

Tax means any tax, levy, excise, duty, charge, surcharge, contribution, withholding tax (including royalty withholding tax), impost or withholding obligation of whatever nature, whether direct or indirect, (including any tax payable under a country's foreign source income attribution or anti-tax-deferral rules) by whatever method collected or recovered, together with any fees, penalties, fines, interest or statutory charges in any country or jurisdiction but excluding any stamp duty payable on any transfer of the SKILLED Shares.

Third Party means a person other than Programmed, SKILLED, or their respective Related Bodies Corporate.

Timetable means the indicative timetable in relation to the Scheme set out in Schedule 1, or such other indicative timetable as SKILLED and Programmed agree in writing.

Total Cash Consideration means the total Cash Consideration payable in respect of Scheme Shares less the total amount of any SKILLED FY15 Final Dividend and any SKILLED Special Dividend.

Trading Day has the meaning given to that term in the Listing Rules.

Transaction means the acquisition by Programmed (or a Subsidiary of Programmed) of the Scheme Shares for the Scheme Consideration pursuant to the Scheme.

Transaction Documents means:

- (a) this agreement;
- (b) the Scheme; and
- (c) the Deed Poll.

Trust Account means an Australian dollar denominated trust account operated by SKILLED as trustee for the Scheme Shareholders, as nominated by SKILLED and notified to Programmed at least 5 Business Days prior to the Implementation Date, being the account into which Programmed will deposit an amount equal to the Total Cash Consideration in accordance with clause 4.4(b).

Voting Intention has the meaning in clause 7.1(a)(ii).

1.2 Best and reasonable endeavours

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

- (a) pay any money or to provide any financial compensation, or any other incentive to or for the benefit of any person in the form of an inducement or consideration except for payment of any applicable fee for the lodgement or filing of any relevant application with any Regulatory Authority or the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing; or
- (b) commence or defend any legal action or proceeding against any person,

except, in each case, where that provision expressly specifies otherwise and, for the avoidance of doubt, that party will not breach the relevant provision requiring the use of best or all endeavours where the party does not procure that the thing is performed or occurs or does not occur as a result of matters outside the control or influence of the party.

1.3 Business Day

If the day on which any act to be done under this agreement is a day other than a Business Day, that act must be done on the immediately preceding Business Day except where this agreement expressly specifies otherwise.

1.4 Interpretation

In this agreement headings are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment, or annexure is a reference to a party, clause, schedule, exhibit, attachment, or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments, and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) a reference to an event, occurrence or matter being "**fairly disclosed**" in particular information means fully and fairly disclosed in all respects and in sufficient detail so that the nature, scope and effect of the relevant event, occurrence, matter or fact on the SKILLED Group or the Programmed Group (as applicable) could reasonably have been deduced, concluded or inferred from that information;
- (k) a reference to a party being **aware** of certain information, having **knowledge** of certain information, having an **awareness** of certain information or to certain information being **known** to a party, at a particular time, is a reference to:
- (i) in respect of Programmed, a member of the Programmed Executive Team having actual knowledge or awareness of that information at the relevant time, or circumstances where a member of the Programmed Executive Team would have had actual knowledge or awareness of that information at the relevant time had they made due enquiries of people who might reasonably be expected to have knowledge or awareness of that information, but only to the extent that member of the Programmed Executive Team was employed by Programmed at the relevant time; and
 - (ii) in respect of SKILLED, a member of the SKILLED Executive Team having actual knowledge or awareness of that information at the relevant time, or circumstances where a member of the SKILLED Executive Team would have had actual knowledge or awareness of that information at the relevant time had they made due enquiries of people who might reasonably be expected to have knowledge or awareness of that information, but only to the extent that member of the SKILLED Executive Team was employed by SKILLED at the relevant time.
- (l) a reference to **\$** or **dollar** is to Australian currency;
- (m) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this agreement;
- (n) a reference to a date or time is to that date or time in Melbourne, Australia; and

- (o) this agreement must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

2. Obligations in relation to Scheme

2.1 SKILLED to propose Scheme

- (a) SKILLED agrees to propose the Scheme on and subject to the terms and conditions of this agreement.
- (b) Programmed agrees to assist SKILLED to propose the Scheme on and subject to the terms and conditions of this agreement.

2.2 SKILLED and Programmed to Implement Scheme

SKILLED and Programmed agree to implement the Scheme on and subject to the terms and conditions of this agreement.

2.3 Programmed may elect a Subsidiary

- (a) SKILLED agrees that Programmed may elect, under this clause 2.3, a wholly-owned Subsidiary of Programmed to acquire all of the SKILLED Shares under the Scheme by giving written notice to SKILLED of that relevant Subsidiary of Programmed on or before the First Court Date.
- (b) Programmed warrants that if it elects a wholly-owned Subsidiary to acquire all of the SKILLED Shares pursuant to clause 2.3(a), Programmed and the wholly-owned subsidiary will both enter into the Deed Poll and Programmed will continue to be bound by this agreement and the Confidentiality Agreement.
- (c) For the avoidance of doubt, Programmed warrants that if it elects a wholly-owned Subsidiary to acquire all of the SKILLED Shares pursuant to clause 2.3(a), it will ensure the wholly-owned subsidiary completes the acquisition in accordance with the terms of this agreement and the Deed Poll.

3. Conditions precedent

3.1 Conditions

Subject to this clause 3, the Scheme will not become Effective and the obligations of the parties to implement the Scheme under clause 4, are not binding, until each of the conditions listed in the first column of the following table are either satisfied or waived in accordance with clause 3.5:

Condition	Right to benefit & waive	Responsibility to satisfy
(a) (No SKILLED Material Adverse Change) no SKILLED Material Adverse Change occurs or becomes known to Programmed between the date of this agreement and 8:00 am on the Second Court Date;	Programmed	SKILLED

Condition	Right to benefit & waive	Responsibility to satisfy
(b) (No Programmed Material Adverse Change) no Programmed Material Adverse Change occurs or becomes known to SKILLED between the date of this agreement and 8:00 am on the Second Court Date;	SKILLED	Programmed
(c) (No restraint) no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction, no preliminary or final decision, determination, notice of objection, or order issued by any Regulatory Authority or any other legal restraint preventing any of the transactions contemplated by this agreement is in effect as at 8.00 am on the Second Court Date;	Programmed and SKILLED	Programmed and SKILLED
(d) (Regulatory approvals) on or before 8.00 am on the Second Court Date, all regulatory approvals required to implement the Scheme are granted or obtained and those regulatory approvals are not withdrawn, cancelled or revoked. To avoid doubt, this includes, but is not limited to, ASIC and ASX having issued or provided such consents or approvals or having done such other acts which Programmed and SKILLED agree are reasonably necessary to implement the Scheme. If such consents, approvals or other acts are subject to conditions, those conditions must be acceptable to Programmed and SKILLED (acting reasonably);	Programmed and SKILLED	In respect of each regulatory approval, the party who has the legal obligation to obtain that regulatory approval
(e) (SKILLED Prescribed Occurrence) no SKILLED Prescribed Occurrence has occurred or becomes known to Programmed between the date of this agreement and 8.00 am on the Second Court Date;	Programmed	SKILLED
(f) (Programmed Prescribed Occurrence) no Programmed Prescribed Occurrence has occurred or becomes known to SKILLED between the date of this agreement and 8.00 am on the	SKILLED	Programmed

Condition	Right to benefit & waive	Responsibility to satisfy
Second Court Date;		
(g) (SKILLED Shareholder approval) SKILLED Shareholders approve the Scheme by the majorities required under section 411(4)(a)(ii) of the Corporations Act;	None	SKILLED
(h) (Court approval) the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;	None	SKILLED
(i) (SKILLED Warranties) before 8.00 am on the Second Court Date, the SKILLED Warranties are true and correct as at the time they are given;	Programmed	SKILLED
(j) (Programmed Warranties) before 8.00 am on the Second Court date, the Programmed Warranties are true and correct as at the time they are given; and	SKILLED	Programmed
(k) (Quotation of New Programmed Shares) the New Programmed Shares to be issued to Scheme Shareholders pursuant to the Scheme have been approved for official quotation by ASX (any such approval may be subject to customary conditions and to the Scheme becoming Effective) before 8.00 am on the Second Court Date.	SKILLED	Programmed

3.2 General obligations in relation to Conditions

Without prejudice to any other obligations of the parties under this agreement, in respect of any given Condition:

- (a) if one party is specified in the third column of the table in clause 3.1 opposite that Condition (or specified in respect of a particular regulatory approval in the case of the Condition in clause 3.1(d)), that party must use its best endeavours to procure that that Condition is satisfied (only to the extent of the particular regulatory approval in the case of the Condition in clause 3.1(d)) as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require);
- (b) if both parties are specified in the third column of a table in clause 3.1 opposite that Condition, both parties must, to the extent that it is within their respective control or influence, use their best endeavours to procure that that Condition is satisfied as soon as practicable after the date of this agreement and continues to be satisfied at all times up until the last time it is to be satisfied (as the case may require); and

- (c) each party must, to the extent that it is within its respective control or influence, use its best endeavours to procure that there is no occurrence that would prevent the Condition being satisfied and no party shall take any action that will or is likely to hinder or prevent the satisfaction of the Condition except to the extent that such action is required to be done or procured pursuant to the Transaction Documents or is required by law.

3.3 Obligations in relation to regulatory approvals

Without limiting clause 3.2, to the extent that clause 3.2 requires a party to use best endeavours to procure that a regulatory approval is obtained, that party must:

- (a) as soon as practicable prepare and, subject to clause 3.3(b), lodge, each notice or application required to be given by that party for the purposes of procuring that the regulatory approval is obtained and take all procedural steps it is responsible for as part of such approval process, including responding to requests for information at the earliest practicable time and use best endeavours to obtain such approvals as soon as practicable after the date of this agreement;
- (b) consult with the other party, in advance, in relation to all communications with any Regulatory Authority relating to any such regulatory approval (other than those of a purely mechanical or housekeeping type);
- (c) keep the other party informed of progress in relation to each such regulatory approval and of any material matters raised by, or conditions or other arrangements proposed by, or to, any Regulatory Authority which relate to any such regulatory approval; and
- (d) provide copies of all documents provided to and received from each relevant Regulatory Authority in relation to each such regulatory approval (including before the date of this agreement), on a confidential basis, to the other party,

provided that:

- (e) in relation to subparagraph (d), the party applying for the approval may withhold or redact information or documents if and to the extent that they are confidential to a third party;
- (f) nothing in this clause 3.3 or any other provision of this agreement requires a party to disclose materially commercially sensitive information to the other party; and
- (g) the party applying for the approval will not be prevented from taking procedural steps or communicating with or providing documents to a Regulatory Authority if the other party has not responded promptly under clause 3.3(b).

The other party must provide the applicant for a regulatory approval with all assistance and information reasonably requested by the applicant in connection with the application for and obtaining the approval.

3.4 Notice in relation to satisfaction of Conditions

Each party must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) in relation to any Condition, promptly notify the other party in writing upon becoming aware of:

- (i) the satisfaction of that Condition, in which case the notifying party must also provide reasonable evidence that the Condition has been satisfied; or
 - (ii) any fact or circumstance that it becomes aware of which results in, or may result in, that Condition becoming incapable of satisfaction or may result in that Condition not being satisfied in accordance with its terms; and
- (c) in relation to any Condition, promptly notify the other party in writing of a breach or non-fulfilment of a Condition or any occurrence or event that will prevent a Condition from being satisfied and where a party is entitled to waive that Condition upon receipt or delivery of such a notice (as applicable) that party must notify the other party in accordance with clause 3.5 as soon as possible, (in any event before 5.00 pm on the Business Day before the Second Court Date) as to whether the party waives the breach or non-fulfilment of the Condition resulting from the occurrence or event.

If there occurs a breach or non-fulfilment of a Condition or any occurrence or event that will prevent a Condition from being satisfied, the parties will consult in good faith for 5 Business Days to determine whether an alternative solution can be agreed.

3.5 Waiver of Conditions

- (a) A Condition is only for the benefit of:
 - (i) if one party is specified in the second column of the table in clause 3.1 opposite that Condition, that party; or
 - (ii) if both parties are specified in the second column of the table in clause 3.1 opposite that Condition, both parties.
- (b) A Condition may be waived and may only be waived:
 - (i) if one party is specified in the second column of the table in clause 3.1 opposite that Condition, by that party by written notice to the other party; or
 - (ii) if both parties are specified in the second column of the table in clause 3.1 opposite that Condition, by written agreement between the parties.
- (c) A party entitled to waive or to agree to waive a Condition under this clause 3.5 may do so in its absolute discretion subject to the provision of written notice to the other party.
- (d) A party that waives or agrees to waive a Condition is not prevented from bringing a claim against any other party in respect of any breach of this agreement that caused that Condition not to be satisfied.
- (e) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

3.6 Consultation on failure of Conditions Precedent

If:

- (a) there is a breach or non-fulfilment of a Condition Precedent which is not waived in accordance with this agreement by the time or date specified in this agreement for the satisfaction of the Condition Precedent;
- (b) there is an act, failure to act or occurrence which will, or which either party becomes aware will prevent a Condition Precedent being satisfied by the time or date specified in this agreement for the satisfaction of the Condition Precedent (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this agreement); or
- (c) the Scheme has not become Effective by the End Date,

then the parties must consult, acting reasonably, with a view to determining whether:

- (d) the Scheme may proceed by way of alternative means or methods;
- (e) to extend the relevant time for satisfaction of the Condition Precedent or to adjourn or change the date of an application to the Court; or
- (f) to extend the End Date.

3.7 Failure to agree

If the parties are unable to reach agreement under clause 3.6 within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date):

- (a) subject to clause 3.7(b), either party may terminate this agreement (and such termination will be in accordance with termination event in clause 14.2(a) or 14.3(a) (as applicable)); or
- (b) if a Condition Precedent may be waived and exists for the benefit of one party only, that party may only waive that Condition Precedent or terminate this agreement (and such termination will be in accordance with termination event in clause 14.2(a) or 14.3(a) (as applicable)),

in each case before 8.00am on the Second Court Date.

- (c) A party will not be entitled to terminate this agreement pursuant to this clause 3.7 if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of:
 - (i) a breach of this agreement by that party; or
 - (ii) a deliberate act or omission of that party for the purpose of frustrating satisfaction of the Condition Precedent.

4. Implementation of Scheme

4.1 Timetable

Each party must use its best endeavours to perform its obligations as set out in this clause 4 substantially in accordance with the Timetable.

4.2 SKILLED's obligations

SKILLED must use its best endeavours to implement the Scheme as soon as is reasonably practicable after the date of this agreement in accordance with the Timetable and, in particular, SKILLED must:

- (a) **(Explanatory Memorandum)** as soon as practicable after the date of this agreement, prepare the Explanatory Memorandum (excluding the Programmed Information and the Independent Expert's Report) in accordance with all applicable laws and in particular the requirements of the Corporations Act, the Listing Rules and the Regulatory Guides;
- (b) **(Review of Programmed Information)** as soon as practicable after receiving a draft of the Programmed Information pursuant to clause 4.3(a), review and provide comments on the form and content of the Programmed Information to Programmed;
- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Explanatory Memorandum;
- (d) **(Provide draft Explanatory Memorandum to Programmed)** in a timely manner provide drafts of the Explanatory Memorandum to Programmed, consult with Programmed in relation to the content of those drafts and (acting reasonably and in good faith) take into account any comments from Programmed and its Representatives on those drafts;
- (e) **(Provide draft Independent Expert's Report)** provide a draft of the Independent Expert's Report to Programmed no later than 2 Business Days prior to provision of the Regulator's Draft to ASIC;
- (f) **(Directors' Recommendation)** state in the Explanatory Memorandum and the Announcement (on the basis of statements made to SKILLED by each SKILLED director) the Recommendation and Voting Intention of each of the SKILLED directors in accordance with clause 7.1;
- (g) **(Directors' votes)** use its reasonable endeavours to procure that each SKILLED director other than the Interested SKILLED Director:
 - (i) confirms their intention to vote any Scheme Shares in which they have a Relevant Interest in favour of the Scheme and any other resolution submitted to SKILLED Shareholders for their approval in connection with the Scheme, provided that the SKILLED director has not changed or in any way qualified their Recommendation or Voting Intention in accordance with clause 7.1(c);
 - (ii) votes any Scheme Shares in which they have a Relevant Interest in favour of the Scheme and any other resolution submitted to SKILLED Shareholders for their approval in connection with the Scheme, provided that the SKILLED director has not changed or in any way qualified their Recommendation or Voting Intention in accordance with clause 7.1(c); and
 - (iii) does not change that Voting Intention, unless:
 - A. a Superior Proposal is made; or
 - B. the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent

update of its report) that the Scheme is not in the best interests of the SKILLED Shareholders.

- (h) **(Approval of draft Explanatory Memorandum)** procure that a meeting of the SKILLED Board is convened to approve the draft Explanatory Memorandum to be provided to ASIC for its review;
- (i) **(ASIC review)** as soon as reasonably practicable provide an advanced draft of the Explanatory Memorandum (**Regulator's Draft**) to ASIC, for its review and approval for the purposes of section 411(2) of the Corporations Act, and to Programmed and:
 - (i) liaise with ASIC as necessary during the Regulatory Review Period; and
 - (ii) promptly notify, and consult with, Programmed in relation to any matters raised by ASIC in connection with the Explanatory Memorandum or the Scheme and any presentation or submission to, or at any proposed meeting with, ASIC, and co-operate and consult with Programmed to resolve any such matters;
- (j) **(Section 411(17)(b) statement)** apply to ASIC for the production of a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (k) **(Court documents)** consult with Programmed in relation to the content of the documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith comments on, and suggested amendments to, those documents from Programmed and its Representatives;
- (l) **(First Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing SKILLED to convene the Scheme Meeting;
- (m) **(Approval of Explanatory Memorandum)** procure that a meeting of the SKILLED Board is convened to approve the Explanatory Memorandum for registration with ASIC and despatch to SKILLED Shareholders;
- (n) **(Due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Explanatory Memorandum (other than the Programmed Information and the Independent Expert's Report);
- (o) **(Register Explanatory Memorandum)** request to ASIC that the explanatory statement included in the Explanatory Memorandum in relation to the Scheme be registered in accordance with section 412(6) of the Corporations Act;
- (p) **(Compliance with Court orders)** take all reasonable steps necessary to comply with the orders of the Court including, as required, dispatching the Explanatory Memorandum to SKILLED Shareholders and convening and holding the Scheme Meeting, provided that, before dispatch, SKILLED must obtain the written consent of Programmed to the inclusion of Programmed Information in the Explanatory Memorandum, in the form and context in which it appears (such consent not to be unreasonably withheld or delayed);
- (q) **(Update Explanatory Memorandum)** if it becomes aware of information after the date of dispatch of the Explanatory Memorandum, which is required to be disclosed to SKILLED Shareholders under any applicable law, as expeditiously as practicable:

- (i) notify Programmed of this fact;
 - (ii) provide Programmed with drafts of any documents that it proposes to issue to SKILLED Shareholders under this clause 4.2(q) and, to the extent reasonably practicable, consult with Programmed as to the content of those drafts and (acting reasonably and in good faith) take into account any comments from Programmed and its Representatives on those drafts; and
 - (iii) inform SKILLED Shareholders of the information in an appropriate and timely manner, and in accordance with applicable law
- (r) **(ASX listing)** use its best endeavours to ensure that SKILLED continues to be admitted to the ASX, and that the SKILLED Shares continue to be quoted for trading (and not permanently suspended) on ASX, until the close of business on the Business Day after the Implementation Date;
- (s) **(Court approval application)** if the resolution submitted to the Scheme Meeting in relation to the Scheme is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act and subject to all other Conditions (other than the Condition in clause 3.1(h)) being satisfied or waived in accordance with this agreement, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (t) **(Certificate)** at the hearing on the Second Court Date, provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(h)) have been satisfied or waived in accordance with this agreement and provide a draft of that certificate to Programmed by 5.00 pm on the Business Day prior to the Second Court Date;
- (u) **(Implementation of Scheme)** if the Scheme is approved by the Court:
- (i) lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act before 5:00pm on the Business Day on which such office copy is received (or such later date as is agreed between the parties in writing);
 - (ii) close the SKILLED Share Register as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme;
 - (iii) provide to Programmed all information about the Scheme Shareholders that Programmed reasonably requires in order for Programmed to provide, or procure the provision of, the Scheme Consideration in accordance with the Scheme; and
 - (iv) subject to Programmed satisfying its obligations under clause 4.4(b), on the Implementation Date (or as soon as practicable thereafter) register all transfers of Scheme Shares to Programmed in accordance with the Scheme;
- (v) **(Other things)** promptly do all other things contemplated by or necessary to give effect to the Scheme and, if the Scheme is approved by the Court, the orders of the Court approving the Scheme; and
- (w) **(promote merits of Transaction)** participate in efforts reasonably requested by Programmed to promote the merits of the Transaction and the Scheme Consideration, including:

- (i) meeting with key Programmed Shareholders or SKILLED Shareholders at the reasonable request of Programmed; and
- (ii) providing Programmed with such information and assistance as Programmed reasonably requests to enable it to be able to promote the merits of the Transaction.

4.3 Programmed's obligations

Programmed must use its best endeavours to assist SKILLED to implement the Scheme as soon as is reasonably practicable after the date of this agreement in accordance with the Timetable and, in particular, Programmed must:

- (a) **(draft of Programmed Information)** provide to SKILLED a draft of Programmed Information as soon as reasonably practicable after the date of this agreement and consult with SKILLED in relation to the content of drafts of Programmed Information and (acting reasonably and in good faith) take into account any comments from SKILLED and its Representatives on those drafts;
- (b) **(final form of Programmed Information)** provide to SKILLED the Programmed Information in a form appropriate for inclusion in the Explanatory Memorandum;
- (c) **(review Explanatory Memorandum)** review the drafts of the Explanatory Memorandum provided by SKILLED and provide comments on those drafts promptly and in good faith;
- (d) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare its report for inclusion in the Explanatory Memorandum;
- (e) **(Due diligence and verification)** undertake appropriate due diligence and verification processes in relation to Programmed Information and provide to SKILLED all evidence of such processes as may be reasonably requested;
- (f) **(Approval of Programmed Information)** as soon as reasonably practicable after receipt from SKILLED of the draft of the Explanatory Memorandum that SKILLED proposes to dispatch to SKILLED Shareholders, confirm in writing to SKILLED that the Programmed Information (other than to the extent it consists of information relating to SKILLED that was provided by or on behalf of SKILLED) in the form and context in which it appears in the draft of the Explanatory Memorandum is not misleading or deceptive in any material respect and does not contain any material omission and is in a form appropriate for dispatch to the SKILLED Shareholders (subject to the approval of the Court);
- (g) **(Keep SKILLED informed)** promptly inform SKILLED if it becomes aware from the First Court Date until the Implementation Date that the Programmed Information in the form and context in which it appears in the Explanatory Memorandum is or has become misleading or deceptive in any material respect or contains any material omission, and provide such further or new information as is required to ensure that such information is no longer misleading or deceptive in any material respect or contains any material omission;
- (h) **(Deed Poll)** on the Business Day prior to the First Court Date, enter into the Deed Poll and deliver the executed Deed Poll to SKILLED;
- (i) **(Representation)** procure that, if requested by SKILLED, it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which, through its counsel and, if requested by the Court, Programmed will undertake to do all such things and take all such steps within its

power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme;

- (j) **(Certificate)** at the hearing on the Second Court Date, provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(h)) have been satisfied or waived in accordance with this agreement and provide a draft of that certificate to SKILLED by 5:00 pm on the Business Day prior to the Second Court Date;
- (k) **(Official quotation)** apply to ASX for official quotation by ASX of the New Programmed Shares to be issued to Scheme Shareholders pursuant to the Scheme and use its best endeavours to obtain the approval of ASX for official quotation (subject to customary conditions and to the Scheme becoming Effective) no later than 8.00am on the Second Court Date;
- (l) **(Scheme Consideration)** if the Scheme becomes Effective, provide, or procure the provision of, the Scheme Consideration on the Implementation Date in accordance with clause 4.4 and the terms of the Scheme and Deed Poll;
- (m) **(Despatch of Holding Statements)** despatch holding statements to Scheme Shareholders for the New Programmed Shares issued to those Scheme Shareholders pursuant to the Scheme on the Implementation Date;
- (n) **(promote merits of Transaction)** participate in efforts reasonably requested by SKILLED to promote the merits of the Transaction and the Scheme Consideration, including:
 - (i) meeting with key Programmed Shareholders or SKILLED Shareholders at the reasonable request of SKILLED; and
 - (ii) providing SKILLED with such information and assistance as SKILLED reasonably requests to enable it to be able to promote the merits of the Transaction; and
- (o) **(Other things necessary)** promptly do all other things reasonably within its power to lawfully give effect to the Scheme.

4.4 Obligations in respect of the Scheme Consideration

- (a) Subject to the Scheme becoming Effective, Programmed covenants and agrees in favour of SKILLED (in SKILLED's own right and separately as trustee for each of the Scheme Shareholders) that in consideration of the transfer to Programmed of each Scheme Share held by a Scheme Shareholder under the terms of the Scheme, Programmed will:
 - (i) accept that transfer; and
 - (ii) provide, or procure the provision of, the Scheme Consideration to that Scheme Shareholder for each of their Scheme Shares in accordance with the terms of the Scheme.
- (b) Subject to the Scheme becoming Effective, before the Scheme Shares are transferred to Programmed under the Scheme, Programmed must, by no later than the Business Day before the Implementation Date deposit an amount equal to the Total Cash Consideration in cleared funds into the Trust Account.

4.5 Dispute as to Explanatory Memorandum

If, after a reasonable period of consultation, the parties, each acting reasonably and in good faith, are unable to agree on the form or content of the Explanatory Memorandum, then:

- (a) if the disagreement relates to the form or content of Programmed Information (or any information solely derived from, or prepared solely in reliance on, Programmed Information), SKILLED will, acting in good faith, make such amendments to that information in the Explanatory Memorandum as Programmed may reasonably require; and
- (b) if the disagreement relates to the form or content of the SKILLED Information (or any information solely derived from, or prepared solely in reliance on, information provided by or on behalf of SKILLED, or extracted from announcements made by SKILLED to ASX regarding the SKILLED Group), SKILLED will, acting in good faith, decide the final form of that information in the Explanatory Memorandum.

4.6 Payment of dividends

- (a) Notwithstanding any other provision of this agreement, SKILLED may in its discretion declare and pay:

- (i) the SKILLED FY15 Final Dividend; and
- (ii) the SKILLED Special Dividend;

to the SKILLED Shareholders, and the record date for the SKILLED FY15 Final Dividend and the SKILLED Special Dividend must occur on or before the Record Date.

- (b) The sum of the SKILLED FY15 Final Dividend and the SKILLED Special Dividend to be paid by SKILLED shall not exceed the SKILLED Dividend Cap.

4.7 Responsibility statement

The Explanatory Memorandum will contain a responsibility statement to the effect that:

- (a) Programmed is responsible for the Programmed Information contained in the Explanatory Memorandum;
- (b) SKILLED is responsible for the SKILLED Information contained in the Explanatory Memorandum; and
- (c) the Independent Expert is responsible for the Independent Expert's Report.

4.8 Reconstitution of SKILLED Board

On the Implementation Date, but subject to Programmed having provided the Scheme Consideration in accordance with clause 4.4, SKILLED must:

- (a) cause the appointment to the SKILLED Board and to the boards of each Subsidiary of SKILLED of such number of persons as nominated by Programmed, subject to those persons being appointed having provided a consent to act as directors of the relevant companies; and
- (b) procure that the SKILLED directors and directors of each subsidiary of SKILLED which Programmed nominates resign from the SKILLED Board and the board of each subsidiary of SKILLED.

4.9 Removal of SKILLED from official list of ASX

If directed by Programmed in writing, SKILLED must take all steps necessary for SKILLED to be removed from the official list of ASX on the day immediately following the Implementation Date, including by lodging a request for removal with ASX prior to the Implementation Date,

and SKILLED and/or Programmed must satisfy any conditions reasonably required by ASX for it to act on that request.

4.10 Court representation

Without limiting clause 4.3(i) above:

- (a) Programmed is entitled to separate representation at all Court proceedings relating to the Scheme at its own cost; and
- (b) SKILLED must support any application by Programmed for leave of the Court to be represented, or the separate representation of Programmed, at any hearing held by the Court in relation to the Scheme whether following a request by SKILLED or otherwise.

5. Scheme Consideration

5.1 Consideration

- (a) Subject to the Scheme becoming Effective and clause 5.4, Programmed agrees in favour of SKILLED that, in consideration of the transfer to Programmed of each Scheme Share under the Scheme, Programmed will provide to each Scheme Shareholder the Scheme Consideration for each Scheme Share held by them.
- (b) Subject to clauses 5.3 and 5.4, Programmed will:
 - (i) pay, or procure the payment to each Scheme Shareholder of the Cash Consideration to which they are entitled, as determined in accordance with clauses 5.2 and 5.3, in respect of each Scheme Share held by that Scheme Shareholder at the Record Date; and
 - (ii) issue to each Scheme Shareholder the Share Consideration (as applicable) to which they are entitled, as determined in accordance with clauses 5.2 and 5.3, in respect of each Scheme Share held by that Scheme Shareholder at the Record Date.

5.2 Entitlement

For each Scheme Share held by that Scheme Shareholder at the Record Date, the Scheme Shareholder will be entitled to receive:

- (a) a cash amount of \$0.25 less
 - (i) the amount of any SKILLED FY15 Final Dividend per SKILLED Share; and
 - (ii) the amount of any SKILLED Special Dividend per SKILLED Share,
 (Cash Consideration); and
- (b) 0.55 New Programmed Shares (Share Consideration).

5.3 Fractional entitlements and share splitting or division

- (a) If the number of Scheme Shares held by a Scheme Shareholder at the Record Date is such that the aggregate entitlement of the Scheme Shareholder to Scheme Consideration:

- (i) comprising Programmed Shares is such that a fractional entitlement to an Programmed Share arises; or
- (ii) comprising cash is such that a fractional entitlement to a cent arises,

then the entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number of Programmed Shares (or cents, as applicable), and any such fractional entitlement of 0.5 or more will be rounded up to the nearest whole number of Programmed Shares (or cents, as applicable).

- (b) If Programmed is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.3(a)) have, before the Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Programmed may give notice to those Scheme Shareholders:
 - (i) setting out their names and registered addresses as shown in the SKILLED Share Register;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

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

5.4 Ineligible Overseas Shareholders

- (a) Programmed will ensure that Programmed Shares to which an Ineligible Overseas Shareholder would otherwise have been entitled (if they were an Eligible Scheme Shareholder) will be issued to a nominee appointed by Programmed.
- (b) Programmed will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the nominee:
 - (i) sells on the financial market conducted by ASX all of the Programmed Shares issued to the nominee pursuant to clause 5.4(a) in such manner, at such price and on such other terms as the nominee determines in good faith; and
 - (ii) remits to Programmed the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- (c) Promptly after the last sale of Programmed Shares in accordance with clause 5.4(b), Programmed will pay to each Ineligible Overseas Shareholder the proportion of the net proceeds of sale received by Programmed pursuant to clause 5.4(b)(ii) to which that Ineligible Overseas Shareholder is entitled.

- (d) Neither Programmed nor SKILLED gives any assurance as to the price that will be achieved for the sale of New Programmed Shares described in clause 5.4(b). The sale of the New Programmed Shares under this clause 5.4 will be at the risk of the Ineligible Overseas Shareholder.
- (e) Programmed must appoint the nominee at least two weeks prior to the Scheme Meeting.

5.5 New Programmed Shares

Programmed covenants in favour of SKILLED (in its own right and on behalf of each Scheme Shareholder) that:

- (a) the New Programmed Shares issued as Share Consideration will, on their issue, rank equally in all respects with all other Programmed Shares on issue at the Effective Date, and the New Programmed Shares issued as Share Consideration will be entitled to participate in and receive the Programmed FY16 Interim Dividend (and, provided that the Effective Date is on or before the date 6 months after the date of this agreement, Programmed must ensure that the record date for the Programmed FY16 Interim Dividend is a date which is after the date on which the holders of New Programmed Shares are registered as holders of such), and any other dividends, any distribution of capital and any other entitlements accruing in respect of Programmed Shares after the Effective Date;
- (b) it will use best endeavours to ensure that the New Programmed Shares issued as Share Consideration will be listed for quotation on the official list of the ASX with effect from the Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+3) settlement basis; and
- (c) on issue, each New Programmed Share will be fully paid and, to the extent within the control of Programmed, free from any Encumbrance.

6. Conduct of business and access

6.1 Conduct of SKILLED's business

From the date of this agreement up to and including the Implementation Date, SKILLED must:

- (a) procure that each member of the SKILLED Group:
 - (i) conducts its businesses and operations in the ordinary and usual course and substantially consistent (subject to any applicable laws, regulations and licence conditions) with the manner in which each such business and operation is conducted prior to the date of this agreement including using reasonable endeavours to preserve its current business organisation, the services of its current officers and its current relationship with third parties (including governmental agencies, rating agencies, customers, suppliers, licensors, licensees and others having business dealings with it);
 - (ii) conducts its businesses and operations substantially in accordance with all applicable laws and regulations;
 - (iii) where reasonably requested, consult with Programmed and provide updates as to the progress of its business and operations; and

- (iv) promptly notify Programmed if anything material occurs in respect of the conduct of its business and operations that is not in the ordinary and usual course;
- (b) ensure that no SKILLED Prescribed Occurrence occurs; and
- (c) not, and procure that each member of the Skilled Group does not;
 - (i) incur any additional 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 SKILLED Group, other than in the usual and ordinary course of business and consistent with past practice;
 - (ii) (except as required by law, publicly disclosed (prior to the date of this agreement) or as provided in an existing contract in place as at the date of this agreement or the vesting of performance rights in accordance with clause 8 of this agreement or as included in SKILLED's budget for the financial year ending 30 June 2016) make any material change to the terms of employment of any director, executive or senior manager;
 - (iii) in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, real property, entity or undertaking, the value of which exceeds \$2.5 million, individually or when aggregated with all such businesses, real property, entities or undertakings the subject of the transaction or series of related or similar transactions;
 - (iv) incur or enter into commitments involving capital expenditure of more than \$2 million whether in one transaction or a series of related transactions;
 - (v) enter into, vary or terminate any supplier contract or commitment for a duration of over two years involving total expenditure greater than \$1 million per annum, individually or when aggregated with all such supplier contracts or commitments;
 - (vi) enter into any new financing arrangement, agreement or otherwise provide financial accommodation in excess of \$5 million other than with members of the SKILLED Group or with respect to any receivables owing by a customer of the SKILLED Group (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument;
 - (vii) 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 agreement;
 - (viii) alter in any material respect any accounting policy of any member of the SKILLED Group other than any change required by the accounting standards; or
 - (ix) amend in a material respect or terminate any existing shareholders agreement, joint venture agreement or other similar investor agreements

or arrangements, or enter into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement.

except to the extent that any action undertaken by SKILLED:

- (d) in relation to any matter is required to be done or procured by SKILLED or another member of the SKILLED Group pursuant to, or which is otherwise expressly permitted by, the Transaction Documents;
- (e) for which Programmed has provided its prior written consent (such consent not to be unreasonably withheld or delayed);
- (f) which arises as a result of court or Regulatory Authority order, injunction or undertaking or otherwise required in order to comply with applicable law; or
- (g) which is in accordance with contractual obligations that existed at the date of this agreement, provided such obligations have been fairly disclosed in the SKILLED Due Diligence Material.

6.2 Conduct of Programmed's business

From the date of this agreement up to and including the Implementation Date, Programmed must:

- (a) procure that each member of the Programmed Group:
 - (i) conducts its businesses and operations in the ordinary and usual course and substantially consistent (subject to any applicable laws, regulations and licence conditions) with the manner in which each such business and operation is conducted prior to the date of this agreement including using reasonable endeavours to preserve its current business organisation, the services of its current officers and its current relationship with third parties (including governmental agencies, rating agencies, customers, suppliers, licensors, licensees and others having business dealings with it);
 - (ii) conducts its businesses and operations substantially in accordance with all applicable laws and regulations;
 - (iii) where reasonably requested, consult with SKILLED and provide updates as to the progress of its business and operations; and
 - (iv) promptly notify SKILLED if anything material occurs in respect of the conduct of its business and operations that is not in the ordinary and usual course;
- (b) ensure that no Programmed Prescribed Occurrence occurs.
- (c) not, and procure that each member of the Programmed Group does not:
 - (i) incur any additional 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;
 - (ii) (except as required by law, publicly disclosed (prior to the date of this agreement) or as provided in an existing contract in place as at the date of this agreement or as included in Programmed's budget for the

financial year ending 31 March 2016) make any material change to the terms of employment of any director, executive or senior manager;

- (iii) in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, real property, entity or undertaking, the value of which exceeds \$2.5 million, individually or when aggregated with all such businesses, real property, entities or undertakings the subject of the transaction or series of related or similar transactions;
- (iv) incur or enter into commitments involving capital expenditure of more than \$2 million whether in one transaction or a series of related transactions;
- (v) enter into, vary or terminate any supplier contract or commitment for a duration of over two years involving total expenditure greater than \$1 million per annum, individually or when aggregated with all such supplier contracts or commitments;
- (vi) enter into any new financing arrangement, agreement or otherwise provide financial accommodation in excess of \$5 million other than with members of the Programmed Group (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument;
- (vii) 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 agreement;
- (viii) alter in any material respect any accounting policy of any member of the Programmed Group other than any change required by the accounting standards; or
- (ix) amend in a material respect or terminate any existing shareholders agreement, joint venture agreement or other similar investor agreements or arrangements, or enter into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement.

except to the extent that any action undertaken by Programmed:

- (d) in relation to any matter is required to be done or procured by Programmed or another member of the Programmed Group pursuant to, or which is otherwise expressly permitted by, the Transaction Documents,
- (e) for which SKILLED has provided its prior written consent (such consent not to be unreasonably withheld or delayed);
- (f) which arises as a result of court or Regulatory Authority order, injunction or undertaking or otherwise required in order to comply with applicable law;
- (g) which is in accordance with contractual obligations that existed at the date of this agreement, provided such obligations have been fairly disclosed in the Programmed Due Diligence Material;

- (h) relates to the WA Schools public/private partnership; or
- (i) relates to any financing arrangements in connection with the Transaction.

6.3 Integration Steering Committee

- (a) As soon as practicable after Programmed and SKILLED enter into this document, Programmed and SKILLED will establish a committee to discuss and plan for the intended integration of the Programmed business and the SKILLED business (the **Integration Steering Committee**).
- (b) The Integration Steering Committee will comprise 2 representatives of Programmed and 2 representatives of SKILLED and such other persons, as members or invitees, as the parties may agree from time to time.
- (c) The functions of the Integration Steering Committee are to discuss and make plans relating to the integration of the businesses after the Effective Date, and to consider and discuss such other matters as the parties consider appropriate in respect of the Transaction.
- (d) The Integration Steering Committee will meet at least fortnightly or more frequently as the parties determine. It is intended that meetings will occur by telephone conference unless otherwise agreed.
- (e) Each party agrees to promptly provide all such information to the Integration Steering Committee and to its representatives on such committee to enable proper consideration and planning to take place.

6.4 Limitation on obligations

Nothing in this clause 6 will require either party to provide any information or undertake any actions:

- (a) which will result in unreasonable disruptions to the business of Programmed Group or SKILLED Group;
- (b) in breach of an obligation of confidentiality to any person; or
- (c) which will result in or is likely to lead to a contravention of the *Competition and Consumer Act 2010* (Cth).

7. Recommendation, intentions and announcements

7.1 SKILLED Board Recommendation and Voting Intention

- (a) SKILLED must ensure that the SKILLED Announcement and the Explanatory Memorandum state that each SKILLED director other than the Interested SKILLED Director:
 - (i) recommends that SKILLED Shareholders vote in favour of the resolution to approve the Scheme (**Recommendation**); and
 - (ii) intends to cause any SKILLED Shares in which they have a Relevant Interest to be voted in favour of the resolution to approve the Scheme (**Voting Intention**),

which statements must not be qualified in any way other than by words to the effect of "in the absence of a Superior Proposal" and (in the case of the Announcement) "subject to the Independent Expert concluding that the Scheme is in the best

interests of SKILLED Shareholders" and (in the case of the Explanatory Memorandum) "subject to the Independent Expert continuing to conclude that the Scheme is in the best interest of SKILLED Shareholders".

- (b) SKILLED must ensure that the Interested SKILLED Director absents himself from discussions and abstains from making a recommendation to the SKILLED Shareholders due to his significant shareholding in Programmed.
- (c) Programmed acknowledges that, subject to clause 9.4 and the other terms of this agreement, each SKILLED director may publicly (or otherwise) withdraw, change or in any way qualify their Recommendation or Voting Intention if:
 - (i) a Superior Proposal is made; or
 - (ii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interests of the SKILLED Shareholders.

7.2 Confirmation

SKILLED represents and warrants to Programmed that each SKILLED director other than the Interested SKILLED Director has confirmed their agreement not to do anything inconsistent with their Recommendation and Voting Intention (including withdrawing, changing or in any way qualifying their Recommendation or Voting Intention) other than in the circumstances referred to in clauses 7.1(c)(i) and 7.1(c)(ii).

7.3 Announcement

Immediately after the execution of this agreement

- (a) SKILLED must issue the SKILLED Announcement to the ASX; and
- (b) Programmed must issue the Programmed Announcement to the ASX.

8. Performance Rights and Options

As at 8.00 am on the Second Court Date:

- (a) SKILLED must put in place arrangements so that:
 - (i) all SKILLED Performance Rights and SKILLED Options outstanding as at the date of this agreement will either vest (and have resulted in the issue of SKILLED Shares) or have lapsed or otherwise be cancelled or terminated (without any cost, obligation or liability) before the Record Date; and
 - (ii) the number of SKILLED Performance Rights and SKILLED Options that will vest by no later than the Record Date will not exceed 1.2 million such that not more than 1.2 million SKILLED Shares will be issued in respect of them; and
- (b) SKILLED must put in place arrangements so that the SKILLED CEO Performance Rights will vest (and will result in an issue of SKILLED Shares) on or before the Record Date.

9. Exclusivity arrangements

9.1 No shop

During the Exclusivity Period, SKILLED must not, and must ensure that its Representatives do not, except with the prior written consent of Programmed, directly or indirectly solicit, invite, initiate or encourage any Competing Proposal or any inquiry, expression of interest, offer, proposal, negotiations or discussions by or with any Third Party in relation to, or that may reasonably be expected to encourage or lead to the making of, an actual or potential Competing Proposal, or communicate any intention to any person to do any of those things.

9.2 No talk and no due diligence

Subject to clause 9.3, during the Exclusivity Period, SKILLED must not, and must ensure that its Representatives do not, except with the prior written consent of Programmed, directly or indirectly:

- (a) enter into, continue or participate in any negotiations or discussions with, or accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding with, any Third Party in relation to, or that may reasonably be expected to lead to a Competing Proposal; or
- (b) make available to any Third Party, or permit any Third Party to receive, any non-public information relating to any member of the SKILLED Group in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
- (c) communicate to any person an intention to do anything referred to in this clause 9.2.

9.3 Limitation to no talk and no due diligence

SKILLED, its Related Bodies Corporate and their Representatives may undertake any action that would otherwise be prohibited by clause 9.2 in relation to a potential or proposed bona fide Competing Proposal which was not solicited by it and was not otherwise brought about as a result of any breach by it of its obligations under this clause 9, where:

- (a) the SKILLED Board, acting in good faith, determines that:
 - (i) the Competing Proposal is, or may reasonably be expected to lead to, a Superior Proposal; and
 - (ii) not undertaking that act would be likely to involve a breach of the fiduciary or statutory duties owed by any SKILLED director, after having considered written advice from the SKILLED Board's external legal advisers; or
- (b) it would otherwise be unlawful.

9.4 Notification of approaches

- (a) During the Exclusivity Period, SKILLED must promptly, and in any event within 3 Business Days, notify Programmed in writing if it, or any of its Related Bodies Corporate or any of their Representatives becomes aware of any:
 - (i) proposal whether written or otherwise made to SKILLED or any of its Related Bodies Corporate or their Representatives, in connection with, or in respect of any exploration or consummation of, a Competing Proposal or a proposed or potential Competing Proposal, whether

unsolicited or otherwise, including details of the party making the proposal, the terms of the proposal and any material updates to the proposal; or

- (ii) provision by SKILLED or any of its Related Bodies Corporate or their Representatives of any information relating to SKILLED or any of its Related Bodies Corporate or any of their businesses or operations to any person in connection with or for the purposes of a current or future Competing Proposal.
- (b) The obligations in this clause 9.4 do not apply to the extent that it requires SKILLED to provide information if the SKILLED Board has determined in good faith, and after having considered written advice from the SKILLED Board's external legal advisers, that the consequences of providing the relevant information would be likely to constitute a breach of the fiduciary or statutory duties owed by any SKILLED director. Notwithstanding the foregoing, this paragraph (b) does not apply where the Competing Proposal was brought about as a result of any breach of this clause 9.

9.5 Matching right

- (a) SKILLED must use its best endeavours to procure that none of its directors publicly recommend a Competing Proposal, unless:
 - (i) the Competing Proposal is a Superior Proposal;
 - (ii) SKILLED has provided Programmed with written notification of the material terms and conditions of the Competing Proposal (including details of the party making the proposal); and
 - (iii) SKILLED has given Programmed at least 3 Business Days after the provision of the information referred to in paragraph (ii) above to provide a written offer of a matching or superior proposal to the terms of the relevant Competing Proposal on terms which Programmed considers in good faith to be no less favourable to the relevant Competing Proposal (**Programmed Counter Proposal**).
- (b) SKILLED must use its best endeavours to procure that its directors, within 3 Business Days of receiving the Programmed Counter Proposal, consider any Programmed Counter Proposal in good faith and, if the SKILLED directors determine that the terms and conditions of the Programmed Counter Proposal taken as a whole are no less favourable than those of the relevant Competing Proposal, SKILLED and Programmed must each use their reasonable endeavours to agree and enter into such documentation as is necessary to give effect to and implement the Programmed Counter Proposal as soon as reasonably practicable, and SKILLED must use its best endeavours to procure that each of its directors makes a public statement recommending the Programmed Counter Proposal to SKILLED Shareholders.

9.6 Normal provision of information

Nothing in this clause 9.6 prevents SKILLED from:

- (a) providing information to its Representatives;
- (b) providing information to any Regulatory Authority;
- (c) providing information to its auditors, advisers, customers, joint venturers and suppliers acting in that capacity in the ordinary course of business;

- (d) providing information to its advisers acting in that capacity in connection with the Transaction or a Competing Proposal;
- (e) providing information required to be provided by law or any Regulatory Authority; or
- (f) making presentations to brokers, portfolio investors, analysts and other Third Parties in the ordinary course of business.

10. Reimbursement of Costs

10.1 Rationale

Each party acknowledges and agrees for the purposes of this clause 10 as follows:

- (a) each party has required the inclusion of this clause 10 in the absence of which it would not have entered into this agreement or otherwise agreed to implement the Scheme, subject to the terms and conditions in this agreement;
- (b) SKILLED and the SKILLED Board believe (in respect of the SKILLED Payment) and Programmed and the Programmed Board believe (in respect of the Programmed Payment) that the Scheme will provide significant benefits to it and its shareholders, and that it is reasonable and appropriate that SKILLED (in respect of the SKILLED Payment) and Programmed (in respect of the Programmed Payment) agrees to the inclusion of this clause 10 in order to secure the other party's execution of this agreement and its agreement to implement the Scheme, subject to the terms and conditions in this agreement; and
- (c) the amount payable by SKILLED (in respect of the SKILLED Payment) pursuant to clause 10.2 and Programmed (in respect of the Programmed Payment) pursuant to clause 10.3 is to be purely and strictly compensatory in nature and represents a reasonable estimate of the compensation so as to compensate Programmed (in respect of the SKILLED Payment) and SKILLED (in respect of the Programmed Payment) for the following:
 - (i) reasonable advisory costs relating to the Scheme;
 - (ii) costs of management and directors' time;
 - (iii) reasonable out-of-pocket expenses relating to the Scheme;
 - (iv) reasonable opportunity costs incurred by Programmed or SKILLED (as applicable) in pursuing the Scheme or in not pursuing other alternative acquisitions or strategic initiatives which Programmed or SKILLED (as applicable) could have developed to further its business and objectives; and
 - (v) commitment fees and other financing costs relating to the financing of the Scheme.

Both parties have received legal advice on this agreement and the operation of this clause 10.

10.2 SKILLED Payment

SKILLED agrees to pay Programmed the SKILLED Payment without set-off or withholding if, at any time after the date of this agreement, the Scheme does not become Effective because:

- (a) **(Competing Proposal)** an actual, proposed or potential Competing Proposal of any kind is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and within 12 months of such

announcement, the Third Party proposing the Competing Proposal or any Associate of that Third Party:

- (i) completes a Competing Proposal of a kind referred to in any of the paragraphs (a), (b), (c) or (d) of the definition of Competing Proposal; or
 - (ii) enters into an agreement, arrangement or understanding with SKILLED or SKILLED directors of the kind referred to in paragraph (e) of the definition of Competing Proposal; or
- (b) **(change of recommendation)** a majority of SKILLED directors fail to recommend the Scheme or publicly change, withdraw or in any way qualify their Recommendation or Voting Intention or publicly recommend a Competing Proposal, except if a majority of the SKILLED directors change their Recommendation following the receipt of an Independent Expert's Report which states (either in its initial report or any subsequent update of its report) that, in the opinion of the Independent Expert, the Scheme is not in the best interests of SKILLED Shareholders; or
- (c) **(Termination)** Programmed becomes entitled to terminate this agreement in accordance with clauses 14.2(b)(i) or 14.2(b)(ii).

10.3 Programmed Payment

Programmed agrees to pay SKILLED the Programmed Payment without set-off or withholding if, at any time after the date of this agreement, the Scheme does not become Effective because SKILLED becomes entitled to terminate this agreement in accordance with clause 14.3(b)(i).

10.4 Timing of payment

- (a) A demand by a party for payment of the SKILLED Payment under clause 10.2 or Programmed Payment under clause 10.3 must:
- (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of Programmed or a Subsidiary into which SKILLED is to pay the SKILLED Payment or SKILLED or a Subsidiary into which Programmed is to pay the Programmed Payment (as applicable); and
- (b) SKILLED must pay the SKILLED Payment into the account nominated by Programmed and Programmed must pay the Programmed Payment into the account nominated by SKILLED (as applicable), without set-off or withholding, within 5 Business Days after receiving a demand for payment where Programmed is entitled under clause 10.2 to the SKILLED Payment or SKILLED is entitled under clause 10.3 to the Programmed Payment.

10.5 Compliance with law

- (a) This clause 10 does not impose an obligation on SKILLED to pay the SKILLED Payment or Programmed to pay the Programmed Payment (as applicable) to the extent (and only to the extent) that the obligation to pay the SKILLED Payment or Programmed Payment (as applicable):

- (i) is declared by the Takeovers Panel to constitute “unacceptable circumstances” within the meaning of the Corporations Act;
 - (ii) is determined to be unenforceable or unlawful by a Court; and
 - (iii) after all proper avenues of appeal and review, judicial and otherwise, have been exhausted.
- (b) The parties must not make or cause to be made, any application to the Takeovers Panel or a Court for or in relation to a declaration referred to in this clause 10.5.

10.6 No Payment if Scheme Effective

Despite anything to the contrary in this agreement, neither the SKILLED Payment nor Programmed Payment will be payable if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 10.2 and, if the SKILLED Payment has already been paid, it must be refunded by Programmed.

10.7 Survival

Any accrued obligations under this clause 10 survive termination of this agreement.

11. Liability of directors, officers and employees

11.1 Liability of directors, officers and employees

To the maximum extent permitted by law, each party releases all rights against, and agrees that it will not make any claim against, the respective past or present directors, officers and employees of each of the other party and the other party's Subsidiaries in relation to:

- (a) information provided to the first party in relation to the Transaction; or
- (b) any breach of any representations, covenants and warranties of the other party in this agreement,

except to the extent that the relevant director, officer or employee has not acted in good faith or has engaged in wilful misconduct.

11.2 Directors and officers insurance

Programmed acknowledges that SKILLED will:

- (a) arrange for the cover provided under the Policy for a further period until the End Date; and
- (b) by no later than the Implementation Date, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a 7 year period from the Implementation Date, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until the end of that 7 year period.

11.3 Obligations in relation to directors and officers insurance

From the Implementation Date, Programmed must procure that SKILLED does not:

- (a) vary or cancel the Policy; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim under the Policy as extended pursuant to clause 11.2(b) above.

11.4 Directors and officers indemnities

- (a) Without limiting any other term of this agreement, from the Effective Date for the Scheme, Programmed undertakes to SKILLED that it will, in respect of each deed of indemnity, access and insurance (**Relevant Deed**) made by an SKILLED Group entity (**Relevant Entity**) in favour of a director, officer or employee of any SKILLED Group entity, whether past or present, (**Indemnified Person**) from time to time procure that:
- (i) the Relevant Entity complies with the Relevant Deed; and
 - (ii) to the extent that the Relevant Entity ceases to exist after the Implementation Date, each Indemnified Person has the benefit of a deed from Programmed on terms no less favourable to the Indemnified Person than those contained in the Relevant Deed as at the Effective Date.
- (b) This clause 11.4 applies to the maximum extent permitted by the Corporations Act and will be read down accordingly.

11.5 Compliance with law and benefit

- (a) Clause 11.1 is subject to any restriction under the Corporations Act and will (if and to the extent required) be read down accordingly.
- (b) The parties agree that:
- (i) SKILLED holds the benefit of this clause 11 to the extent it relates to each SKILLED Indemnified Party as trustee for them, and, as such, each such SKILLED Indemnified Party may enforce this clause 11 against Programmed; and
 - (ii) Programmed holds the benefit of this clause 11 to the extent it relates to each Programmed Indemnified Party as trustee for them, and, as such, each such Programmed Indemnified Party may enforce this clause 11 against SKILLED.

12. Representations, warranties and indemnities

12.1 Representations and warranties by Programmed

Programmed represents and warrants to SKILLED (on its own behalf and separately as trustee for each of the SKILLED Indemnified Parties) that:

- (a) on each date from the date of this agreement until (and including) the Second Court Date:
- (i) it is a company properly incorporated and validly existing under the laws of its place of incorporation;
 - (ii) the execution and delivery by Programmed of the Transaction Documents to which Programmed is party has been properly authorised by all necessary corporate action and Programmed has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents;
 - (iii) the Transaction Documents to which Programmed is party constitute legal, valid and binding obligations on it, enforceable in accordance with

their terms, and do not conflict with or result in a breach of or default under:

- A. the constitution or equivalent constituent documents of Programmed or any of its Subsidiaries; or
 - B. any writ, order or injunction, judgment, law, rule, obligation or regulation to which Programmed or any of its Subsidiaries is party, or by which Programmed or any of its Subsidiaries is bound; and
- (iv) other than as expressly contemplated by clause 3, no shareholder or Regulatory Authority approvals are required to be obtained by Programmed Group in order for it to execute and perform the Transaction Documents to which it is a party;
- (b) as at the date of this agreement there are:
- (i) 118,669,244 Programmed Shares on issue;
 - (ii) 5,801,500 Programmed Performance Rights on issue or agreed to be issued (including 1,503,000 to be issued on or about 1 July 2015, some of which will be subject to shareholder approval at the next general meeting); and
 - (iii) Nil Programmed Performance Options on issue;
- and Programmed has not issued (and is not required to issue) any other securities or instruments or rights which may convert into Programmed securities (including Programmed Performance Rights) which are still outstanding (or may become outstanding) and which may convert into Programmed Shares other than in connection with a dividend reinvestment plan (including pursuant to any underwriting of that plan), an employee incentive arrangement (including any security issued upon conversion or exercise of rights attaching to any security issued under an employee incentive arrangement);
- (c) as at the date of this agreement, it has disclosed to SKILLED or its Representatives the complete set of terms and conditions of the Programmed Performance Rights;
- (d) on the date of this agreement there is no material Encumbrance 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);
- (e) on the date of this agreement and other than as disclosed by Programmed to SKILLED in writing, 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;
- (f) on the date of this agreement, the First Court Date, the date the Explanatory Memorandum is despatched, the date of the Scheme Meetings and the Second Court Date, Programmed is not aware of any material information relating to the Programmed Group's business, liabilities, assets, financial or trading position, prospects or profitability of as a whole that has not been disclosed to SKILLED and is objectively necessary for SKILLED to make an informed decision as to whether to enter into this agreement or proceed with the Scheme;
- (g) on each date from the date of this agreement until (and including) the Implementation Date, no Insolvency Event has occurred in relation to Programmed;

- (h) on the First Court Date and the Second Court Date:
- (i) Programmed Information has been prepared and included in the Explanatory Memorandum in good faith and on the understanding that SKILLED and the SKILLED Indemnified Parties have relied on that information for the purposes of considering and approving the SKILLED Information in the Explanatory Memorandum and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) Programmed Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides), and includes all information regarding Programmed, its Related Bodies Corporate and the Scheme Consideration that is required by the Corporations Act, Regulatory Guides and Listing Rules to be included in the Explanatory Memorandum;
 - (iii) Programmed Information (other than to the extent that it consists of information relating to the SKILLED Group that was provided by or on behalf of SKILLED, or has been extracted from announcements made by SKILLED to the ASX regarding the SKILLED Group) in the form and context in which it appears in the Explanatory Memorandum is not misleading or deceptive in any material respect and does not contain any material omission;
 - (iv) Programmed has complied with its obligations under clause 4.3(g); and
 - (v) all information provided by or on behalf of Programmed to the Independent Expert to be prepared has been prepared and provided in good faith and on the understanding that the Independent Expert have relied on the information for the purposes of preparing the Independent Expert's Report;
- (i) on the date of this agreement, the First Court Date, the date the Explanatory Memorandum is despatched, the date of the Scheme Meetings and the Second Court Date, Programmed has complied in all respects with all of the disclosure requirements under the Listing Rules, including its continuous disclosure obligations under Listing Rule 3.1 and is not withholding any information pursuant to Listing Rule 3.1A;
- (j) as at 8:00am on the Second Court Date, Programmed will have sufficient cash on its balance sheet, or financial commitments available to it on an unconditional basis (other than conditions relating to the approval of the Court and related procedural matters or documentary requirements which, by their terms or nature, can only be satisfied or performed after the Second Court Date), to ensure that the Cash Consideration is paid to Scheme Shareholders in accordance with the terms of this agreement, the Scheme and the Deed Poll;
- (k) any statement of opinion or belief contained in Programmed Information is honestly held and there are reasonable grounds for holding the opinion or belief.

12.2 Qualification of Programmed Warranties

The Programmed Warranties and the indemnity under clause 12.4, are subject to matters which have been fairly disclosed in the Programmed Due Diligence Material or Programmed's announcements to the ASX regarding the Programmed Group prior to entry into this agreement.

12.3 Programmed warranty certificate

Programmed must provide to SKILLED by 8.00am on the Second Court Date a certificate signed by a director of Programmed and made in accordance with a resolution of the Programmed Board stating, as at that date, that the representations or warranties given by Programmed in clause 12.1 remain true and correct or, if any such representation or warranty is not true and correct as at that date, providing complete particulars of the facts and matters which make the representation or warranty untrue or incorrect.

12.4 Programmed indemnity

- (a) Programmed acknowledges that in entering into this agreement SKILLED and the SKILLED Indemnified Parties have relied on the Programmed Warranties.
- (b) Programmed indemnifies SKILLED (on its own behalf and separately as trustee for each of the SKILLED Indemnified Parties) against any loss suffered or incurred by reason of any breach of any of the Programmed Warranties.

12.5 Representations and warranties by SKILLED

SKILLED represents and warrants to Programmed (on its own behalf and separately as trustee for each of Programmed Indemnified Parties) that:

- (a) on each date from the date of this agreement until (and including) the Second Court Date:
 - (i) it is a company properly incorporated and validly existing under the laws of its place of incorporation;
 - (ii) the execution and delivery by SKILLED of the Transaction Documents to which SKILLED is party has been properly authorised by all necessary corporate action and SKILLED has full corporate power and lawful authority to execute and deliver such Transaction Documents and to perform or cause to be performed its obligations under such Transaction Documents;
 - (iii) the Transaction Documents to which SKILLED is party constitute legal, valid and binding obligations on it, enforceable in accordance with their terms, and do not conflict with or result in a breach of or default under:
 - A. the constitution or equivalent constituent documents of SKILLED or any of its Subsidiaries; or
 - B. any writ, order or injunction, judgment, law, rule, obligation or regulation to which SKILLED or any of its Subsidiaries is party, or by which SKILLED or any of its Subsidiaries is bound; and
 - (iv) other than as expressly contemplated by clause 3, no shareholder or Regulatory Authority approvals are required to be obtained by the SKILLED Group in order for SKILLED to execute and perform the Transaction Documents to which it is a party;
- (b) as at the date of this agreement, there are
 - (i) 235,898,291 SKILLED Shares on issue; and
 - (ii) a total of:

- A. 7,318,001 SKILLED Performance Rights and SKILLED Options that are currently on issue; and
- B. 1,112,000 performance rights which might be issued if certain criteria are met,

which may, in aggregate, convert to no more than 1.2 million SKILLED Shares as contemplated in clause 8(a)(ii) of this agreement;

and SKILLED has not issued (and is not required to issue) any other securities or instruments or rights which may convert into SKILLED Shares which are still outstanding (or may become outstanding) and which may convert to SKILLED Shares;

- (c) as at the date of this agreement, it has disclosed to Programmed or its Representatives the complete set of terms and conditions of the SKILLED Options;
- (d) on the First Court Date and the Second Court Date:
 - (i) the SKILLED Information has been prepared and included in the Explanatory Memorandum in good faith and on the understanding that Programmed and the Programmed Indemnified Parties have relied on that information for the purposes of considering and approving the Programmed Information in the Explanatory Memorandum and that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report;
 - (ii) the SKILLED Information (as well as any Programmed Information to the extent that it consists of information relating to the SKILLED Group that was provided to Programmed by or on behalf of SKILLED or has been extracted from announcements made by SKILLED to the ASX regarding the SKILLED Group) does not contain a statement which is misleading or deceptive in any material respect and does not contain any material omission; and
 - (iii) the SKILLED Information complies in all material respects with relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides);
- (e) on the date of this agreement, the First Court Date, the date the Explanatory Memorandum is despatched, the date of the Scheme Meetings and the Second Court Date, following the making by SKILLED of the Announcement to ASX pursuant to clause 7.3, SKILLED has complied in all respects with all of the disclosure requirements under the Listing Rules, including its continuous disclosure obligations under Listing Rule 3.1 and is not withholding any information pursuant to Listing Rule 3.1A;
- (f) on the date of this agreement there is no material Encumbrance 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) on the date of this agreement and other than as disclosed by SKILLED to Programmed in writing, neither it nor any of its Subsidiaries is in default under any Material Contract to which a member of the SKILLED 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;
- (h) on the date of this agreement, the First Court Date, the date the Explanatory Memorandum is despatched, the date of the Scheme Meetings and the Second Court Date, SKILLED is not aware of any material information relating to the SKILLED Group's business, liabilities, assets, financial or trading position,

prospects or profitability of as a whole that has not been disclosed to Programmed and is objectively necessary for Programmed to make an informed decision as to whether to enter into this agreement or proceed with the Scheme;

- (i) on each date from the date of this agreement until (and including) the Implementation Date, no Insolvency Event has occurred in relation to SKILLED; and
- (j) any statement of opinion or belief contained in SKILLED Information is honestly held and there are reasonable grounds for holding the opinion or belief.

12.6 Qualification of SKILLED Warranties

The SKILLED Warranties and the indemnity under clause 12.8, are subject to matters which have been fairly disclosed in the SKILLED Due Diligence Material or SKILLED's announcements to the ASX regarding the SKILLED Group prior to entry into this agreement.

12.7 SKILLED warranty certificate

SKILLED must provide to Programmed by 8.00am on the Second Court Date a certificate signed by a director of SKILLED and made in accordance with a resolution of the SKILLED Board stating, as at that date, that the representations or warranties given by SKILLED in clause 12.5 remain true and correct or, if any such representation or warranty is not true and correct as at that date, providing complete particulars of the facts and matters which make the representation or warranty untrue or incorrect.

12.8 SKILLED indemnity

- (a) SKILLED acknowledges that in entering into this agreement Programmed and the Programmed Indemnified Parties have relied on the SKILLED Warranties.
- (b) SKILLED indemnifies Programmed (on its own behalf and separately as trustee for each of the Programmed Indemnified Parties) against any loss suffered or incurred by reason of any breach of any of the SKILLED Warranties.

12.9 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 12.

12.10 Status of representations and warranties

Each representation and warranty in this clause 12:

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

12.11 Status and enforcement of indemnities

- (a) Each indemnity in this agreement is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this agreement.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this agreement.

13. Confidentiality and communications

13.1 Confidentiality Agreement

Each party acknowledges and agrees that they continue to be bound by the Confidentiality Agreement after the date of this agreement in respect of all information received by it from the other party on, before or after the date of this agreement and that the terms of this agreement will prevail over the terms of the Confidentiality Agreement to the extent of any inconsistency.

13.2 Survival of obligations

The rights and obligations of the parties under the Confidentiality Agreement survive termination of this agreement.

13.3 Disclosure on termination of agreement

The parties agree that, if this agreement is terminated under clause 14, any party may disclose:

- (a) the fact that this agreement has been terminated, where such disclosure is required by the Listing Rules or is in the reasonable opinion of that party required to ensure that the market in its securities is properly informed; and
- (b) the fact that this agreement has been terminated to ASIC.

14. Termination and remedies

14.1 Limited termination events

This agreement may only be terminated by either party in the circumstances contemplated by clauses 14.2 and 14.3, or if the parties agree in writing to terminate this agreement.

14.2 Termination by Programmed

Programmed may terminate this agreement at any time before 8.00 am on the Second Court Date:

- (a) in accordance with clause 3.7; or
- (b) by notice in writing to SKILLED if:
 - (i) SKILLED is in material breach of any of clause of this agreement, (including the SKILLED Warranties or in relation to a SKILLED Prescribed Occurrence but other than clause 7.1, clause 7.2 or clause 7.3(a)), provided that Programmed is only entitled to terminate if it has given notice to SKILLED setting out the relevant circumstances and stating an intention to terminate and the relevant circumstances have continued to exist 5 Business Days (or any shorter period ending at 5.00 pm on the day one Business Day before the Second Court Date) from the time such notice is received by SKILLED;
 - (ii) SKILLED is in breach of clause 7.1(a), clause 7.2 or clause 7.3(a) of this agreement; or
 - (iii) a majority of SKILLED directors publicly change or withdraw their Recommendation or Voting Intention or publicly recommend a Competing Proposal, for any reason, whether or not permitted to do so under this agreement.

14.3 Termination by SKILLED

SKILLED may terminate this agreement at any time before 8.00 am on the Second Court Date:

- (a) in accordance with clause 3.7; or
- (b) by notice in writing to Programmed if:
 - (i) Programmed is in material breach of any clause of this agreement (including the Programmed Warranties or in relation to a Programmed Prescribed Occurrence) provided that SKILLED is only entitled to terminate if it has given notice to Programmed setting out the relevant circumstances and stating an intention to terminate and the relevant circumstances have continued to exist 5 Business Days (or any shorter period ending at 5.00 pm on the day one Business Day before the Second Court Date) from the time such notice is received by Programmed; or
 - (ii) a majority of SKILLED directors publicly change or withdraw their Recommendation or Voting Intention or publicly recommend a Competing Proposal in circumstances where they are entitled to do so in accordance with clause 7.1(c) and where any SKILLED Payment which has become payable under clause 10.2(b) has been made in accordance with clause 10.4; or
 - (iii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interests of SKILLED Shareholders.

14.4 Effect of termination

If this agreement is terminated the provisions of this agreement shall cease to have effect except for the provisions of clauses 1, 10, 11, 13, 14.4, 14.5 and 15 to 17 (inclusive), 18.1 to 18.6 (inclusive), 18.8 to 18.11 (inclusive) and 19 which will survive termination.

14.5 Remedies

The parties acknowledge that damages may not be a sufficient remedy for breach of this agreement. Specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this agreement by any party, notwithstanding the ability of the other party to terminate this agreement or seek damages for such a breach or threatened breach or to demand payment of the SKILLED Payment or Programmed Payment (as the case may be).

14.6 SKILLED's limitation of liability

Notwithstanding any other provision of this agreement, the maximum liability of SKILLED to Programmed under or in connection with this agreement will be an amount equal to the SKILLED Payment and no further damages, fees, expenses or reimbursements of any kind will be payable by SKILLED under or in connection with this agreement.

14.7 Programmed's limitation of liability

Notwithstanding any other provision of this agreement, the maximum liability of Programmed to SKILLED under or in connection with this agreement will be an amount equal to the Programmed Payment and no further damages, fees, expenses or reimbursements of any kind will be payable by Programmed under or in connection with this agreement.

15. Notices

15.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement:

- (a) may be given by personal service, post or email;
- (b) must be in writing;
- (c) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):
 - (i) if to SKILLED: SKILLED Group Limited
 - Address: 2 Luton Lane
Hawthorn VIC 3122
 - Email: angus.mckay@skilled.com.au
 - Attention: Angus McKay

with a copy in each case to: Rod Halstead / Rory Moriarty, Clayton Utz

 - Email: rhalstead@claytonutz.com
rmoriarty@claytonutz.com
 - (ii) if to Programmed: Programmed Maintenance Services Limited
 - Address: 47 Burswood Road
Burswood WA 6100
 - Email: Katina.Nadebaum@programmed.com.au
 - Attention: Katina Nadebaum

with a copy in each case to: Tracey Renshaw /Justin Harris, Clifford Chance

 - Email: tracey.renshaw@cliffordchance.com
justin.harris@cliffordchance.com
- (d) (in the case of personal service or post) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and
- (e) (in the case of email) must state that the email is a communication under this agreement; and
- (f) must be delivered by hand or posted by prepaid post to the address or sent by email to the email address, of the addressee, in accordance with this clause 15.1.

15.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this agreement is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of delivery by hand) on delivery; and
- (d) (in the case of email) unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address notified for the purposes of clause 15.1, 24 hours after the email was sent,

but if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

16. GST

16.1 Interpretation

- (a) Except where the context suggests otherwise, and subject to clause 16.1(b), terms used in this clause have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time).
- (b) "Input tax credit" has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* and a reference to an input tax credit entitlement of an entity includes an input tax credit for an acquisition made by that entity but to which another member of the same GST group is entitled.
- (c) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (d) Any consideration for a supply that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to that supply for the purpose of this clause.

16.2 Reimbursements and similar payments

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

16.3 GST payable

- (a) If GST is payable in relation to a taxable supply made under or in connection with this agreement then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must, subject to clause 16.1(d), pay an additional amount to the Supplier equal to the amount of that GST at the same times as other consideration is to be provided for that supply.
- (b) No payment of any amount pursuant to clause 16.3(a) is required until the Supplier has provided a valid tax invoice to the Recipient.

- (c) Where additional amounts are payable between parties to this agreement pursuant to clause 16.3(a), amounts so payable, to the extent they are equivalent in amount, shall be set off against each other as if paid and each party shall be obliged only to provide the tax invoice referred to in clause 16.3(b) no later than the time at which any consideration is to be first provided for that supply.
- (d) If the GST payable in relation to a supply made under or in connection with this agreement varies from the additional amount paid by the Recipient under clause 16.3(a) then the Supplier must promptly issue an adjustment note to the Recipient and will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under clause 16.3(a).

17. Entire agreement

The Transaction Documents and the Confidentiality Agreement constitute the entire agreement between the parties in relation to their subject matter and supersede all previous agreements and understandings between the parties in relation to their subject matter.

18. General

18.1 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this agreement, except for representations or inducements expressly set out in this agreement and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this agreement, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this agreement.

18.2 Amendments

This agreement may only be varied by a document signed by or on behalf of each party.

18.3 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

18.4 Consents

Unless this agreement expressly provides otherwise, a consent under this agreement may be given or withheld in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

18.5 Costs

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing each Transaction Document.

18.6 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

18.7 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this agreement.

18.8 No merger

A party's rights and obligations do not merge on completion of any transaction contemplated by this agreement.

18.9 Severance

If any provision or part of a provision of this agreement is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of that provision will remain in full force and effect.

18.10 Stamp duties

Programmed must pay all stamp duties and any related fines and penalties in respect of this agreement, the performance of this agreement and each transaction effected by or made under this agreement and is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

18.11 Waivers

Without limiting any other provision of this agreement, the parties agree that:

- (a) failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement;
- (b) a waiver given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party; and
- (c) no waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

19. Governing law, jurisdiction and service of process

19.1 Governing law

This agreement is governed by the law applying in Victoria.

19.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non exclusive jurisdiction of the courts of Victoria, Commonwealth courts having jurisdiction in that state and the courts competent to determine

appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and

- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 19.2(a).

Schedule 1 Timetable

Event	Date
Send Explanatory Memorandum to ASIC	6 August 2015
First Court Date	21 August 2015
Scheme Meeting	25 September 2015
Second Court Date	2 October 2015
Effective Date	2 October 2015
Record Date	7 October 2015
Implementation Date	14 October 2015

Executed as an agreement.

Executed by Skilled Group Limited in accordance with section 127 of the Corporations Act 2001 (Cth):



Signature of director

Angus Robert McKay

Full name of director



Signature of company secretary/director

Signature of company secretary/director

SHARYN PAGE

Full name of company secretary/director

Executed by Programmed Maintenance Services Limited in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Full name of director

Signature of company secretary/director

Full name of company secretary/director

Executed as an agreement.

Executed by Skilled Group Limited in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director

Executed by Programmed Maintenance Services Limited in accordance with section 127 of the Corporations Act 2001 (Cth):

Chris Sutherland
Signature of director

Stephen Michael Leach
Signature of company secretary/director

CHRIS SUTHERLAND
Full name of director

STEPHEN MICHAEL LEACH
Full name of company secretary/director

Annexure A Scheme

Scheme of Arrangement

Pursuant to section 411 of the Corporations Act

SKILLED Group Limited
SKILLED

The registered holders of fully paid ordinary shares in the capital of
SKILLED as at the Record Date

Lawyers
Level 15 1 Bligh Street
Sydney NSW 2000
GPO Box 9806
Sydney NSW 2001
Tel +61 2 9353 4000
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Our reference 13515/18887/80162615

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Scheme of Arrangement made under section 411 of the Corporations Act 2001 (Cth)

Date

Parties SKILLED Group Limited ACN 005 585 811 of 2 Luton Lane, Hawthorn, Victoria (SKILLED)

The registered holders of fully paid ordinary shares in the capital of SKILLED as at the Record Date.

Background

- A. SKILLED is a public company incorporated in the state of Victoria and is admitted to the official list of ASX.
- B. Programmed Maintenance Services Limited ACN 054 742 264 (**Programmed**) is a public company incorporated in the state of New South Wales and is admitted to the official list of ASX.
- C. SKILLED and Programmed have entered into the Implementation Agreement pursuant to which, amongst other things, SKILLED has agreed to propose this Scheme to SKILLED Shareholders, and each of SKILLED and Programmed have agreed to take certain steps to give effect to the Scheme.
- D. If the Scheme becomes Effective, then:
 - (a) all the Scheme Shares will be transferred to Programmed and the Scheme Consideration will be provided to the Scheme Shareholders in accordance with the provisions of the Scheme; and
 - (b) SKILLED will enter the name and address of Programmed in the SKILLED Share Register as the holder of the Scheme Shares.
- E. Programmed has entered into the Deed Poll for the purpose of covenanting in favour of Scheme Shareholders to perform the obligations contemplated of it under the Scheme.

1. Definitions and interpretation

1.1 Definitions

In this document, unless the contrary intention appears or the context requires otherwise:

ASIC means the Australian Securities and Investments Commission.

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

Business Day means a day which is a "Business Day" within the meaning given in the Listing Rules.

Cash Consideration means a cash amount of \$0.25 less

- (a) the amount of any SKILLED FY15 Final Dividend per SKILLED Share; and

(b) the amount of any SKILLED Special Dividend per SKILLED Share, which dividends will, in aggregate, not exceed the SKILLED Dividend Cap.

CHESS means the clearing house electronic sub-register system for the electronic transfer of securities operated by ASX Settlements Pty Limited ABN 49 008 504 532.

Condition means each condition to this Scheme set out in clause 2.1.

Corporations Act means the Corporations Act 2001 (Cth).

Court means the Supreme Court of Victoria or such other court of competent jurisdiction as SKILLED and Programmed agree in writing.

Deed Poll means the deed poll dated [*] executed by Programmed in favour of the Scheme Shareholders (subject to any amendments permitted by its terms).

Effective means, when used in relation to the Scheme, the coming into effect, pursuant to 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.

Eligible Scheme Shareholder means a Scheme Shareholder other than an Ineligible Overseas Shareholder.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the date 6 months after signing or such other date agreed in writing between SKILLED and Programmed.

Explanatory Memorandum means the explanatory memorandum to be prepared by SKILLED pursuant to section 412 of the Corporations Act in respect of the Scheme in accordance with the terms of the Implementation Agreement and to be dispatched to the SKILLED Shareholders.

Implementation Agreement means the scheme implementation agreement dated [*] between SKILLED and Programmed under which, amongst other things, SKILLED has agreed to propose the Scheme to Scheme Shareholders, and each of Programmed and SKILLED has agreed to take certain steps to give effect to the Scheme.

Implementation Date means the date which is 5 Business Days after the Record Date or such other date as SKILLED and Programmed agree in writing.

Ineligible Overseas Shareholder means a Scheme Shareholder whose address shown in the SKILLED Share Register on the Record Date is a place outside Australia and its external territories, unless Programmed determines that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New Programmed Shares when the Scheme becomes Effective.

Listing Rules means the official listing rules of ASX.

New Programmed Share means a fully paid ordinary share in Programmed to be provided to Scheme Shareholders under the Scheme.

Programmed Share means fully paid ordinary shares in the capital of Programmed.

Programmed FY16 Interim Dividend means any dividend declared and paid by Programmed to its shareholders in respect of the half year ending 30 September 2015.

Programmed Share Register means the register of members of Programmed maintained by or on behalf of Programmed in accordance with section 168(1) of the Corporations Act.

Record Date means 7.00 pm (Sydney time) on the date which is 3 Business Days after the Effective Date or such other time and date agreed in writing between Programmed and SKILLED.

Registered Address means in relation to a SKILLED Shareholder, the address shown in the SKILLED Share Register.

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

Scheme Consideration means the consideration to be provided to Scheme Shareholders for the transfer to Programmed of their Scheme Shares comprising the Cash Consideration and Share Consideration subject to the terms of this Scheme.

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

Scheme Shares means a SKILLED Share on issue as at the Record Date.

Scheme Shareholder means a person who holds SKILLED Shares as at the Record Date.

Second Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Share Consideration means the New Programmed Shares which a Scheme Shareholder is entitled to receive as part of the Scheme Consideration being 0.55 New Programmed Shares.

SKILLED Board means the board of directors of SKILLED.

SKILLED Dividend Cap means \$0.25 per SKILLED Share.

SKILLED FY15 Final Dividend means a fully franked dividend declared and paid by SKILLED in respect of the financial year ending 30 June 2015.

SKILLED Share Register means the register of members of SKILLED maintained by or on behalf of SKILLED in accordance with section 168(1) of the Corporations Act.

SKILLED Share Registry means Computershare Investor Services Pty Limited (ACN 078 279 277).

SKILLED Shareholder means a person who is registered in the SKILLED Share Register as a holder of SKILLED Shares.

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

SKILLED Special Dividend means a fully franked dividend declared and paid on or before the Implementation Date by SKILLED in addition to any SKILLED FY15 Final Dividend.

Trading Day has the meaning given in the Listing Rules.

1.2 Interpretation

In this document, unless the contrary intention appears or the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes each other gender;
- (c) references to persons includes references to individuals, corporations, other bodies corporate or bodies politic;
- (d) references to paragraphs or clauses are to a paragraph or clause of this document;
- (e) a reference to a statute, regulation or agreement is to such a statute, regulation or agreement as from time to time amended;
- (f) a reference to a person includes a reference to a person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (g) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) a reference to any time, unless otherwise stated, is a reference to that time in Melbourne, Australia;
- (j) a reference to "\$" or "A\$" is to the lawful currency of the Commonwealth of Australia;
- (k) a reference to a document is that document as varied, novated, ratified or replaced from time to time;
- (l) the interpretation of a substantive provision is not affected by any heading; and
- (m) "includes" in any form is not a word of limitation.

1.3 Business Day

Except where otherwise expressly provided, where under this document the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing shall be done on the immediately preceding Business Day.

2. Conditions Precedent

2.1 Conditions to the Scheme

The Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following conditions, and the provisions of clauses 3 and 4 will not come into effect unless and until each of these conditions have been satisfied:

- (a) as at 8.00 am on the Second Court Date each of the conditions set out in clause 3.1 of the Implementation Agreement (other than the condition relating to the approval of the Court set out in clause 3.1(h) of the Implementation Agreement) have been satisfied or waived in accordance with the terms of the Implementation Agreement;

- (b) as at 8.00 am on the Second Court Date neither the Implementation Agreement nor the Deed Poll has not been terminated;
- (c) the Court approves this Scheme under section 411(4)(b) of the Corporations Act with or without modification acceptable to Programmed and SKILLED (each acting reasonably);
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme as are acceptable to Programmed and SKILLED (each acting reasonably) have been satisfied [or been waived]; 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 Certificates in relation to Conditions Precedent

On the Second Court Date:

- (a) SKILLED must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00 am on the Second Court Date the conditions set out in clause 3.1 (other than clause 3.1(h)) of the Implementation Agreement have been satisfied or waived in accordance with the Implementation Agreement; and
- (b) Programmed must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00 am on the Second Court Date the conditions set out in clause 3.1 (other than clause 3.1(h)) of the Implementation Agreement have been satisfied or waived in accordance with the Implementation Agreement.

2.3 Termination of Implementation Agreement

Without limiting any rights under the Implementation Agreement, in the event that the Implementation Agreement is terminated in accordance with its terms before 8.00 am on the Second Court Date, SKILLED and Programmed are each released from:

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

3. Scheme

3.1 Effective Date of the Scheme

Subject to clause 3.2, the Scheme will take effect on and from the Effective Date.

3.2 End Date

The Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date, or such later date as SKILLED and Programmed agree in writing.

4. Implementation of Scheme

4.1 Lodgement

If the Conditions are satisfied, SKILLED must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving the Scheme as

soon as possible after, and in any event by no later than 5.00 pm on the Business Day following, the date on which the Court approves the Scheme or such other Business Day as SKILLED and Programmed agree in writing.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clauses 4.3 and 4.4 and Programmed having provided SKILLED with written confirmation thereof, all of the Scheme Shares will, together with all rights and entitlements attaching to the Scheme Shares, be transferred to Programmed without the need for any further act by any Scheme Shareholder (other than acts performed by SKILLED or its directors as attorney or agent for Scheme Shareholders under this Scheme), by SKILLED effecting a valid transfer or transfers of the Scheme Shares to Programmed under section 1074D of the Corporations Act or, if that procedure is not available for any reason, by:
- (i) SKILLED delivering to Programmed a completed share transfer form or forms (which may be a master transfer form) to transfer all of the Scheme Shares to Programmed duly executed by SKILLED as the attorney and agent of each Scheme Shareholder under clause 7.1 of this Scheme;
 - (ii) Programmed executing and delivering the share transfer form or forms to SKILLED; and
 - (iii) SKILLED immediately after receipt of the share transfer form or forms under clause 4.2(a)(ii), entering, or procuring the entry of, the name and address of Programmed in the SKILLED Share Register as the holder of all of the Scheme Shares; and
- (b) Programmed will issue and 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 the Scheme.

4.3 Provision of Scheme Consideration

Programmed's obligations under clause 4.2(b) will be satisfied as follows:

- (a) in respect of the Cash Consideration:
- (i) by no later than the Business Day before the Implementation Date, Programmed will deposit in cleared funds an amount equal to the aggregate amount of the Cash Consideration payable to each Scheme Shareholder, in an Australian dollar denominated trust account operated by SKILLED as trustee for the Scheme Shareholders (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Programmed's account);
 - (ii) on the Implementation Date, subject to funds having been deposited in accordance with clause 4.3(a)(i), SKILLED must pay or procure the payment of the Cash Consideration from the trust account referred to in clause 4.3(a)(i) to each Scheme Shareholder based on the number of Scheme Shares held by such Scheme Shareholder as set out in the SKILLED Share Register on the Record Date in SKILLED's absolute discretion:
 - A. where a Scheme Shareholder has, before the Record Date, made a valid election in accordance with the requirements of

the SKILLED Registry to receive dividend payments from SKILLED by electronic funds transfer to a bank 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

- B. otherwise, whether or not the Scheme Shareholder has made an election referred to in clause 4.3(ii)(A), 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 (as at the Record Date), 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 4.4; and
 - C. to the extent that there is a surplus in the amount held by SKILLED as trustee for the Scheme Shareholders in the trust account referred to in clause 4.3(a)(i), that surplus may be paid by SKILLED to Programmed; and
- (b) in respect of the Share Consideration, on the Implementation Date, Programmed must:
- (i) issue to each Eligible Scheme Shareholder such number of New Programmed Shares as that Eligible Scheme Shareholder is entitled to as Share Consideration;
 - (ii) issue to a nominee appointed by Programmed in accordance with clause 4.8 such number of Programmed Shares as are attributable to the Ineligible Overseas Shareholders;
 - (iii) procure the entry in the Programmed Share Register:
 - A. of the name and address of each Eligible Scheme Shareholder in respect of the Programmed Shares issued to them; and
 - B. of the name and address of the nominee appointed by Programmed in respect of those Programmed Shares that would otherwise be issued to each Scheme Shareholder who is an Ineligible Overseas Shareholder; and
 - (iv) within 5 Business Days after the Implementation Date, Programmed must send or procure the despatch to each Scheme Shareholder whose Programmed Shares are held on the issuer sponsored subregister of Programmed or the nominee appointed by Programmed (as the case may be) by prepaid post to their address (as recorded in the SKILLED Share Register as at the Record Date, except in the case of the nominee appointed by Programmed) of uncertificated holding statements for Programmed Shares issued to the Scheme Shareholder or the nominee appointed by Programmed (as the case may be) in accordance with this Scheme.
- (c) [This clause 4.3 does not apply to a Scheme Shareholder who does not have a Registered Address or where SKILLED and Programmed believe that such Scheme Shareholder (other than Ineligible Overseas Shareholders) is not known at their Registered Address.]

4.4 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be paid to Scheme Shareholders will be payable to the joint holders; and
- (b) any holding statements for Programmed Shares to be issued to Scheme Shareholders will be issued in the names of the joint holders,

and will be forwarded to the holder whose name appears first in the SKILLED Share Register as at 5:00pm on the Record Date.

4.5 Unclaimed monies

- (a) SKILLED may cancel a cheque issued under this clause 4 if the cheque:
 - (i) is returned to SKILLED; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to SKILLED (or the SKILLED Share Registry), SKILLED must reissue a cheque that was previously cancelled under this clause 4.5.
- (c) The *Unclaimed Money Act 2008 (VIC)* will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 2008 (VIC)*).

4.6 Fractional entitlements and share splitting or division

- (a) If the number of Scheme Shares held by a Scheme Shareholder at the Record Date is such that the aggregate entitlement of the Scheme Shareholder to Scheme Consideration:
 - (i) comprising Programmed Shares is such that a fractional entitlement to a Programmed Share arises; or
 - (ii) comprising cash is such that a fractional entitlement to a cent arises,

then the entitlement of that Scheme Shareholder must be rounded up or down, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number of Programmed Shares (or cents, as applicable), and any such fractional entitlement of 0.5 or more will be rounded up to the nearest whole number of Programmed Shares (or cents, as applicable).
- (b) If Programmed is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 4.6(a)) have, before the Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Programmed may give notice to those Scheme Shareholders:
 - (i) setting out their names and registered addresses as shown in the SKILLED Share Register;
 - (ii) stating that opinion; and

- (iii) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

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

4.7 Binding instruction or notifications

Except for a Scheme Shareholder's tax file number, any binding instruction or notification between a Scheme Shareholder and SKILLED relating to Scheme Shares as at the Record Date (including, without limitation, any instructions relating to payment of dividends or to communications from SKILLED) will, from the Record Date, be deemed (except to the extent determined otherwise by Programmed in its sole discretion) to be a similarly binding instruction or notification to, and accepted by Programmed, in respect of the Programmed Shares issued to the Scheme Shareholder until that instruction or notification is revoked or amended in writing addressed to Programmed at the Programmed share registry, provided that any such instructions or notifications accepted by Programmed will apply to and in respect of the issue of Programmed Shares as part of the share component of the Scheme Consideration only to the extent that they are not inconsistent with the other provisions of the Scheme.

4.8 Ineligible Overseas Shareholders

- (a) Programmed will ensure that Programmed Shares to which an Ineligible Overseas Shareholder would otherwise have been entitled (if they were an Eligible Scheme Shareholder) will be issued to a nominee appointed by Programmed.
- (b) Programmed will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the nominee:
 - (i) sells on the financial market conducted by ASX all of the Programmed Shares issued to the nominee pursuant to clause 4.8(a) in such manner, at such price and on such other terms as the nominee determines in good faith; and
 - (ii) remits to Programmed the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- (c) Promptly after the last sale of Programmed Shares in accordance with clause 4.8(b), Programmed will pay to each Ineligible Overseas Shareholder the proportion of the net proceeds of sale received by Programmed pursuant to clause 4.8(b)(ii) to which that Ineligible Overseas Shareholder is entitled.
- (d) Neither Programmed or SKILLED gives any assurance as to the price that will be achieved for the sale of New Programmed Shares described in clause 4.8(b)(ii). The sale of the New Programmed Shares under this clause 4.7 will be at the risk of the Ineligible Overseas Shareholder.
- (e) Programmed must appoint the nominee at least two weeks prior to the Scheme Meeting.

4.9 Status of New Programmed Shares

Programmed covenants in favour of SKILLED (in its own right and on behalf of each Scheme Shareholder) that:

- (a) the New Programmed Shares issued as Share Consideration will, on their issue, rank equally in all respects with all other Programmed Shares on issue at the Effective Date, and the New Programmed Shares issued as Share Consideration will be entitled to participate in and receive the Programmed FY16 Interim Dividend (and, provided that the Effective Date is on or before the date 6 months after the date of this agreement, Programmed must ensure that the record date for the Programmed FY16 Interim Dividend is a date which is after the date on which the holders of New Programmed Shares are registered as holders of such) and any other dividends, any distribution of capital and any other entitlements accruing in respect of Programmed Shares after the Effective Date;
- (b) it will use best endeavours to ensure that the New Programmed Shares issued as Share Consideration will be listed for quotation on the official list of the ASX with effect from the Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary (T+3) settlement basis; and
- (c) on issue, each New Programmed Share will be fully paid and, to the extent within the control of Programmed, free from any Encumbrance.

5. Dealings in SKILLED Shares

5.1 Dealings in SKILLED Shares by Scheme Shareholders

For the purposes of establishing who are Scheme Shareholders, dealings in SKILLED Shares will be recognised by SKILLED provided that:

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

and SKILLED will not accept for registration, or recognise for the purpose of establishing who are Scheme Shareholders, any transmission application or transfer in respect of SKILLED Shares received after such times on the Record Date.

5.2 SKILLED Share Register

SKILLED will, until the Scheme Consideration has been paid and Programmed has been entered in the SKILLED Share Register as the holder of all of the Scheme Shares, maintain the SKILLED Share Register in accordance with the provisions of this clause 5 and the SKILLED Share Register in this form and the terms of this Scheme will solely determine entitlements to the Scheme Consideration.

5.3 Information to be made available to Programmed

SKILLED must procure that as soon as practicable following the Record Date, details of the names, registered addresses and holdings of SKILLED Shares of every Scheme Shareholder

shown in the SKILLED Share Register at the Record Date are made available to Programmed in such form as Programmed may reasonably require.

5.4 Effect of share certificates and holding statements

As from the Record Date (and other than for Programmed following the Implementation Date), all share certificates and holding statements for the Scheme Shares will cease to have effect as documents of title, and each entry on the SKILLED Share Register at that date will cease to have any effect other than as evidence of entitlement to the Scheme Consideration.

5.5 No disposals after Record Date

If the Scheme becomes Effective, a 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 after the Record Date.

6. Suspension and termination of quotation

- (a) SKILLED must apply to ASX for suspension of trading of the SKILLED Shares on ASX with effect from the close of business on the Effective Date.
- (b) SKILLED must apply to ASX for termination of official quotation of the SKILLED Shares on ASX and the removal of SKILLED from the official list of ASX with effect from the Business Day immediately following the Implementation Date.

7. General Scheme provisions

7.1 Appointment of agent and attorney

Each Scheme Shareholder, without the need for any further act, irrevocably appoints SKILLED as its agent and attorney for the purpose of:

- (a) executing any document or form or doing any other act necessary to give effect to the terms of the Scheme including, without limitation, the execution of the share transfer(s) to be delivered under clause 4.2 and the giving of the Scheme Shareholders' consent under clause 7.3; and
- (b) enforcing the Deed Poll against Programmed,

and SKILLED accepts such appointment. SKILLED, as agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 7.1 to all or any of its directors and officers (jointly, severally, or jointly and severally).

7.2 Enforcement of Deed Poll

SKILLED undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Programmed (as applicable on behalf of and as agent and attorney for the Scheme Shareholders).

7.3 Scheme Shareholders' consent

Each Scheme Shareholder irrevocably:

- (a) consents to SKILLED and Programmed doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of the Scheme; and

- (b) acknowledges that the Scheme binds SKILLED and all of the SKILLED Shareholders from time to time (including those who do not attend the Scheme Meeting, do not vote at that meeting or vote against the Scheme).

7.4 Scheme Shareholder's agreements

Under the Scheme:

- (a) each Scheme Shareholder to whom Programmed Shares are to be issued in accordance with the Scheme:
 - (i) agrees to become a member of Programmed and to have their name entered in the Programmed Share Register; and
 - (ii) accepts the Programmed Shares issued under the Scheme on the terms and conditions of the constitution of Programmed and agrees to be bound by the constitution of Programmed as in force from time to time in respect of the Programmed Shares,

without the need for any further act by a Scheme Shareholder; and
- (b) each Scheme Shareholder agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Programmed in accordance with the terms of the Scheme.

7.5 Warranty by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to Programmed and, to the extent enforceable, appointed and authorised SKILLED as its agent to warrant to Programmed that all its Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of the transfer of them to Programmed, be fully paid and free from all security interests (including mortgages, charges, liens, encumbrances, pledges, "security interests" (within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) 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 those Scheme Shares together with any rights and entitlements attaching to such shares to Programmed under the Scheme.

7.6 Title to Scheme Shares and transfer free from encumbrance

- (a) Programmed will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by SKILLED of Programmed in the SKILLED Share Register as the holder of the Scheme Shares.
- (b) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under the Scheme to Programmed, will, at the time of transfer to Programmed, vest in Programmed free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any "security interests" within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and any interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.

7.7 Alterations and Conditions

SKILLED may, by its counsel or solicitors, and with the consent of Programmed, consent on behalf of all persons concerned, including a Scheme Shareholder, to any modification of or amendment to the Scheme which the Court thinks fit to impose.

7.8 Notices

Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to SKILLED, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at SKILLED's registered office or at the SKILLED Share Registry as the case may be.

7.9 Inconsistencies

This Scheme binds SKILLED and all SKILLED Shareholders, and to the extent of any inconsistency, overrides the SKILLED constitution.

7.10 Further assurance

SKILLED will execute all documents and do all acts and things as may be necessary or expedient for the implementation of, and performance of its obligations under, the Scheme.

7.11 Stamp Duty

Programmed will pay any stamp duty payable on the transfer by Scheme Shareholders of the Scheme Shares to Programmed.

7.12 Governing Law

This Scheme is governed by the law applying in Victoria. The parties submit to the non-exclusive jurisdiction of the courts of Victoria, 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.

Annexure B Deed Poll

Deed Poll

(in respect of the Scheme)

Programmed Maintenance Services Limited
Programmed

[Programmed Acquirer]
[Programmed Acquirer]

In favour of each registered holder of fully paid ordinary shares in the capital of SKILLED Group Limited as at the Record Date

Clayton Utz
Lawyers
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Our reference 13515/18887/80162615

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Deed poll made on**2015**

Parties **Programmed Maintenance Services Limited ACN 054 742 264** of 47 Burswood Road, Burswood, Western Australia (**Programmed**)

In favour of **Each registered holder of fully paid ordinary shares in the capital of SKILLED Group Limited ACN 005 585 811 (SKILLED)** on issue as at the Record Date (**Scheme Shareholders**)

Background

- A. SKILLED and Programmed have entered into the Implementation Agreement.
- B. SKILLED has agreed in the Implementation Agreement to propose a scheme of arrangement between Programmed and the Scheme Shareholders, the effect of which will be that Programmed acquires all of the Scheme Shares from Scheme Shareholders for the Scheme Consideration, subject to the satisfaction of certain conditions.
- C. In accordance with clause 4.3(h) of the Implementation Agreement, Programmed is entering into this deed poll to covenant in favour of the Scheme Shareholders that it will observe and perform its obligations under the Scheme.

1. Definitions and interpretations
1.1 Definitions

In this deed poll:

- (a) **Scheme** means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between SKILLED and the Scheme Shareholders, a copy of which is annexed to this deed poll, subject to any alterations or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act and agreed to by Programmed and SKILLED.
- (b) **Implementation Agreement** means the scheme implementation agreement dated [*] between SKILLED and Programmed under which, amongst other things, SKILLED has agreed to propose the Scheme to Scheme Shareholders, and each of Programmed and SKILLED has agreed to take certain steps to give effect to the Scheme.
- (c) Capitalised terms have the meaning given to them in the Scheme, unless the context requires otherwise.

1.2 Interpretation

In this deed poll, unless the contrary intention appears or the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes each other gender;
- (c) references to persons includes references to individuals, corporations, other bodies corporate or bodies politic;
- (d) references to paragraphs or clauses are to a paragraph or clause of this deed poll;
- (e) a reference to a statute, regulation or agreement is to such a statute, regulation or agreement as from time to time amended;

- (f) a reference to a person includes a reference to a person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (g) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) unless otherwise stated, a reference to any time is a reference to that time in Melbourne, Australia;
- (j) a reference to "\$" or "A\$" is to the lawful currency of the Commonwealth of Australia;
- (k) a reference to a document is to that document as varied, novated, ratified or replaced from time to time;
- (l) the interpretation of a substantive provision is not affected by any heading; and
- (m) "includes" in any form is not a word of limitation.

1.3 Nature of deed poll

Programmed acknowledges that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder appoints SKILLED as its agent and attorney to enforce this deed poll against Programmed.

2. Conditions

2.1 Conditions Precedent

Programmed's obligations under this deed poll are subject to the Scheme becoming Effective.

2.2 Termination

If the Implementation Deed is terminated or the Scheme does not become Effective on or before the End Date, the obligations of Programmed under this deed poll automatically terminate and the terms of this deed poll will be of no further force or effect, unless SKILLED and Programmed otherwise agree in accordance with the Implementation Agreement.

2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, then in addition and without prejudice to any other rights, powers or remedies available to it, Programmed is released from its obligations to further perform this deed poll except those obligations under clause 6.1 and any other obligations which by their nature survive termination.

3. Compliance with Scheme obligations

3.1 Scheme Consideration

Subject to clause 2, in consideration for the transfer to Programmed of each Scheme Share, on the Implementation Date:

- (a) Programmed will pay to each Scheme Shareholder the Cash Consideration for each Scheme Share held by them in accordance with the terms of the Scheme; and
- (b) Programmed will issue to each Eligible Scheme Shareholder such number of Programmed Shares for each Scheme Share held by them in accordance with the terms of the Scheme.

3.2 Manner and timing of satisfaction

Pursuant to and subject to the Scheme and subject to clause 2 of this deed poll:

- (a) the obligations of Programmed to provide Share Consideration to each applicable Eligible Scheme Shareholder will be satisfied by SKILLED complying with its obligations under clauses 4.2 and 4.3 of the Scheme; and
- (b) the obligations of Programmed to provide the Cash Consideration to each applicable Scheme Shareholder will be satisfied by Programmed complying with its obligations under clauses 4.2 and 4.3 of the Scheme.

3.3 Provision of Scheme Consideration to Ineligible Overseas Shareholders

In the case of each Scheme Shareholder that is an Ineligible Overseas Shareholder, Programmed must comply with clause 4.8 of the Scheme.

3.4 Official quotation of Programmed Shares

Programmed will seek confirmation from ASX that, as from the Business Day after the Effective Date, the Programmed Shares will be listed for quotation on the official list of ASX, initially on a deferred settlement basis and, with effect from the Business Day following the Implementation Date, on an ordinary settlement basis.

3.5 Other obligations of Programmed

Subject to clause 2, Programmed:

- (a) must procure that all obligations of Programmed to pay the Scheme Consideration to each Scheme Shareholder in accordance with clauses 4.2 and 4.3 of the Scheme are met; and
- (b) covenants in favour of the Scheme Shareholders to perform all other obligations that are attributed to it under the Scheme, as if named as a party to the Scheme.

4. Warranties

Programmed represents and warrants that:

- (a) it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) the execution and delivery by it of this deed poll has been properly authorised by all necessary corporate action and it has full corporate power and lawful authority to perform or cause to be performed its obligations under this deed poll and to carry out or cause to be carried out the transactions contemplated by this deed poll; and
- (c) this deed poll will constitute legally, valid and binding obligations on it enforceable in accordance with its terms (subject to any necessary stamping) and does not conflict with or result in a breach of or default under:

- (i) the constitution or equivalent constituent documents of it or any of its Related Bodies Corporate (as defined in the Implementation Agreement); or
- (ii) any writ, order or injunction, judgment, law, rule or regulation to which it is party, or by which it is bound.

5. Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Programmed has fully performed its obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

6. General

6.1 Stamp duty

Programmed will:

- (a) pay or procure the payment of all stamp duties and any related fines and penalties in respect of this deed poll, the performance of this deed poll and each transaction effected by or made under this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 6.1(a).

6.2 Waiver

- (a) Waiver of any right arising from a breach of this deed poll or of any right, power, authority, discretion or remedy arising upon default under this deed poll must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (i) a right arising from a breach of this deed poll; or
 - (ii) a right, power, authority, discretion or remedy created or arising upon default under this deed poll,does not result in a waiver of that right, power, authority, discretion or remedy.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this deed poll or on a default under this deed poll as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) A party may not rely on any conduct of another party as a defence to the exercise of a right, power, authority, discretion or remedy by that other party.
- (e) This clause 6.2 may not itself be waived except in writing.

6.3 Variation

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

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

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

in which event Programmed will enter into a further deed poll in favour of the Scheme Shareholders giving effect to such amendment or variation.

6.4 Cumulative rights

The rights, powers and remedies of Programmed and each Scheme Shareholder under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by the law independently of this deed poll.

6.5 Assignment

The rights and obligations of Programmed and the rights of each Scheme Shareholder under this deed poll are personal and must not be assigned, charged or otherwise dealt with at law or in equity.

6.6 Further action

Programmed will promptly do all things and execute and deliver all further documents required by law to give effect to this deed poll.

7. Governing law and jurisdiction

- (a) This deed poll is governed by the law applying in Victoria.
- (b) Programmed irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to for any proceedings in connection with this deed poll.

Executed as a deed poll.

Executed by Programmed Maintenance Services Limited ACN 054 742 264 in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Full name of director

Executed by [Programmed Acquirer] ACN [*] by or in the presence of:

Signature of Director

Name of Director in full

Signature of company secretary/director

Full name of company secretary/director

Signature of Secretary/other Director

Name of Secretary/other Director in full