

TO: Project California Bidco Limited (“**Bidco**”)  
and  
Tungsten Corporation plc (“**Tungsten**”)

24 March 2022

Dear Sirs

**Proposed offer for Tungsten by Bidco**

This undertaking (the “**Undertaking**”) is given by me in my capacity as a holder of ordinary shares in Tungsten and not in my capacity as a director of Tungsten.

1. **OFFER**

In this Undertaking, the “**Offer**” means the proposed acquisition by or on behalf of Bidco of all the issued and to be issued ordinary share capital of Tungsten not already owned by it, to be implemented by way of a court sanctioned scheme of arrangement (the “**Scheme**”) under Part 26 of the Companies Act 2006 (the “**Act**”) between Tungsten and the holders of its ordinary shares, and substantially on the terms set out in the press announcement set out in Schedule 2 (subject to the inclusion of any alternative or additional terms and conditions as may be required to comply with the requirements of the Panel on Takeovers and Mergers (the “**Panel**”), any applicable law or regulation, or as agreed between Bidco and Tungsten) (the “**Press Announcement**”).

2. **CONDITION OF UNDERTAKING**

The obligations in paragraphs 5, 7 and 11 of this Undertaking are conditional on the Press Announcement being released no later than 11.59 p.m. (London time) on the date that is one business day from the date of this Undertaking (or such later date as Tungsten and Bidco may agree).

3. **OWNERSHIP OF SHARES**

I hereby represent, warrant and undertake to Bidco and Tungsten that:

- 3.1 ~~I am the registered holder of and have~~ beneficial interests in the number of ordinary shares of GBP 0.00438 each in the capital of Tungsten (“**Tungsten Shares**”) specified in Part 1 of Schedule 1 (the “**Existing Tungsten Shares**”);
- 3.2 I have beneficial interests in (or am otherwise able to control the exercise of all rights attaching to, including voting rights and the ability to procure the transfer of) the number of ordinary shares of GBP 0.00438 each in the capital of Tungsten (“**Tungsten Shares**”) specified in Part 1 of Schedule 1 (the “**Existing Tungsten Shares**”);
- 3.3 save as set out in Schedule 1, I am not interested in any other securities of Tungsten and I do not have any rights to subscribe, purchase or otherwise acquire any securities of Tungsten; and
- 3.4 I have full power and authority and the right (free from any legal or other restrictions), and will at all times up to the time that the Offer becomes effective or my obligations in accordance with this deed terminate (if earlier) continue to have all relevant power and authority and the right, to enter into this Undertaking, to perform the obligations in this Undertaking in accordance with its terms, to exercise (or procure the exercise of) all voting rights attaching to the Existing

Tungsten Shares and otherwise to take all necessary actions to approve the Scheme in respect of, and to transfer, the Existing Tungsten Shares.

#### 4. DEALINGS AND UNDERTAKINGS

4.1 I undertake to Bidco and Tungsten that (other than in connection with the Scheme) before the Offer becomes effective or this Undertaking terminates or otherwise lapses in accordance with paragraph 10.1 below, I shall not (and shall procure that the registered holder shall not):

4.1.1 sell, transfer, charge, encumber, create or grant any option or lien over or otherwise dispose of (or permit any such action to occur in respect of) any interest in any Existing Tungsten Shares or any other shares in Tungsten issued or unconditionally allotted to, or otherwise acquired by, me or any shares in the capital of Tungsten in respect of which I become the registered holder or beneficial owner, before then (“**Further Tungsten Shares**”); or

4.1.2 vote in favour of any resolution to approve an acquisition or any other transaction which is proposed by any person other than Bidco or which would otherwise hinder or impede the implementation of the Scheme; or

4.1.3 accept, or give any undertaking in each case in my capacity as a shareholder (whether conditional or unconditional) to accept any offer, or approve any offer made or proposed to be implemented by way of a contractual offer, scheme of arrangement or otherwise in respect of securities in Tungsten by any person other than Bidco; or

4.1.4 except as a result of Options being exercised or vesting, until the earlier of (i) this Undertaking lapsing in accordance with paragraph 10; and (ii) the Scheme being approved by the court, acquire or otherwise deal or undertake any dealing in any relevant securities of Tungsten (or any interest therein) unless the Panel determines and confirms to you that in respect of such acquisition or dealing, that I am not acting in concert with you pursuant to Note 9 to the definition of “Acting in concert” set out in the Code; or

4.1.5 enter into any agreement or arrangement, incur any obligation or give any indication of intent (or permit such circumstances to occur):

(a) to do all or any of the acts referred to in paragraphs 4.1.1, 4.1.2, 4.1.3 and 4.1.4 above; or

(b) in relation to, or operating by reference to, Tungsten Shares or any Further Tungsten Shares,

which would or might reasonably be expected to restrict or impede giving effect to the Scheme by any person or my ability to comply with this Undertaking, and for the avoidance of doubt, references in this paragraph 4.1.5 to any agreement, arrangement or obligation shall include any such agreement, arrangement or obligation whether or not legally binding or subject to any condition, or which is to take effect upon or following the Scheme lapsing or being withdrawn, or upon or following this Undertaking ceasing to be binding, or upon or following any other event.

4.2 Paragraph 4.1 (if and to the extent applicable) shall not restrict me from (i) selling or disposing of such number of Tungsten Shares or Further Tungsten Shares (or interest in such shares) as part of my *bona fide* tax planning, and provided always that prior to any such disposal: (I) the intended transferee or beneficiary enters into an undertaking in favour of Bidco in terms no less favourable to Bidco than those set out herein and which does not contain this paragraph 4.2 or any clause similar to it; (II) I notify Bidco no less than five business days before such disposal

of those terms in their entirety and (other than in relation to any transfer to my spouse or a related family trust) obtain Bidco's consent for the transfer, such consent not to be unreasonably withheld or delayed; and (III) such undertaking includes a term obliging the intended transferee or beneficiary to send to Bidco an executed and dated version of the undertaking (in any form) within three business days of the day that it is executed and dated.

## 5. UNDERTAKING TO VOTE IN FAVOUR OF THE SCHEME

5.1 I hereby irrevocably undertake on the terms of this paragraph 5.1 in respect of the Existing Tungsten Shares, the Further Tungsten Shares and any other shares or interests in shares attributable to or deriving from such shares (together, the "Share").

5.2 I hereby irrevocably undertake to Bidco and Tungsten that until the Offer becomes effective or this Undertaking terminates or otherwise lapses in accordance with paragraph 10.1 below:

5.2.1 *to procure that the nominee holder will*  
to exercise all voting rights attaching to my Shares to vote in favour of all resolutions to approve the Scheme, and any related matters, proposed at any general or class meeting (including any adjournment thereof) ("General Meeting") and Court-convened meeting ("Court Meeting") of Tungsten to be convened and held in connection with the Scheme, or at any adjournment of any such meeting;

5.2.2 *+ procure that the nominee holder will*  
to (i) execute (or procure the execution of) all relevant forms of proxy in respect of all of my Shares validly appointing any person nominated by Bidco to attend and vote at any General Meeting or Court Meeting (or any adjournment thereof) in respect of the resolutions to approve the Scheme and any related matters; and (ii) lodge (or procure the lodgement of) such executed forms of proxy by 1.00 p.m. on the tenth business day after Tungsten publishes the scheme document setting out the terms and conditions of the Scheme (the "Scheme Document") to Tungsten shareholders (or, in respect of Further Tungsten Shares, by 1.00 p.m. on the date which is the fifth business day after acquiring an interest in such shares, if later); and

5.2.3 not to revoke or amend any proxy submitted in accordance with paragraph 5.2.2, either in writing or by attendance at any General Meeting or Court Meeting (or any adjournment thereof) or otherwise.

5.3 In the event that the Scheme is modified or amended pursuant to the requirements of, or with the approval of, the Court and in accordance with the terms of the Scheme, I confirm and agree that (except where such modification or amendment would materially adversely affect my rights or interests as a Tungsten shareholder) this Undertaking shall continue to be binding mutatis mutandis in respect of the Shares.

5.4 I undertake that Bidco will acquire the Shares pursuant to the Scheme which provides for the transfer of the Shares to Bidco, free from any lien, charge, option, equity, encumbrance or other third party interest of any nature whatsoever and together with all rights of any nature attaching or accruing to them, including the right to all dividends or other distributions (if any) declared, made or paid after the date of the Press Announcement (other than as set out in the Press Announcement).

## 6. POWER OF ATTORNEY

6.1 In order to secure the performance of my obligations under this Undertaking, until the Offer becomes effective or this Undertaking terminates or otherwise lapses in accordance with paragraph 10.1 below, I irrevocably appoint any director of Bidco jointly and severally to be my attorney in my name and on my behalf to sign or execute forms of proxy and/or such other deeds or documents and to do such other acts and things as may be necessary or desirable for the purpose of giving effect to my obligations under this Undertaking in respect of the Shares.

However the appointment shall only take effect if I have failed to comply with any of my obligations under paragraphs 4, 5 or 7 of this Undertaking.

- 6.2 I acknowledge that this power of attorney is given by way of security and is irrevocable until the Offer becomes effective, or this Undertaking terminates or otherwise lapses in accordance with paragraph 10.1.

7. **VOTING RIGHTS AND PREJUDICIAL ACTION**

I hereby irrevocably undertake that until the Offer becomes effective or this Undertaking terminates or otherwise lapses in accordance with paragraph 10.1 below:

- 7.1 I shall not exercise (or procure the exercise of) any of the voting rights attached to the Shares at the Court Meeting or the General Meeting other than in accordance with this Undertaking;
- 7.2 I shall otherwise exercise (or procure the exercise of) the voting rights attached to the Shares on any resolution which would assist implementation of the Scheme if it were passed or rejected at a general, class or other meeting of Tungsten shareholders only in accordance with Bidco's directions;
- 7.3 I shall not requisition, or join in the requisitioning of, any general or class meeting of Tungsten for the purposes of voting on any resolution to approve an acquisition or any other transaction or corporate action which is proposed in competition with or which would otherwise be reasonably expected to frustrate, impede or delay the Offer; and
- 7.4 I shall not exercise (nor procure the exercise of) the voting rights attached to the Shares for any resolution which (i) might prevent or delay implementation of the Scheme; or (ii) purports to approve or give effect to (and I will agree not to be bound by) a proposal by a person other than Bidco, to acquire (or have issued to it) any Tungsten Shares (whether by way of scheme or arrangement or otherwise) or any assets of Tungsten.
- 7.5 For the purposes of this paragraph 7, I shall execute any form of proxy required by Bidco appointing any person nominated by Bidco to attend and vote at the relevant meeting (or any adjournment thereof).

8. **CONSENTS**

I agree to:

- 8.1 promptly inform you of all information you may require in order to comply with the requirements of the Code, the Panel, the Court or of other applicable law or regulation in connection with the Offer and promptly after becoming aware of it notify you in writing of any material change in the accuracy or import of any such information and consent to the public disclosure of such information;
- 8.2 the inclusion of references to me and the registered holder of any of the Shares in which I have (or will have as the case may be) a beneficial interest and to particulars of this Undertaking in the Press Announcement;
- 8.3 particulars of this Undertaking being set out in any other announcement or document issued in connection with the Offer and in the Scheme Document; and
- 8.4 this Undertaking being available for inspection during the Offer (and any related competition reference period) in accordance with Rule 26.2 of the Code or the Listing Rules of the Financial Conduct Authority or its successor from time to time.

9. **ANNOUNCING AND PROCEEDING WITH THE OFFER**

I acknowledge that the release of the Press Announcement is at Bidco's absolute discretion. For the avoidance of doubt, nothing in this Undertaking shall oblige Bidco to announce or proceed with the Scheme or the Offer.

10. **LAPSE OF UNDERTAKING**

10.1 All of my obligations pursuant to this Undertaking will lapse and cease to have effect on the earlier of the following occurrences:

10.1.1 the Press Announcement not having been released by 11.59 p.m. (London time) on the date that is one business day from the date of this Undertaking (or such later date as Tungsten and Bidco may agree); or

10.1.2 the Scheme Document is not sent to shareholders of Tungsten within 28 days (or such longer period as the Panel may agree) after the date of the Press Announcement; or

10.1.3 Bidco announces, with the consent of the Panel, that it does not intend to make or proceed with the Offer and no new, revised or replacement offer or scheme is announced in accordance with Rule 2.7 of the Code at the same time; or

10.1.4 the Scheme lapses or is withdrawn in accordance with its terms and Bidco publicly confirms that it does not intend to proceed with the Offer or to implement the Offer by way of a takeover offer (as such term is defined in section 974 of the Act) (a "**Takeover Offer**") or otherwise; or

10.1.5 the Scheme has not become effective by 6.00 p.m. on the Long Stop Date (as defined in the Press Announcement) (or such later time or date as agreed between Bidco and Tungsten, with the approval of the Court and/or the Panel if required) (other than in circumstances where the Bidco has, prior to such date, elected to exercise its right to proceed by way of an Offer and announced the same in accordance with the requirements of Paragraph 8 of Appendix 7 to the Code, and such Offer has not lapsed or been withdrawn); or

10.1.6 the date on which any competing offer for the entire issued and to be issued share capital of Tungsten is declared wholly unconditional or, if proceeding by way of a scheme of arrangement, becomes effective.

10.2 If my obligations in this Undertaking lapse, I shall have no claim against Bidco or Tungsten and neither Bidco nor Tungsten shall have any claim against me, other than in respect of any prior breach of any of the terms of this Undertaking.

11. **SCHEME OF ARRANGEMENT OR TAKEOVER OFFER**

11.1 I note that Bidco reserves the right to implement the Offer by way of a Takeover Offer. In the event that it is so implemented, I confirm and agree that this Undertaking shall continue to be binding *mutatis mutandis* in respect of the Shares and all references to the Scheme shall, where the context permits, be read as references to the Takeover Offer (or to both the Scheme and the Takeover Offer, as appropriate). Notwithstanding the generality of the foregoing, references in this Undertaking:

11.1.1 to voting in favour of the Scheme and voting in favour of the resolutions to be proposed at the Court Meeting and/or the General Meeting shall be read and construed as references to accepting the Takeover Offer, which acceptances in such circumstances shall be tendered within ten business days of publication of the formal document

containing the Takeover Offer (the “**Offer Document**”) to Tungsten shareholders and even if the terms of the Takeover Offer give accepting shareholders the right to withdraw acceptances, I shall not withdraw (nor shall I procure the withdrawal of) my acceptances in respect of the Shares. I further undertake, if so required by Bidco, to execute (or procure the execution of) all such other documents or do (or procure the doing of) such other acts as may be necessary or desirable for the purpose of giving Bidco the full benefit of my undertakings;

11.1.2 to the Scheme becoming effective shall be read as references to the Takeover Offer becoming unconditional in all respects; and references to the Scheme lapsing or being withdrawn shall be read as references to the closing or lapsing of the Takeover Offer; and

11.1.3 to the Scheme Document shall be read as references to the Offer Document.

## 12. **OTHER**

12.1 Any time, date or period referred to in this Undertaking may be extended by mutual agreement but as regards any time, date and period originally fixed or as extended, time shall be of the essence.

12.2 I agree that damages would not be an adequate remedy for breach of this Undertaking and, accordingly, Bidco shall be entitled to the remedies of specific performance, injunction or other equitable remedies.

12.3 The *ejusdem generis* principle of construction shall not apply to this Undertaking. Any phrase introduced by the terms “other”, “including”, “include” and “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words following or preceding those terms.

12.4 In this Undertaking, references to:

12.4.1 “**Offer**” shall include any new, increased, renewed or revised acquisition proposals made by or on behalf of Bidco;

12.4.2 “**Code**” means the City Code on Takeovers and Mergers as amended from time to time;

12.4.3 “**business day**”, “**dealing**” and “**offer period**” shall be interpreted in accordance with the Code as from time to time amended and interpreted by the Panel;

12.4.4 being “**interested in**” or having “**interests in**” shares or securities shall be construed in accordance with the Code as from time to time amended and interpreted by the Panel and Part 22 of the Act; and

12.4.5 “**relevant securities**” shall be construed in accordance with the Code as from time to time amended and interpreted by the Panel.

## 13. **GOVERNING LAW AND JURISDICTION**

13.1 This Undertaking and all non-contractual obligations arising from or in connection with this Undertaking are governed by and construed in accordance with English law. I submit to the exclusive jurisdiction of the English courts to settle any dispute arising from or connected with this Undertaking (a “**Dispute**”) (including a dispute regarding the existence, validity or termination of this Undertaking or relating to any non-contractual or other obligation arising out of or in connection with this Undertaking or its formation). I agree that the English courts

are the most appropriate and convenient courts to settle any Dispute and accordingly, will not argue to the contrary.

13.2 I understand and confirm that:

13.2.1 this Undertaking is legally binding;

13.2.2 subject to the terms of this Undertaking, I will not be able to withdraw from the commitment in this Undertaking, nor will I be able to deal in any of the Shares, or accept any other offer for the Shares; and

13.2.3 until the Press Announcement is released, the fact that the Offer is under consideration and the terms and conditions of the Offer constitute inside information and I shall keep such information secret. Disclosure of such information (to the extent that it has not already been publicly announced) or any dealing in securities of Bidco or Tungsten, could constitute a criminal offence under the insider dealing provisions of the Criminal Justice Act 1993 and/or behaviour amounting to market abuse under the Market Abuse Regulation (EU) No.596/2014, as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018 liable to sanction by the Financial Conduct Authority, for example, the imposition of financial penalties. The obligations in this paragraph shall survive termination of this Undertaking.

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## SCHEDULE 1

### PART 1

#### Existing Tungsten Shares

<b>(1)</b> <b>No. of ordinary shares of GBP 0.00438 each in Tungsten</b>	<b>(2)</b> <b>Exact name(s) of registered holder as appearing on the register of members#</b>	<b>(3)</b> <b>Beneficial owner#</b>
100,000	Smith and Williamson Nominees Ltd	Nicholas Wells

# Where more than one, indicate number of shares attributable to each.



**SCHEDULE 2**

**NOT FOR RELEASE, PUBLICATION OR DISTRIBUTION, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, IN, INTO OR FROM ANY JURISDICTION WHERE TO DO SO WOULD CONSTITUTE A VIOLATION OF THE RELEVANT LAWS OR REGULATIONS OF THAT JURISDICTION**

**FOR IMMEDIATE RELEASE**

**THIS ANNOUNCEMENT CONTAINS INSIDE INFORMATION**

**24 March 2022**

**RECOMMENDED CASH ACQUISITION**

**of**

**Tungsten Corporation plc**

**by**

**Project California Bidco Limited**

**(a newly-formed vehicle, indirectly wholly-owned by Kofax Parent Limited)**

**to be effected by means of a Scheme of Arrangement  
under Part 26 of the Companies Act 2006**

## **Summary**

- The boards of directors of Tungsten Corporation plc (“Tungsten”) and Project California Bidco Limited (“Bidco”), a newly-formed vehicle, indirectly wholly-owned by Kofax Parent Limited (“Kofax”) are pleased to announce that they have reached agreement on the terms and conditions of a recommended all cash offer to be made by Bidco for the entire issued, and to be issued, ordinary share capital of Tungsten.
- Under the terms of the Acquisition, each Scheme Shareholder will be entitled to receive:  

**for each Scheme Share: 42 pence in cash**
- The Acquisition price per Scheme Share represents a premium of approximately:
  - 44.8 per cent. to the Closing Price of 29.0 pence per Tungsten Share on 13 December 2021 (being the last Business Day before the commencement of the Offer Period);
  - 61.3 per cent. to the volume-weighted average price of 26.0 pence per Tungsten Share for the one-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period);

- 56.4 per cent. to the volume-weighted average price of 26.8 pence per Tungsten Share for the three-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period); and
- 39.3 per cent. to the volume-weighted average price of 30.2 pence per Tungsten Share for the six-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period).
- The Acquisition values Tungsten's entire issued, and to be issued, ordinary share capital at approximately £53.7 million on a fully diluted basis.
- If, on or after the date of this announcement and prior to the Acquisition becoming Effective, any dividend and/or other distribution and/or other return of value is announced, declared, made or paid or becomes payable in respect of the Tungsten Shares, Bidco reserves the right to reduce the consideration payable under the terms of the Acquisition for the Tungsten Shares by an amount up to the aggregate amount of such dividend and/or distribution and/or other return of value, in which case any reference in this announcement to the consideration payable under the terms of the Acquisition will be deemed to be a reference to the consideration as so reduced. In such circumstances, Tungsten Shareholders would be entitled to retain any such dividend, distribution or other return of value.

## Recommendation

- The Tungsten Directors, who have been so advised by Canaccord Genuity as to the financial terms of the Acquisition, consider the terms of the Acquisition to be fair and reasonable. In providing its advice, Canaccord Genuity has taken into account the commercial assessments of Tungsten Directors. Canaccord Genuity is providing independent financial advice to the Tungsten Directors for the purposes of Rule 3 of the Takeover Code.
- **In the absence of a higher offer, the Tungsten Directors intend to recommend unanimously that, in the case of the Court Meeting, the Scheme Shareholders and, in the case of the General Meeting, Tungsten Shareholders vote in favour of the resolutions relating to the Acquisition at the Meetings to be convened in due course.**
- The Tungsten Directors who hold Tungsten Shares have irrevocably undertaken to vote in favour of the resolutions at the Meetings in respect of their own beneficial holdings totalling 1,305,253 Tungsten Shares (representing approximately 1.0 per cent. of existing issued ordinary share capital of Tungsten) as at 23 March 2022, being the Business Day prior to the date of this announcement.

## Background to and reasons for the Acquisition

- Kofax has a long and successful track record of making and integrating acquisitions of businesses with complementary products and solutions. Past acquisitions made by Kofax include 170 Systems, Singularity, Altosoft, Kapow, SoftPro, AIA, Nuance Document Imaging, Top Imaging Systems, PSIGEN and Printix.
- Tungsten is a global provider of electronic invoicing and accounts payable automation solutions, digitising the invoicing process and improving workflow automation for its customers. As a leading provider of digital automation software and solutions which

transform content-intensive workflows, Kofax believes that Tungsten's product and customer base is complementary to Kofax's existing offerings, operations and business.

- Kofax believes that Tungsten's platform would augment Kofax's invoice processing and accounts payable automation solutions by adding eInvoicing, compliance and other capabilities. Further, Kofax sees opportunities to expand the scale of Tungsten's business by offering Tungsten's products to Kofax's larger customer base and reseller channels, and by leveraging Kofax's greater geographical reach and operational infrastructure.
- Kofax also believes Tungsten's invoicing network presents an opportunity for Kofax to access a complementary customer base for its current portfolio of digital workflow automation solutions. Further, Tungsten's customers could represent prospective users of Kofax's broader set of workflow automation solutions.

### **Irrevocable undertakings**

- Bidco has received an irrevocable commitment to vote in favour of the resolutions relating to the Acquisition at the Meetings (or in the event that the Acquisition is implemented by an Offer, to accept or procure acceptance of such Offer) from the Truell Associates in respect of (i) 21,542,558 Tungsten Shares to which the Truell Associates currently control the voting rights, and (ii) a further 1,500,000 Tungsten Shares over which the Truell Associates have an option to reacquire the voting rights (representing in aggregate approximately 18.2 per cent. of the existing issued ordinary share capital of Tungsten) as at 23 March 2022, being the Business Day prior to the date of this announcement.
- Together with irrevocable undertakings received from the Tungsten Directors that hold Tungsten Shares, in total, Bidco has procured irrevocable commitments to vote in favour of the resolutions relating to the Acquisition at the Meetings (or in the event that the Acquisition is implemented by an Offer, to accept or procure acceptance of such Offer), including those from the Tungsten Directors who own Tungsten Shares, in respect of, in aggregate, 24,347,811 Tungsten Shares (representing approximately 19.2 per cent. of the existing issued ordinary share capital of Tungsten) as at 23 March 2022, being the Business Day prior to the date of this announcement.
- Further details of these irrevocable undertakings (including the circumstances in which they cease to be binding) are set out in Appendix 3 to this announcement.

### **Information on Bidco and Kofax**

- Bidco is a limited company registered in England & Wales and incorporated on 25 January 2022. Bidco was formed for the purposes of the Acquisition and is a newly-formed vehicle, indirectly wholly-owned by Kofax and has not traded since its date of incorporation, nor has it entered into any obligations other than in connection with the Acquisition.
- Kofax provides an intelligent automation software platform and solutions to enable organizations to digitally transform content-intensive workflows. Kofax supports customers in realizing faster time-to-value and increased competitiveness, growth and profitability by combining Kofax's cognitive capture, robotic process automation, process orchestration, analytics and mobile capabilities while helping increase business resiliency and mitigating compliance risk.

- Kofax has provided a rapid return on investment for over 25,000 customers in financial services, insurance, government, healthcare, supply chain, business process outsourcing and other markets. Kofax delivers its software and solutions through direct sales to large end users and over 650 indirect channel partners and integrators in more than 60 countries throughout the Americas, EMEA and Asia Pacific. Kofax is headquartered in Irvine, CA and has more than 1,900 employees on a global basis.

### **Timetable and conditions**

- It is intended that the Acquisition will be implemented by way of a court-sanctioned scheme of arrangement under Part 26 of the 2006 Act (although Bidco reserves the right to effect the Acquisition by way of an Offer, subject to the consent of the Panel and the terms of the Cooperation Agreement).
- The terms of the Acquisition will be put to Tungsten Shareholders at the Court Meeting and the General Meeting. The Court Meeting and the General Meeting are required to enable Tungsten Shareholders to consider and, if thought fit, vote in favour of the Scheme and the Resolutions to implement the Scheme. In order to become Effective, the Scheme must be approved by a majority in number of Scheme Shareholders, present and voting at the Court Meeting, whether in person or by proxy, representing 75 per cent. or more in value of the Scheme Shares voted. In addition, a special resolution implementing the Scheme must be passed by Tungsten Shareholders representing at least 75 per cent. of votes cast at the General Meeting.
- The Conditions to the Acquisition are set out in full in Appendix 1 to this announcement along with certain other terms; the full terms and conditions will be provided in the Scheme Document.
- It is expected that the Scheme Document, containing further information about the Acquisition and notices of the Court Meeting and General Meeting, together with the associated forms of proxy, will be posted to Tungsten Shareholders as soon as practicable and in any event within 28 days of this announcement (or such later time as Tungsten, Bidco and the Panel agree) and the Meetings are expected to be held shortly thereafter. Subject to certain restrictions relating to persons resident in Restricted Jurisdictions, the Scheme Document will also be made available on Bidco's website at [www.kofax.com/tungsten](http://www.kofax.com/tungsten) and Tungsten's website at [www.tungsten-network.com/takeover-documentation/](http://www.tungsten-network.com/takeover-documentation/).
- The Acquisition is currently expected to complete during the second quarter of 2022, subject to the satisfaction or (where applicable) waiver of the Conditions. An expected timetable of key events relating to the Acquisition will be provided in the Scheme Document.

Commenting on this announcement Tony Bromovsky, the Chairman of Tungsten, said:

*“Over recent years, the management of Tungsten has continued to develop its product offering and routes to market to position itself for profitable growth. Whilst profits have been firmly established, and the strategy is bearing fruit, stronger growth rates remain outstanding. We continue to focus on growth and importantly, to invest in innovative product development to ensure that Tungsten keeps pace with the wider market and its competitors, many of whom are materially larger and better capitalised.*”

*However, the successful execution of our strategy, and ultimately accelerated growth, requires continued investment in research and development and may require further capital. Against this backdrop, I believe the offer from Kofax represents a fair premium, it provides certain value today for Tungsten Shareholders and it provides Tungsten with the opportunity to expand the scale of Tungsten's business by offering its products to a wider customer base, leveraging Kofax's geographical reach, capacity for investment and operational infrastructure."*

Commenting on this announcement Reynolds Bish, the Chief Executive Officer of Kofax, said:

*"We are very pleased to announce the proposed acquisition of Tungsten, which will bring their electronic invoicing and accounts payable automation solutions into Kofax's suite of intelligent automation software and solutions. Tungsten has a complementary offering and customer base and shares a similar attitude to delivering solutions to its customers. Kofax has a strong track record of acquiring and integrating complementary companies with synergistic technology offerings, in order to deliver greater value to its stakeholders. We believe that Tungsten is a good example of such a company, and we look forward to completing the acquisition and working with the Tungsten team."*

**This summary should be read in conjunction with the following announcement and the Appendices. The conditions to, and certain further terms of, the Acquisition are set out in Appendix 1. The bases and sources for certain financial information contained in this announcement are set out in Appendix 2. Details of undertakings received by Bidco are set out in Appendix 3. Certain definitions and terms used in this announcement are set out in Appendix 4.**

## **Enquiries**

### **Kofax and Bidco**

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Simon Bridges

Andrew Potts

Kirkland & Ellis International LLP is acting as legal adviser to Bidco and Kofax.

RBG Legal Services Limited, trading as Memery Crystal, is acting as legal adviser to Tungsten.

### **Further information**

*Shore Capital & Corporate Limited and Shore Capital Stockbrokers Limited (either individually or collectively "Shore Capital"), which are authorised and regulated by the FCA, are acting as financial adviser to Bidco and Kofax and no-one else in connection with the matters described in this announcement and will not be responsible to anyone other than Bidco and Kofax for providing the protections afforded to clients of Shore Capital nor for providing advice in connection with the matters referred to herein. Neither Shore Capital nor any of its affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Shore Capital in connection with this announcement, any statement contained herein, the Acquisition or otherwise.*

*Canaccord Genuity, which is authorised and regulated by the FCA, is acting as financial adviser to Tungsten and no one else in connection with the matters described in this announcement and will not be responsible to anyone other than Tungsten for providing the protections afforded to clients of Canaccord Genuity nor for providing advice in connection with the matters referred to herein. Neither Canaccord Genuity nor any of its affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Canaccord Genuity in connection with this announcement, any statement contained herein, the Acquisition or otherwise.*

*This announcement is for information purposes only and is not intended to and does not constitute, or form part of, an offer, invitation or the solicitation of an offer to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of any securities, or the solicitation of any vote or approval in any jurisdiction, pursuant to the Acquisition or otherwise, nor shall there be any sale, issuance or transfer of securities of Tungsten in any jurisdiction in contravention of applicable law. The Acquisition will be implemented solely by means of the Scheme Document (or, if the Acquisition is implemented by way of an Offer, the offer document), which will contain the full terms and conditions of the Acquisition including details of how to vote in respect of the Acquisition. Any vote in respect of the Scheme or other response in relation to the Acquisition should be made only on the basis of the information contained in the Scheme Document (or, if the Acquisition is implemented by way of an Offer, the offer document). This announcement does not constitute a prospectus, prospectus equivalent document or an exempted document.*

***If you are in any doubt about the contents of this Announcement or the action you should take, you are recommended to seek your own independent financial advice immediately from your stockbroker, bank manager, solicitor, accountant or independent financial adviser duly authorised under the Financial Services and Markets Act 2000 (as amended) if you are resident in the United Kingdom or, if not, from another appropriately authorised independent financial adviser.***

## **Overseas Shareholders**

*The release, publication or distribution of this announcement in or into jurisdictions other than the UK may be restricted by law and therefore any persons who are subject to the law of any jurisdiction other than the UK should inform themselves of, and observe, any applicable legal or regulatory requirements. Any failure to comply with such requirements may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the Acquisition disclaim any responsibility or liability for the violation of such restrictions by any person. This announcement has been prepared in accordance and for the purpose of complying with English law, the Takeover Code, the AIM Rules, the Market Abuse Regulation and the Disclosure Guidance and Transparency Rules and information disclosed may not be the same as that which would have been prepared in accordance with the laws of jurisdictions outside England.*

*The availability of the Acquisition to Tungsten Shareholders who are not resident in and citizens of the UK may be affected by the laws of the relevant jurisdictions in which they are located or of which they are citizens. Persons who are not resident in the UK should inform themselves of, and observe, any applicable legal or regulatory requirements of their jurisdictions. In particular, the ability of persons who are not resident in the United Kingdom to vote their Tungsten Shares with respect to the Scheme at the Court Meeting, or to appoint another person as proxy to vote at the Court Meeting on their behalf, may be affected by the laws of the relevant jurisdictions in which they are located. Any failure to comply with the applicable restrictions may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the Acquisition disclaim any responsibility or liability for the violation of such restrictions by any person. Further details in relation to Overseas Shareholders will be contained in the Scheme Document.*

*Unless otherwise determined by Bidco or required by the Takeover Code, and permitted by applicable law and regulation, the Acquisition will not be made available, directly or indirectly, in, into or from a Restricted Jurisdiction where to do so would violate the laws in that jurisdiction and no person may vote in favour of the Scheme by any such use, means, instrumentality or from within a Restricted Jurisdiction or any other jurisdiction if to do so would constitute a violation of the laws of that jurisdiction. Copies of this announcement and any formal documentation relating to the Acquisition are not being, and must not be, directly or indirectly, mailed or otherwise forwarded, distributed or sent in or into or from any Restricted Jurisdiction and persons receiving such documents (including, without limitation, agents, custodians, nominees and trustees) must not mail or otherwise forward, distribute or send it in or into or from any Restricted Jurisdiction. Doing so may render invalid any related purported vote in respect of the Acquisition. If the Acquisition is implemented by way of an Offer (unless otherwise permitted by applicable law and regulation), the Offer may not be made directly or indirectly, in or into, or by the use of mails or any means or instrumentality (including, but not limited to, facsimile, e-mail or other electronic transmission, telex or telephone) of interstate or foreign commerce of, or of any facility of a national, state or other securities exchange of any Restricted Jurisdiction and the Offer may not be capable of acceptance by any such use, means, instrumentality or facilities.*

*Further details in relation to overseas shareholders will be included in the Scheme Document.*



## **Notice to US investors in Tungsten**

*The Acquisition relates to the shares of an English company and is being made by means of a scheme of arrangement provided for under English company law. A transaction effected by means of a scheme of arrangement is not subject to the tender offer or proxy solicitation rules under the US Exchange Act of 1934. Accordingly, the Acquisition is subject to the disclosure requirements and practices applicable in the UK to schemes of arrangement which differ from the disclosure requirements of the US tender offer and proxy solicitation rules. The financial information included in this announcement has been prepared in accordance with generally accepted accounting principles of the United Kingdom and thus may not be comparable to financial information of US companies or companies whose financial statements are prepared in accordance with generally accepted accounting principles in the United States.*

*If, in the future, Bidco exercises its right to implement the Acquisition by way of an Offer, which is to be made into the United States, such Offer will be made in compliance with the applicable US laws and regulations.*

*It may be difficult for US holders of Tungsten Shares to enforce their rights and any claim arising out of the US federal laws, since Bidco and Tungsten are located in a non-US jurisdiction, and some or all of their officers and directors may be residents of a non-US jurisdiction. US holders of Tungsten Shares may not be able to sue a non-US company or its officers or directors in a non-US court for violations of the US securities laws. Further, it may be difficult to compel a non-US company and its affiliates to subject themselves to a US court's judgement.*

*To the extent permitted by applicable law, in accordance with normal UK market practice and pursuant to Rule 14e-5(b) of the US Exchange Act, Kofax, Thoma Bravo or their nominees, or their brokers (acting as agents), may from time to time make certain purchases of, or arrangements to purchase, Tungsten Shares outside of the US, other than pursuant to the Acquisition, until the date on which the Acquisition becomes effective, lapses or is otherwise withdrawn. These purchases may occur either in the open market at prevailing prices or in private transactions at negotiated prices.*

*US Tungsten Shareholders also should be aware that the transaction contemplated herein may have tax consequences in the US and, that such consequences, if any, are not described herein. US Tungsten Shareholders are urged to consult with legal, tax and financial advisers in connection with making a decision regarding this transaction.*

## **Forward Looking Statements**

*This announcement (including information incorporated by reference in this announcement), oral statements made regarding the Acquisition, and other information published by Bidco, Kofax and Tungsten contain statements which are, or may be deemed to be, "forward-looking statements". Forward-looking statements are prospective in nature and are not based on historical facts, but rather on current expectations and projections of the management of Bidco, Kofax and Tungsten about future events, and are therefore subject to risks and uncertainties which could cause actual results to differ materially from the future results expressed or implied by the forward-looking statements.*

*The forward-looking statements contained in this announcement include statements relating to the expected effects of the Acquisition on Bidco, Kofax and Tungsten (including their future*

prospects, developments and strategies), the expected timing and scope of the Acquisition and other statements other than historical facts. Often, but not always, forward-looking statements can be identified by the use of forward-looking words such as “plans”, “expects” or “does not expect”, “is expected”, “is subject to”, “budget”, “projects”, “strategy”, “scheduled”, “estimates”, “forecasts”, “intends”, “anticipates” or “does not anticipate”, or “believes”, or variations of such words and phrases or statements that certain actions, events or results “may”, “could”, “should”, “would”, “might” or “will” be taken, occur or be achieved. Although Bidco, Kofax and Tungsten believe that the expectations reflected in such forward-looking statements are reasonable, Bidco, Kofax and Tungsten can give no assurance that such expectations will prove to be correct. By their nature, forward-looking statements involve risk and uncertainty because they relate to events and depend on circumstances that will occur in the future. There are a number of factors that could cause actual results and developments to differ materially from those expressed or implied by such forward-looking statements.

These factors include, but are not limited to: the ability to complete the Acquisition; the ability to obtain requisite regulatory and shareholder approvals and the satisfaction of other Conditions on the proposed terms and schedule; as future market conditions, changes in general economic and business conditions, the behaviour of other market participants, the anticipated benefits from the proposed transaction not being realised as a result of changes in general economic and market conditions in the countries in which Bidco, Kofax and Tungsten operate, weak, volatile or illiquid capital and/or credit markets, changes in tax rates, interest rate and currency value fluctuations, the degree of competition in the geographic and business areas in which Bidco, Kofax and Tungsten operate and changes in laws or in supervisory expectations or requirements. Other unknown or unpredictable factors could cause actual results to differ materially from those in the forward-looking statements. Such forward-looking statements should therefore be construed in the light of such factors. None of Bidco, Kofax or Tungsten, nor any of their respective associates or directors, officers or advisers, provides any representation, assurance or guarantee that the occurrence of the events expressed or implied in any forward-looking statements in this announcement will actually occur. You are cautioned not to place any reliance on these forward-looking statements. Other than in accordance with their legal or regulatory obligations, none of Bidco, Kofax or Tungsten is under any obligation, and Bidco, Kofax and Tungsten expressly disclaim any intention or obligation, to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

## **Dealing and Opening Position Disclosure Requirements**

Under Rule 8.3(a) of the Takeover Code, any person who is interested in 1% or more of any class of relevant securities of an offeree company or of any securities exchange offeror (being any offeror other than an offeror in respect of which it has been announced that its offer is, or is likely to be, solely in cash) must make an Opening Position Disclosure following the commencement of the offer period and, if later, following the announcement in which any securities exchange offeror is first identified. An Opening Position Disclosure must contain details of the person’s interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror(s). An Opening Position Disclosure by a person to whom Rule 8.3(a) applies must be made by no later than 3.30 pm (London time) on the 10th Business Day following the commencement of the offer period and, if appropriate, by no later than 3.30 pm (London time) on the 10th Business Day following the announcement in which any securities exchange offeror is first identified. Relevant persons who deal in the relevant securities of the offeree company or of a

*securities exchange offeror prior to the deadline for making an Opening Position Disclosure must instead make a Dealing Disclosure.*

*Under Rule 8.3(b) of the Takeover Code, any person who is, or becomes, interested in 1% or more of any class of relevant securities of the offeree company or of any securities exchange offeror must make a Dealing Disclosure if the person deals in any relevant securities of the offeree company or of any securities exchange offeror. A Dealing Disclosure must contain details of the dealing concerned and of the person's interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror(s), save to the extent that these details have previously been disclosed under Rule 8. A Dealing Disclosure by a person to whom Rule 8.3(b) applies must be made by no later than 3.30 pm (London time) on the Business Day following the date of the relevant dealing.*

*If two or more persons act together pursuant to an agreement or understanding, whether formal or informal, to acquire or control an interest in relevant securities of an offeree company or a securities exchange offeror, they will be deemed to be a single person for the purpose of Rule 8.3.*

*Opening Position Disclosures must also be made by the offeree company and by any offeror and Dealing Disclosures must also be made by the offeree company, by any offeror and by any persons acting in concert with any of them (see Rules 8.1, 8.2 and 8.4).*

*Details of the offeree and offeror companies in respect of whose relevant securities Opening Position Disclosures and Dealing Disclosures must be made can be found in the Disclosure Table on the Takeover Panel's website at [www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk), including details of the number of relevant securities in issue, when the offer period commenced and when any offeror was first identified. You should contact the Panel's Market Surveillance Unit on +44 (0)20 7638 0129 if you are in any doubt as to whether you are required to make an Opening Position Disclosure or a Dealing Disclosure.*

### **Publication on a website**

*In accordance with Rule 26.1 of the Takeover Code, a copy of this announcement will be made available, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, on Tungsten's website at [www.tungsten-network.com/takeover-documentation/](http://www.tungsten-network.com/takeover-documentation/) and on Bidco's website at [www.kofax.com/tungsten](http://www.kofax.com/tungsten) by no later than 12 noon (London time) on the Business Day following this announcement. For the avoidance of doubt, the contents of these websites are not incorporated by reference and do not form part of this announcement*

### **No profit forecasts, estimates or quantified benefits statements**

*No statement in this announcement is intended as a profit forecast, profit estimate or quantified benefits statement for any period and no statement in this announcement should be interpreted to mean that earnings or earnings per share for Tungsten for the current or future financial years would necessarily match or exceed the historical published earnings or earnings per share for Tungsten.*

## **Requesting hard copy documents**

*In accordance with Rule 30.3 of the Takeover Code, Tungsten Shareholders, persons with information rights and participants in Tungsten Share Plans may request a hard copy of this announcement by contacting Tungsten's registrars, Equiniti, either in writing to Aspect House, Spencer Road, Lancing, West Sussex, BN99 6DA, United Kingdom, or by calling +44 (0)371 3842030. Calls outside the UK will be charged at the applicable international rate. Lines are open between 8.30 am and 5.30 pm Monday to Friday excluding public holidays in England and Wales. For persons who receive a copy of this announcement in electronic form or via a website notification, a hard copy of this announcement will not be sent unless so requested. Such persons may also request that all future documents, announcements and information to be sent to you in relation to the Acquisition should be in hard copy form.*

## **Electronic Communications**

*Please be aware that addresses, electronic addresses and certain other information provided by Tungsten Shareholders, persons with information rights and other relevant persons for the receipt of communications from Tungsten may be provided to Bidco during the offer period as required under Section 4 of Appendix 4 of the Takeover Code to comply with Rule 2.11(c).*

## **Rounding**

*Certain figures included in this announcement have been subjected to rounding adjustments. Accordingly, figures shown for the same category presented in different tables may vary slightly and figures shown as totals in certain tables may not be an arithmetic aggregation of figures that precede them.*

**NOT FOR RELEASE, PUBLICATION OR DISTRIBUTION, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, IN, INTO OR FROM ANY JURISDICTION WHERE TO DO SO WOULD CONSTITUTE A VIOLATION OF THE RELEVANT LAWS OR REGULATIONS OF THAT JURISDICTION**

**FOR IMMEDIATE RELEASE**

**THIS ANNOUNCEMENT CONTAINS INSIDE INFORMATION**

**24 March 2022**

**RECOMMENDED CASH ACQUISITION**

**of**

**Tungsten Corporation plc**

**by**

**Project California Bidco Limited**

**(a newly-formed vehicle, indirectly wholly-owned by Kofax Parent Limited)**

**to be effected by means of a Scheme of Arrangement  
under Part 26 of the Companies Act 2006**

**1 INTRODUCTION**

The boards of directors of Tungsten Corporation plc ("Tungsten") and Project California Bidco Limited ("Bidco"), a newly-formed vehicle, indirectly wholly-owned by Kofax Parent Limited ("Kofax") are pleased to announce that they have reached agreement on the terms and conditions of a recommended all cash offer to be made by Bidco for the entire issued, and to be issued, ordinary share capital of Tungsten.

It is intended that the Acquisition will be implemented by way of a court-sanctioned scheme of arrangement under Part 26 of the 2006 Act (although Bidco reserves the right to effect the Acquisition by way of an Offer, subject to the consent of the Panel and the terms of the Cooperation Agreement). The Conditions to the Acquisition are set out in full in Appendix 1 to this announcement.

**2 THE ACQUISITION**

Under the terms of the Acquisition, which will be subject to the Conditions and further terms set out in Appendix 1 to this announcement and the full terms and conditions to be set out in the Scheme Document, each Tungsten Shareholder will be entitled to receive:

**for each Scheme Share: 42 pence in cash**

The Offer Price of 42 pence per Scheme Share represents a premium of approximately:

- 44.8 per cent. to the Closing Price of 29.0 pence per Tungsten Share on 13 December 2021 (being the last Business Day before the commencement of the Offer Period); and
- 61.3 per cent. to the volume-weighted average price of 26.0 pence per Tungsten Share for the one-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period);
- 56.4 per cent. to the volume-weighted average price of 26.8 pence per Tungsten Share for the three-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period); and
- 39.3 per cent. To the volume-weighted average price of 30.2 pence per Tungsten Share for the six-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period).

The Acquisition values Tungsten's entire issued, and to be issued, ordinary share capital at approximately £53.7 million on a fully diluted basis.

The Tungsten Shares will be acquired pursuant to the Acquisition fully paid and free from all liens, charges, equities, encumbrances, rights of pre-emption and any other interests of any nature whatsoever and together with all rights attaching thereto, including without limitation voting rights and the right to receive and retain in full all dividends and other distributions (if any) announced, declared, made or paid with a record date on or after the Scheme Record Time.

If, on or after the date of this announcement, any dividend and/or other distribution and/or other return of value is announced, declared, made or paid or becomes payable in respect of the Tungsten Shares, Bidco reserves the right to reduce the consideration payable under the terms of the Acquisition for the Tungsten Shares by an amount up to the amount of such dividend and/or distribution and/or return of value, in which case any reference in this announcement to the consideration payable under the terms of the Acquisition will be deemed to be a reference to the consideration as so reduced. In such circumstances, Tungsten Shareholders would be entitled to retain any such dividend, distribution or other return of value.

### **3 BACKGROUND TO AND REASONS FOR THE ACQUISITION**

Kofax has a long and successful track record of making and integrating acquisitions of businesses with complementary products and solutions. Past acquisitions made by Kofax include 170 Systems, Singularity, Altosoft, Kapow, SoftPro, AIA, Nuance Document Imaging, Top Imaging Systems, PSIGEN and Printix.

Tungsten is a global provider of electronic invoicing and accounts payable automation solutions, digitising the invoicing process and improving workflow automation for its customers. As a leading provider of digital automation software and solutions which transform content-intensive workflows, Kofax believes that Tungsten's product and customer base is complementary to Kofax's existing offerings, operations and business.

Kofax believes that Tungsten's platform would augment Kofax's invoice processing and accounts payable automation solutions by adding eInvoicing, compliance and other

capabilities. Further, Kofax sees opportunities to expand the scale of Tungsten's business by offering Tungsten's products to Kofax's larger customer base and reseller channels, and by leveraging Kofax's greater geographical reach and operational infrastructure.

Kofax also believes Tungsten's invoicing network presents an opportunity for Kofax to access a complementary customer base for its current portfolio of digital workflow automation solutions. Further, Tungsten's customers could represent prospective users of Kofax's broader set of workflow automation solutions.

#### **4 RECOMMENDATION**

The Tungsten Directors, who have been so advised by Canaccord Genuity as to the financial terms of the Acquisition, consider the terms of the Acquisition to be fair and reasonable. In providing its advice, Canaccord Genuity has taken into account the commercial assessments of Tungsten Directors. Canaccord Genuity is providing independent financial advice to the Tungsten Directors for the purposes of Rule 3 of the Takeover Code.

**In the absence of a higher offer, the Tungsten Directors intend to recommend unanimously that, in the case of the Court Meeting, the Scheme Shareholders and, in the case of the General Meeting, Tungsten Shareholders vote in favour of the resolutions relating to the Acquisition at the Meetings to be convened in due course.**

The Tungsten Directors who hold Tungsten Shares have irrevocably undertaken to vote in favour of the resolutions at the Meetings in respect of their own beneficial holdings totalling 1,305,253 Tungsten Shares (representing approximately 1.0 per cent. of the existing issued ordinary share capital of Tungsten) as at 23 March 2022, being the Business Day prior to the date of this announcement.

Further details of these undertakings, including the circumstances in which they cease to be binding, are set out in Appendix 3 to this announcement.

#### **5 BACKGROUND TO AND REASONS FOR THE RECOMMENDATION**

Following the outbreak of COVID-19, 2021 was a challenging year for the Tungsten Group. Total revenue for the year ended 30 April 2021 ("FY21") decreased from £36.8 million to £36.1 million and total transaction volumes reduced from 19 million to 18.3 million. Despite this, new products were launched in FY21, with the Tungsten Group continuing to develop strategic partnerships to extend the Tungsten ecosystem and Tungsten implemented a process, successfully reducing costs and improving profitability within the business.

On 9 June 2021, Paul Cooper was appointed as Chief Executive Officer to replace Andrew Lemonofides, and a number of new appointments were made to the Tungsten Group's senior leadership team during FY21, together with an overall reduction in headcount and costs within the business.

In the year ending 30 April 2021 ("FY22"), the Tungsten growth strategy has remained focused on driving core AP e-invoicing growth; riding the wave of compliance and

opening the network through expansion of its interoperation and government gateway footprints; promoting its full suite of capabilities through partnerships and developing total AR.

Against a backdrop of gradual global economic recovery, interim results for the six months ended 31 October 2021 (“H1 FY22”), released on 13 December 2021, showed encouraging, positive progress for Tungsten, with revenues increasing by 2% to £18.3 million and by 5% on a constant currency basis. Adjusted EBITDA increased to £3.0 million (up £2.2 million for the six months ended 31 October 2020 (“H1 FY21”)) and net cash increased to £1.9 million (a £0.9 million increase from H1 FY21). Whilst new deal bookings were lower than the prior year, important strategic wins in H1 FY22 included the first Total AR customer win in the insurance sector, a significant existing AP Buyer signing a new contract under the Supply Chain Finance partnership with Orbian and two buyers joining the network via a partnership with a leading US bank.

In Tungsten’s H1 FY22 half-year results announcement, Tungsten stated:

"We are encouraged by progress made in the period with some significant strategic wins across our portfolio and partnership offerings. Our focus on product and technology innovation has continued to enhance the experience of customers and partners across our digital ecosystem. The Tungsten team remain committed to supporting global enterprises realise tangible operational efficiency in uncertain economic times and ensuring robust risk management as invoicing regulation continues to proliferate across the globe."

A key aspect of Tungsten’s strategy going forward, to drive faster growth, is to invest more in product development to ensure that Tungsten keeps pace with wider market developments and remain competitive with competitors, many of whom are materially larger and better capitalised, and to minimise customer churn and to grow revenues more quickly than over the past few years. Successful execution of the strategy and investment in product development may require further capital that the Tungsten Board anticipates will have to put in place through a combination of new equity capital and/or increasing and extending its debt facility. In the Tungsten Board’s opinion, the current environment for raising new equity and extending debt facilities may not be straightforward.

On 14 December 2021, Tungsten announced that it had noted the speculation about interest in the Company and confirmed that it had received an unsolicited indicative proposal from Kofax relating to a possible cash offer for the entire issued and to be issued ordinary share capital of the Company for a price of 40 pence per Scheme Share (the “Proposal”). Whilst the Tungsten Board believed that 40 pence per Scheme Share significantly undervalued the Company, considering its fiduciary duty to shareholders and on the basis that the Kofax indicative offer had obtained the support of a major shareholder in the Company, the Tungsten Board facilitated due diligence.

It was also announced that Kofax had an irrevocable undertaking from the Truell Associates in support of its Proposal in respect of (i) 21,542,558 Tungsten Shares to which the Truell Associates currently control the voting rights, and (ii) a further 1,500,000 Tungsten Shares over which the Truell Associates have an option to reacquire the voting rights, representing in aggregate 18.2% of the total voting rights of Tungsten.



On 22 February 2022, Tungsten announced that on 18 February 2022, the Tungsten Board received a revised indicative proposal from Kofax relating to a possible cash offer for the entire issued and to be issued ordinary share capital of Tungsten for a price of 42 pence per Scheme Share. The Offer was subject to several pre-conditions including completion of final confirmatory due diligence and on receiving a recommendation from the Tungsten Board for, and irrevocable undertakings from all Tungsten Directors, to accept the Offer.

On 22 March 2022, the Tungsten Board announced that the Tungsten Board and the Kofax Board were pleased to announce that they were in the advanced stages of reaching agreement on the key terms of the Offer. The Tungsten Board confirmed to Kofax, that should a firm offer be made on the financial terms of the Offer, it was minded to recommend such offer unanimously to Tungsten Shareholders, and (in respect of those directors who are Tungsten Shareholders) provide irrevocable undertakings to accept the Offer, subject to the agreement of other customary terms and conditions. Any announcement by Kofax of a firm intention to make an offer for Tungsten remained subject to, inter alia, agreeing the detailed terms of an offer and completion of the cash confirmation process.

The Tungsten Board confirms that as of the date of this announcement, in addition to Kofax, it is in discussions with a small number of other parties in relation to possible alternative offer(s) for the entire issued and to be issued ordinary share capital of Tungsten. It is important to note that there can be no certainty that any firm offer will be made by any of the parties currently in discussions with Tungsten, nor as to the terms or value of any such firm offer. Tungsten will make a further announcement in due course, if and when appropriate, to provide an update on the progress of discussions with other parties.

For the avoidance of doubt, under Rule 2.6 of the Code each of the parties in discussions with Tungsten (together the “Potential Competing Offerors”) must: (i) announce a firm intention to make an offer (in accordance with Rule 2.7 of the Code); (ii) announce that it does not intend to make an offer (in which case the announcement will be treated as a statement to which Rule 2.8 applies); or (iii) if the Potential Competing Offeror has not been identified, confirm to Tungsten that it does not intend to make an offer (in which case Tungsten will promptly announce that fact and the Potential Competing Offeror will be treated as if it had then made a statement to which Rule 2.8 applies), by 5.00 p.m. seven days prior to the date of the Court Meeting.

The Tungsten Directors have evaluated the Offer on behalf of Tungsten Shareholders, as a whole. In evaluating the Offer, the Tungsten Directors have considered the interests of Tungsten’s employees and customers, as well as the economic benefits to the Tungsten Shareholders. In considering the terms of the Offer, the Tungsten Board has considered a number of factors, including:

- The Tungsten Group is operating in a marketplace where several of its key competitors are materially larger and better capitalised.
- The potential challenges facing the Tungsten Group to secure a sufficient combination of debt and/or equity funding on appropriate terms to execute its strategy.

- The ability to increase the growth of Tungsten without additional investment.
- The potential of a well-capitalised business under new ownership is to the benefit of all stakeholders, partners, customers and employees.
- In addition, the Offer represents an opportunity for Tungsten Shareholders to crystallise value, in cash, at a price of 42 pence per Scheme Share which represents a premium of approximately:
  - a. 44.8 per cent. to the Closing Price of 29.0 pence per Tungsten Share on 13 December 2021 (being the last Business Day before the commencement of the Offer Period);
  - b. 61.3 per cent. to the volume-weighted average price of 26.0 pence per Tungsten Share for the one-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period); and
  - c. 56.4 per cent. to the volume-weighted average price of 26.8 pence per Tungsten Share for the three-month period ended 13 December 2021 (being the last Business Day before the commencement of the Offer Period).

Against this background, after careful consideration, the Tungsten Board has determined that in the absence of a higher offer the Offer is in the best interests of Tungsten Shareholders. Accordingly, the Tungsten Board, which has been so advised by Canaccord Genuity, has unanimously agreed to recommend the Offer to enable it to be put forward to Tungsten Shareholders.

## **6 INFORMATION RELATING TO BIDCO, KOFAX AND THOMA BRAVO**

### Bidco

Bidco is a limited company registered in England & Wales and incorporated on 25 January 2022. Bidco was formed for the purposes of the Acquisition and is a newly-formed vehicle, indirectly wholly-owned by Kofax and has not traded since its date of incorporation, nor has it entered into any obligations other than in connection with the Acquisition.

The current directors of Bidco are Christian Jorg Franz Hefner, Martin Gustav Oberholzer and Cort Steven Townsend. Further details in relation to Bidco will be contained in the Scheme Document.

### Kofax

Kofax is a portfolio company of funds advised or managed by affiliates of Thoma Bravo. Kofax provides an intelligent automation software platform and solutions to enable organizations to digitally transform content-intensive workflows. Kofax supports customers in realizing faster time-to-value and increased competitiveness, growth and profitability by combining Kofax's cognitive capture, robotic process automation, process orchestration, analytics and mobile capabilities while helping increase business resiliency and mitigating compliance risk.

Kofax has provided a rapid return on investment for over 25,000 customers in financial services, insurance, government, healthcare, supply chain, business process outsourcing and other markets. Kofax delivers its software and solutions through direct sales to large end users and over 650 indirect channel partners and integrators in more than 60 countries throughout the Americas, EMEA and Asia Pacific. Kofax is headquartered in Irvine, CA and has more than 1,900 employees on a global basis.

Funds advised and/or managed by Thoma Bravo and its affiliates have indirectly controlled the Kofax Group since July 2017.

### Thoma Bravo

Thoma Bravo is one of the largest private equity firms in the world, with more than \$100 billion in assets under management as of 31 December 2021. Thoma Bravo invests in growth-oriented, innovative companies operating in the software and technology sectors. Leveraging the firm's deep sector expertise and proven strategic and operational capabilities, Thoma Bravo collaborates with its portfolio companies to implement operating best practices, drive growth initiatives and make accretive acquisitions intended to accelerate revenue and earnings. Over the past 20 years, the firm has acquired or invested in more than 350 companies representing over \$155 billion in enterprise value. The firm has offices in Chicago, Miami and San Francisco.

## **7 INFORMATION RELATING TO TUNGSTEN**

Tungsten is the world's largest, compliant business transaction network. A leading global electronic invoicing and purchase order transactions network; Tungsten's mission is centred on enabling a touchless invoice process allowing businesses around the globe to gain maximum value from their invoice process.

Tungsten processes invoices for 60% of the FTSE 100 and 68% of the Fortune 500. It enables suppliers to submit tax compliant e-invoices in 54 countries, and last year processed transactions worth over £220 billion for organisations such as Caesars Entertainment, Computacenter, GlaxoSmithKline, Kraft Foods, Mohawk Industries, Mondelēz International, Procter & Gamble, Shaw Industries, Unilever and the US Federal Government.

Founded in 2000 and headquartered in London, Tungsten has offices in the US, Bulgaria and Malaysia, employing over 227 people.

## **8 TUNGSTEN CURRENT TRADING**

Revenues for the 10 months to end February 2022 were £31 million, representing 6% year-on-year revenue growth on a constant currency basis.

Foreign exchange is estimated to have negatively impacted revenues to end February 2022 by £0.7 million on a period on period constant currency basis.

Whilst not quite yet at pre-Covid 19 levels of transactions volumes, during the second half of FY22, Tungsten has seen an increase in transaction volumes for the 10 months to end February 2022 of 3% compared to the prior period.

There have been 27 upsells for the period with FY22 revenue of £0.7m and Total Contract Value (“TCV”) of £1.5 million, and one new customer Accounts Receivable win which now has a TCV of £0.1 million.

There has been significantly improved buyer retention, with a YTD February 2022 loss of 3 Accounts Payable (“AP”) Buyers with annual recurring revenue (“ARR”) of £0.1 million against a loss of 13 AP buyers with ARR of £0.4 million for the prior period.

Costs have continued to be well controlled, and net cash as at 28 February 2022 was £2.1 million.

## **9 IRREVOCABLE COMMITMENTS**

As described above, Bidco has received irrevocable undertakings to vote (or, where applicable, procure voting) in favour of the resolutions relating to the Acquisition at the Meetings (or in the event that the Acquisition is implemented by an Offer, to accept or procure acceptance of such Offer) from all of the Tungsten Directors who own Tungsten Shares, in respect of their own beneficial holdings totalling 1,305,253 Tungsten Shares (representing approximately 1.0 per cent. of existing issued ordinary share capital of Tungsten) as at 23 March 2022, being the Business Day prior to the date of this announcement. The undertakings will remain binding in the event that a higher competing offer for Tungsten is made.

Bidco has also received an irrevocable commitment to vote in favour of the resolutions relating to the Acquisition at the Meetings (or in the event that the Acquisition is implemented by an Offer, to accept or procure acceptance of such Offer) from the Truell Associates, in respect of (i) 21,542,558 Tungsten Shares to which the Truell Associates currently control the voting rights, and (ii) a further 1,500,000 Tungsten Shares over which the Truell Associates have an option to reacquire the voting rights (representing in aggregate approximately 18.2 per cent. of existing issued ordinary share capital of Tungsten, and 18.2 per cent. of Tungsten Shares being eligible to vote at the Court Meeting) as at 23 March 2022, being the Business Day prior to the date of this announcement.

In total therefore, Bidco has procured irrevocable commitments to vote in favour of the resolutions relating to the Acquisition at the Meetings (or in the event that the Acquisition is implemented by an Offer, to accept or procure acceptance of such Offer), including those from the Tungsten Directors in respect of, in aggregate, 24,347,811 Tungsten Shares (representing approximately 19.2 per cent. of existing issued ordinary share capital of Tungsten, and 19.2 per cent. of Tungsten Shares being eligible to vote at the Court Meeting) as at 23 March 2022, being the Business Day prior to the date of this announcement.

Further details of these irrevocable undertakings, including the circumstances in which they cease to be binding, are set out in Appendix 3 to this announcement.

## **10 FINANCING OF THE ACQUISITION**

The cash consideration payable by Bidco under the terms of the Acquisition will be funded from existing cash resources of the Kofax Group, to be provided to Bidco under the Intra-Group Loan Agreement.

Shore Capital is satisfied that sufficient resources are available to Bidco to satisfy in full the cash consideration payable to Tungsten Shareholders under the terms of the Acquisition.

Further information on the financing of the Acquisition will be set out in the Scheme Document.

## **11 OFFER-RELATED ARRANGEMENTS**

### Confidentiality Agreement

On 1 December 2021, Kofax and Tungsten entered into the Confidentiality Agreement in relation to the Acquisition, pursuant to which, amongst other things, Kofax has undertaken to: (a) subject to certain exceptions, keep information relating to Tungsten and the Acquisition confidential and not to disclose it to third parties; and (b) use such confidential information only in connection with the Acquisition. These confidentiality obligations will remain in force until the earlier of (i) 1 December 2022 or (ii) the completion of the Acquisition.

### Cooperation Agreement

Pursuant to the Cooperation Agreement, Bidco and Tungsten have, amongst other things, each agreed to cooperate in preparing and implementing appropriate proposals in relation to the Tungsten Share Plans. In addition, Bidco has agreed to certain provisions if the Scheme should switch to an Offer. The Cooperation Agreement will terminate in certain circumstances, including if the Acquisition is withdrawn, terminated or lapses, a third party announces a possible or firm intention to make an offer or revised offer for Tungsten which completes, becomes effective or becomes unconditional in all respects, if prior to the Long Stop Date any Condition has been invoked by Bidco, if the Tungsten Directors withdraw their recommendation of the Acquisition or if the Scheme does not become effective in accordance with its terms by the Long Stop Date or otherwise as agreed between Bidco and Tungsten. Pursuant to the terms of the Cooperation Agreement, Bidco undertakes that it will deliver a notice in writing to Tungsten on the Business Day prior to the Sanction Hearing confirming either: (i) the satisfaction or waiver of the Conditions (other than the Scheme Conditions); or (ii) to the extent permitted by the Panel, that it intends to invoke or treat as unsatisfied or incapable of satisfaction one or more Conditions.

## **12 DISCLOSURE OF INTERESTS IN TUNGSTEN SECURITIES**

Except for the irrevocable commitments referred to in paragraph 8 above and as disclosed above, as at 23 March 2022 (being the last practicable date prior to the date of this announcement) neither Bidco, nor any of its directors, nor, so far as Bidco is aware, any person acting in concert (within the meaning of the Takeover Code) with it for the purposes of the Acquisition (i) had any interest in or right to subscribe for or had borrowed or lent any Tungsten Shares or securities convertible or exchangeable into Tungsten Shares, or (ii) had any short positions in respect of relevant securities of Tungsten (whether conditional or absolute and whether in the money or otherwise), including any short position under a derivative, any agreement to sell or any delivery obligation or right to require another person to purchase or take delivery, or (iii) has borrowed or lent any relevant securities of Tungsten (including, for these purposes, any

financial collateral arrangements of the kind referred to in Note 4 on Rule 4.6 of the Takeover Code) save for any borrowed shares which have been either on-lent or resold, or (iv) is a party to any dealing arrangement of the kind referred to in Note 11 on the definition of acting in concert in the Takeover Code.

## **13 DIRECTORS, MANAGEMENT, EMPLOYEES, PENSIONS, RESEARCH AND DEVELOPMENT AND LOCATIONS**

### ***Strategic plans for Tungsten***

As set out in paragraph 3 above, Kofax believes that Tungsten's platform would augment its accounts payable solutions by adding eInvoicing and compliance capabilities, and provide opportunities to expand the scale of Tungsten's business by offering its products to a wider customer base, leveraging Kofax's greater geographical reach and operational infrastructure. In particular, Kofax believes that its customers would benefit from the opportunity to gain access to Tungsten's products.

Kofax believes that Tungsten's invoicing network presents an opportunity for Kofax to access a complementary customer base for its current portfolio of digital workflow automation solutions. Kofax believes that Tungsten's customers could represent prospective users of its broader set of workflow automation solutions, particularly if Tungsten's technologies are integrated into Kofax's operating and technology infrastructure.

Consistent with acquisitions Kofax has made in the past, Kofax plans to combine and integrate Tungsten's business into Kofax following the completion of the Acquisition so that it can offer Tungsten's invoicing product alongside its accounts payable solutions, and because it believes there is the potential for Tungsten's business to improve its operating margins and generate economies of scale as part of Kofax.

Kofax anticipates using the 90 day period following completion of the Acquisition to develop a detailed integration plan. This integration planning exercise will aim to optimise the integration of Tungsten's products and complementary functions, as well as confirm the existence and extent of any potential overlaps between Kofax's operations and Tungsten's operations. Kofax's preliminary assessment has indicated that there may be opportunities to reduce duplication of processes. Further, subject to the findings of this integration planning exercise, Kofax will explore rationalising Tungsten's use of outsourced resources by redirecting the relevant functions to internal resources. Kofax believes that the integration of targeted complementary functions and reducing the number of outsourced arrangements once Tungsten is part of the Kofax Group could also lead to operating efficiencies and margin improvements.

### ***Employees and management***

Kofax attaches importance to Tungsten's management's and employees' market understanding and their embedded knowledge of Tungsten's business, technology, product offering and stakeholders. Kofax recognises the significant contribution made by Tungsten's employees to Tungsten's development to date.

As set out above, following the completion of the Acquisition, Kofax intends to complete a detailed review to inform the process for integrating the Tungsten business

into the Kofax Group. As part of this review, Kofax intends to discuss with, and further draw upon, Tungsten management's experience to gain a full understanding of the organisation, and the roles and responsibilities of employees within the business.

Kofax's preliminary analysis to identify potential synergies across the Kofax Group and the Tungsten Group indicates that there will be a degree of duplication within functions including research and development, sales and marketing, customer services, and other functions which may no longer be relevant for Tungsten as a member of Kofax, for example in central and headquarters functions (such as finance, legal, IT and human resources) and those relating to Tungsten being a publicly listed company. During the 90 day detailed integration review period following completion of the Acquisition, Kofax intends to complete a comprehensive organisational review, engagement and planning exercise following the Acquisition which will involve a range of stakeholders, including any affected employees and any appropriate employee representative bodies. Any internal reorganisation plans undertaken by Kofax will take place as part of the integration of Tungsten into Kofax.

Kofax's intention is to approach management and employee integration with the aim of retaining and motivating the best talent to augment its focus on creating a best-in-class organization. In considering headcount reductions, Kofax will seek to ensure that Tungsten's customers and partners continue to enjoy the same high quality of services as they do presently. Based upon the due diligence carried out to date by Kofax, the removal of duplicative functions as referred to above between the two businesses could involve headcount reductions in the 12 months following the completion of the Acquisition representing no more than 25 per cent of Tungsten's current employees. The reduction in duplication of the functions described above may therefore result in a change to the balance of skills and functions of the employees and management of Tungsten in those areas. No such headcount reductions would proceed without comprehensive planning or the appropriate conclusion of all applicable information and consultation procedures with employees and their representatives. With significant operations and approximately 1,900 employees across the Kofax Group internationally, Kofax perpetually recruits for the best talent across its operational footprint. Kofax intends to encourage affected Tungsten employees to apply for available applicable alternative job roles within the Kofax Group. In respect of affected Tungsten employees, such alternative job roles are most likely to be located in the UK and US. Any affected employees will be treated in a manner consistent with Kofax's high standards, culture and practices, including consultation with employee representatives.

Upon and following completion of the Acquisition, Kofax intends to align the conditions of employment of Tungsten's management and employees with Kofax's employment policies, and confirms that it intends to fully safeguard the existing contractual and statutory employment rights of all of Tungsten's management and employees.

It is intended that, with effect from the Effective Date, each of Tungsten's non-executive directors will resign from their office as a director of Tungsten.

### ***Management incentive arrangements***

Following the Acquisition becoming Effective, Kofax intends to review Tungsten's management, governance and incentive structures. Kofax has not entered into and has

not had discussions concerning any form of incentivisation arrangements with members of Tungsten's management, but may have discussions and enter into such discussions for certain members of the Tungsten management team following the Effective Date.

### ***Pension schemes***

Tungsten does not operate or contribute to any defined benefit pension schemes in respect of its employees. It does, however, operate certain defined contribution pension plans. Kofax intends to fully safeguard the existing contractual and statutory employment rights, including in relation to pensions, of all Tungsten management and employees and to comply with all applicable law in connection with the provision of retirement benefits. In respect of Tungsten's US employees, Kofax expects that Tungsten employees would be eligible to participate in its own 401(k) plan (which is not mandatory) which provides for pension contribution matching by Kofax of 50 cents for every US dollar contributed by the employee, up to an employee contribution of 6% of their gross salary.

### ***Headquarters, locations, fixed assets and research and development***

Consistent with Kofax's plan to integrate Tungsten's business into Kofax following the completion of the Acquisition, Kofax intends to consolidate Tungsten's operating locations, including Tungsten's headquarters, into the existing Kofax global footprint by way of non-renewal of leases upon expiry, lease exits and/or exploring the possibility of sub-letting, with the objective of reducing rental and lease expenses over time. Alongside Kofax's virtual working practices, it expects that Tungsten's UK and US employees and functions will be migrated to Kofax's existing UK and US office space. To the extent possible, Kofax intends to seek to consolidate the UK and US locations within 12 months. Kofax will review and consider the most appropriate timing and strategy for the consolidation of Tungsten's operating locations as part of its integration planning exercise which is expected to take place following the completion of the Acquisition.

Tungsten does not have significant fixed assets (other than premises) and Kofax envisages no material redeployment of the fixed assets of Tungsten.

Kofax values the investment that Tungsten has made in its technology, and the infrastructure and expertise within Tungsten to maintain and develop its product offering. Kofax also maintains a research and development function which has a different structure to Tungsten's. As part of its integration planning exercise, Kofax will seek to better understand the structure of Tungsten's research and development function and evaluate avenues for integrating certain areas of it. It is Kofax's preliminary estimate that certain areas may present an overlap with existing roles within the Tungsten Group which could result in headcount reductions, consistent with the level of potential reductions across the Tungsten business. It anticipates over time that Kofax's plan to integrate the combined Kofax and Tungsten R&D function will have regard to reducing duplication.

### ***Trading Facilities***

The Tungsten Shares are currently traded on AIM and, as set out in paragraph 16 below, a request will be made to the London Stock Exchange to cancel the admission to trading



on AIM of the Tungsten Shares, to take effect from or shortly after the Effective Date. As stated in paragraph 16, dealings in Tungsten Shares will be suspended prior to the Effective Date and thereafter there will be no trading facilities in relation to Tungsten Shares.

No statements in this paragraph 6 are "post-offer undertakings" for the purposes of Rule 19.5 of the Code.

#### **14 TUNGSTEN SHARE PLANS**

Participants in the Tungsten Share Plans will be contacted regarding the effect of the Acquisition on their options and awards under the Tungsten Share Plans and an appropriate proposal will be made to such participants which reflects their options and awards under the Tungsten Share Plans in due course. Details of the impact of the Scheme on each of the Tungsten Share Plans will be set out in the Scheme Document.

#### **15 SCHEME PROCESS**

The Acquisition is subject to the Conditions and certain further terms referred to in Appendix 1 to this announcement and to the full terms and conditions to be set out in the Scheme Document, and will only become Effective if, among other things, the following events occur on or before the Long Stop Date (or such later date as the Bidco and Tungsten may, with the consent of the Panel, agree and, if required, the Court may approve):

- a resolution to approve the Scheme is passed by a majority in number of the Scheme Shareholders present and voting (and entitled to vote) at the Court Meeting, either in person or by proxy, representing 75 per cent. or more in value of each class of the Scheme Shares held by those Scheme Shareholders;
- the resolution(s) necessary to implement the Scheme is/are passed by the requisite majority of Tungsten Shareholders at the General Meeting;
- following the Court Meeting and General Meeting, the Scheme is sanctioned by the Court (without modification, or with modification on terms agreed by the Bidco and Tungsten); and
- following such sanction, an office copy of the Scheme Court Order is delivered to the Registrar of Companies.

The Conditions in paragraph 2 of Appendix 1 to this announcement provide that the Scheme will lapse if:

- the Court Meeting and the General Meeting are not held by the 22nd day after the expected date of the Court Meeting to be set out in the Scheme Document in due course (or such later date as may be agreed between Bidco and Tungsten);
- the Sanction Hearing to approve the Scheme is not held by the 22nd day after the expected date of the Sanction Hearing to be set out in the Scheme Document in due course (or such later date as may be agreed between Bidco and Tungsten);

- the Scheme does not become effective by 11.59 p.m. on the Long Stop Date (or such later date as may be agreed between Bidco and Tungsten and the Panel and the Court may allow).

Once the necessary approvals from Tungsten Shareholders have been obtained and the other Conditions have been satisfied or (where applicable) waived and the Scheme has been approved by the Court, the Scheme will become effective upon delivery of the Court Order to the Registrar of Companies. Subject to the satisfaction of the Conditions, the Scheme is expected to become effective during the second quarter of 2022.

Upon the Scheme becoming Effective: (i) it will be binding on all Scheme Shareholders, irrespective of whether or not they attended or voted at the Court Meeting or the General Meeting (and if they attended and voted, whether or not they voted in favour); and (ii) share certificates in respect of Tungsten Shares will cease to be valid and entitlements to Tungsten Shares held within the CREST system will be cancelled. In accordance with the applicable provisions of the Takeover Code, the Consideration for the transfer of the Scheme Shares to Bidco will be despatched no later than 14 days after the Effective Date.

Any Tungsten Shares (other than Excluded Shares) issued before the Scheme Record Time will be subject to the terms of the Scheme. The resolution(s) to be proposed at the General Meeting will, amongst other matters, provide that the Articles be amended to incorporate provisions requiring any Tungsten Shares issued after the Scheme Record Time (other than to Bidco and/or their nominees) to be automatically transferred to Bidco on the same terms as the Acquisition (other than terms as to timings and formalities). The provisions of the Articles (as amended) will avoid any person (other than Bidco and their nominees) holding shares in the capital of Tungsten after the Effective Date.

Further details of the Scheme, including an indicative timetable for its implementation, will be set out in the Scheme Document. It is expected that the Scheme Document and the Forms of Proxy accompanying the Scheme Document will be published as soon as practicable and in any event within 28 days of this announcement (or such later date as the Bidco and Tungsten may, with the consent of the Panel, agree and, if required, the Court may approve).

## **16 DELISTING, AND CANCELLATION OF TRADING AND RE-REGISTRATION**

It is intended that dealings in Tungsten Shares should be suspended shortly prior to the Effective Date, at a time to be set out in the Scheme Document. It is intended that the London Stock Exchange will be requested to cancel the admission to trading of Tungsten Shares on the AIM on or shortly after the Effective Date. In addition, entitlements held within the CREST system to the Tungsten Shares are expected to be cancelled on the first Business Day following the Effective Date.

It is intended that Tungsten will be re-registered as a private limited company as part of the Scheme and for this to take effect as soon as practicable on or following the Effective Date.

## **17 DOCUMENTS**

Copies of the following documents will be available promptly on Bidco's and Tungsten's websites, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, at [www.kofax.com/tungsten](http://www.kofax.com/tungsten) and [www.tungsten-network.com/takeover-documentation/](http://www.tungsten-network.com/takeover-documentation/) respectively and in any event by no later than noon on the Business Day following this announcement:

- this announcement;
- the Confidentiality Agreement;
- the Cooperation Agreement;
- the irrevocable undertakings referred to in paragraph 9 above;
- the consent letters from each of Shore Capital and Canaccord Genuity referred to in paragraph 18 below; and
- the documents entered into for the financing of the Acquisition referred to in paragraph 10 above.

The content of the website referred to in this announcement is not incorporated into and does not form part of this announcement.

## **18 GENERAL**

Bidco reserves the right to elect (with the consent of the Panel and subject to the terms of the Cooperation Agreement) to implement the acquisition of the Tungsten Shares by way of an Offer as an alternative to the Scheme. In such event, the Offer will be implemented on substantially the same terms, so far as applicable, as those which would apply to the Scheme.

The Acquisition will be on the terms and subject to the conditions set out herein and in Appendix 1, and to be set out in the Scheme Document. The bases and sources for certain financial information contained in this announcement are set out in Appendix 2. Details of undertakings received by Bidco are set out in Appendix 3. Certain definitions and terms used in this announcement are set out in Appendix 4. The formal Scheme Document will be sent to shareholders of Tungsten within 28 days of this announcement (or on such later date as may be agreed with the Panel).

Shore Capital and Canaccord Genuity have each given and not withdrawn their consent to the publication of this announcement with the inclusion herein of the references to their names in the form and context in which they appear.

This announcement does not constitute an offer or an invitation to purchase or subscribe for any securities.

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Kirkland & Ellis International LLP is acting as legal adviser to Bidco and Kofax.

RBG Legal Services Limited, trading as Memery Crystal, is acting as legal adviser to Tungsten.

### **Further information**

*Shore Capital & Corporate Limited and Shore Capital Stockbrokers Limited (either individually or collectively "Shore Capital"), which is authorised and regulated by the FCA, is acting as financial adviser to the Bidco and Kofax and no-one else in connection with the matters described in this announcement and will not be responsible to anyone other than the Bidco and Kofax for providing the protections afforded to clients of Shore Capital nor for providing advice in connection with the matters referred to herein. Neither Shore Capital nor any of its affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Shore Capital in connection with this announcement, any statement contained herein, the Acquisition or otherwise.*

*Canaccord Genuity, which is authorised and regulated by the FCA, is acting as financial adviser to Tungsten and no one else in connection with the matters described in this announcement and will not be responsible to anyone other than Tungsten for providing the protections afforded to clients of Canaccord Genuity nor for providing advice in connection with the matters referred to herein. Neither Canaccord Genuity nor any of its affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Canaccord*

*Genuity in connection with this announcement, any statement contained herein, the Acquisition or otherwise.*

*This announcement is for information purposes only and is not intended to and does not constitute, or form part of, an offer, invitation or the solicitation of an offer to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of any securities, or the solicitation of any vote or approval in any jurisdiction, pursuant to the Acquisition or otherwise, nor shall there be any sale, issuance or transfer of securities of Tungsten in any jurisdiction in contravention of applicable law. The Acquisition will be implemented solely by means of the Scheme Document (or, if the Acquisition is implemented by way of an Offer, the offer document), which will contain the full terms and conditions of the Acquisition including details of how to vote in respect of the Acquisition. Any vote in respect of the Scheme or other response in relation to the Acquisition should be made only on the basis of the information contained in the Scheme Document (or, if the Acquisition is implemented by way of an Offer, the offer document). This announcement does not constitute a prospectus, prospectus equivalent document or an exempted document.*

***If you are in any doubt about the contents of this Announcement or the action you should take, you are recommended to seek your own independent financial advice immediately from your stockbroker, bank manager, solicitor, accountant or independent financial adviser duly authorised under the Financial Services and Markets Act 2000 (as amended) if you are resident in the United Kingdom or, if not, from another appropriately authorised independent financial adviser.***

### **Overseas Shareholders**

*The release, publication or distribution of this announcement in or into jurisdictions other than the UK may be restricted by law and therefore any persons who are subject to the law of any jurisdiction other than the UK should inform themselves of, and observe, any applicable legal or regulatory requirements. Any failure to comply with such requirements may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the Acquisition disclaim any responsibility or liability for the violation of such restrictions by any person. This announcement has been prepared in accordance and for the purpose of complying with English law, the Takeover Code, the AIM Rules, the Market Abuse Regulation and the Disclosure Guidance and Transparency Rules and information disclosed may not be the same as that which would have been prepared in accordance with the laws of jurisdictions outside England.*

*The availability of the Acquisition to Tungsten Shareholders who are not resident in and citizens of the UK may be affected by the laws of the relevant jurisdictions in which they are located or of which they are citizens. Persons who are not resident in the UK should inform themselves of, and observe, any applicable legal or regulatory requirements of their jurisdictions. In particular, the ability of persons who are not resident in the United Kingdom to vote their Tungsten Shares with respect to the Scheme at the Court Meeting, or to appoint another person as proxy to vote at the Court Meeting on their behalf, may be affected by the laws of the relevant jurisdictions in which they are located. Any failure to comply with the applicable restrictions may constitute a violation of the securities laws of any such jurisdiction. To the fullest extent permitted by applicable law, the companies and persons involved in the Acquisition disclaim any responsibility or liability for the violation of such restrictions by any person. Further details in relation to Overseas Shareholders will be contained in the Scheme Document.*

*Unless otherwise determined by Bidco or required by the Takeover Code, and permitted by applicable law and regulation, the Acquisition will not be made available, directly or indirectly, in, into or from a Restricted Jurisdiction where to do so would violate the laws in that jurisdiction and no person may vote in favour of the Scheme by any such use, means, instrumentality or from within a Restricted Jurisdiction or any other jurisdiction if to do so would constitute a violation of the laws of that jurisdiction. Copies of this announcement and any formal documentation relating to the Acquisition are not being, and must not be, directly or indirectly, mailed or otherwise forwarded, distributed or sent in or into or from any Restricted Jurisdiction and persons receiving such documents (including, without limitation, agents, custodians, nominees and trustees) must not mail or otherwise forward, distribute or send it in or into or from any Restricted Jurisdiction. Doing so may render invalid any related purported vote in respect of the Acquisition. If the Acquisition is implemented by way of an Offer (unless otherwise permitted by applicable law and regulation), the Offer may not be made directly or indirectly, in or into, or by the use of mails or any means or instrumentality (including, but not limited to, facsimile, e-mail or other electronic transmission, telex or telephone) of interstate or foreign commerce of, or of any facility of a national, state or other securities exchange of any Restricted Jurisdiction and the Offer may not be capable of acceptance by any such use, means, instrumentality or facilities.*

*Further details in relation to overseas shareholders will be included in the Scheme Document.*

### **Notice to US investors in Tungsten**

*The Acquisition relates to the shares of an English company and is being made by means of a scheme of arrangement provided for under English company law. A transaction effected by means of a scheme of arrangement is not subject to the tender offer or proxy solicitation rules under the US Exchange Act of 1934. Accordingly, the Acquisition is subject to the disclosure requirements and practices applicable in the UK to schemes of arrangement which differ from the disclosure requirements of the US tender offer and proxy solicitation rules. The financial information included in this announcement has been prepared in accordance with generally accepted accounting principles of the United Kingdom and thus may not be comparable to financial information of US companies or companies whose financial statements are prepared in accordance with generally accepted accounting principles in the United States.*

*If, in the future, Bidco exercises its right to implement the Acquisition by way of an Offer, which is to be made into the United States, such Offer will be made in compliance with the applicable US laws and regulations.*

*It may be difficult for US holders of Tungsten Shares to enforce their rights and any claim arising out of the US federal laws, since Bidco and Tungsten are located in a non-US jurisdiction, and some or all of their officers and directors may be residents of a non-US jurisdiction. US holders of Tungsten Shares may not be able to sue a non-US company or its officers or directors in a non-US court for violations of the US securities laws. Further, it may be difficult to compel a non-US company and its affiliates to subject themselves to a US court's judgement.*

*To the extent permitted by applicable law, in accordance with normal UK market practice and pursuant to Rule 14e-5(b) of the US Exchange Act, Kofax, Thoma Bravo or their nominees, or their brokers (acting as agents), may from time to time make certain purchases of, or arrangements to purchase, Tungsten Shares outside of the US, other than pursuant to the Acquisition, until the date on which the Acquisition becomes effective, lapses or is otherwise*

*withdrawn. These purchases may occur either in the open market at prevailing prices or in private transactions at negotiated prices.*

*US Tungsten Shareholders also should be aware that the transaction contemplated herein may have tax consequences in the US and, that such consequences, if any, are not described herein. US Tungsten Shareholders are urged to consult with legal, tax and financial advisers in connection with making a decision regarding this transaction.*

## **Forward Looking Statements**

*This announcement (including information incorporated by reference in this announcement), oral statements made regarding the Acquisition, and other information published by Bidco, Kofax and Tungsten contain statements which are, or may be deemed to be, “forward-looking statements”. Forward-looking statements are prospective in nature and are not based on historical facts, but rather on current expectations and projections of the management of Bidco, Kofax and Tungsten about future events, and are therefore subject to risks and uncertainties which could cause actual results to differ materially from the future results expressed or implied by the forward-looking statements.*

*The forward-looking statements contained in this announcement include statements relating to the expected effects of the Acquisition on Bidco, Kofax and Tungsten (including their future prospects, developments and strategies), the expected timing and scope of the Acquisition and other statements other than historical facts. Often, but not always, forward-looking statements can be identified by the use of forward-looking words such as “plans”, “expects” or “does not expect”, “is expected”, “is subject to”, “budget”, “projects”, “strategy”, “scheduled”, “estimates”, “forecasts”, “intends”, “anticipates” or “does not anticipate”, or “believes”, or variations of such words and phrases or statements that certain actions, events or results “may”, “could”, “should”, “would”, “might” or “will” be taken, occur or be achieved. Although Bidco, Kofax and Tungsten believe that the expectations reflected in such forward-looking statements are reasonable, Bidco, Kofax and Tungsten can give no assurance that such expectations will prove to be correct. By their nature, forward-looking statements involve risk and uncertainty because they relate to events and depend on circumstances that will occur in the future. There are a number of factors that could cause actual results and developments to differ materially from those expressed or implied by such forward-looking statements.*

*These factors include, but are not limited to: the ability to complete the Acquisition; the ability to obtain requisite regulatory and shareholder approvals and the satisfaction of other Conditions on the proposed terms and schedule; as future market conditions, changes in general economic and business conditions, the behaviour of other market participants, the anticipated benefits from the proposed transaction not being realised as a result of changes in general economic and market conditions in the countries in which Bidco, Kofax and Tungsten operate, weak, volatile or illiquid capital and/or credit markets, changes in tax rates, interest rate and currency value fluctuations, the degree of competition in the geographic and business areas in which Bidco, Kofax and Tungsten operate and changes in laws or in supervisory expectations or requirements. Other unknown or unpredictable factors could cause actual results to differ materially from those in the forward-looking statements. Such forward-looking statements should therefore be construed in the light of such factors. None of Bidco, Kofax or Tungsten, nor any of their respective associates or directors, officers or advisers, provides any representation, assurance or guarantee that the occurrence of the events expressed or implied in any forward-looking statements in this announcement will actually occur. You are cautioned not to place any reliance on these forward-looking statements. Other than in accordance with*

*their legal or regulatory obligations, none of Bidco, Kofax or Tungsten is under any obligation, and Bidco, Kofax and Tungsten expressly disclaim any intention or obligation, to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.*

## **Dealing and Opening Position Disclosure Requirements**

*Under Rule 8.3(a) of the Takeover Code, any person who is interested in 1% or more of any class of relevant securities of an offeree company or of any securities exchange offeror (being any offeror other than an offeror in respect of which it has been announced that its offer is, or is likely to be, solely in cash) must make an Opening Position Disclosure following the commencement of the offer period and, if later, following the announcement in which any securities exchange offeror is first identified. An Opening Position Disclosure must contain details of the person's interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror(s). An Opening Position Disclosure by a person to whom Rule 8.3(a) applies must be made by no later than 3.30 pm (London time) on the 10th Business Day following the commencement of the offer period and, if appropriate, by no later than 3.30 pm (London time) on the 10th Business Day following the announcement in which any securities exchange offeror is first identified. Relevant persons who deal in the relevant securities of the offeree company or of a securities exchange offeror prior to the deadline for making an Opening Position Disclosure must instead make a Dealing Disclosure.*

*Under Rule 8.3(b) of the Takeover Code, any person who is, or becomes, interested in 1% or more of any class of relevant securities of the offeree company or of any securities exchange offeror must make a Dealing Disclosure if the person deals in any relevant securities of the offeree company or of any securities exchange offeror. A Dealing Disclosure must contain details of the dealing concerned and of the person's interests and short positions in, and rights to subscribe for, any relevant securities of each of (i) the offeree company and (ii) any securities exchange offeror(s), save to the extent that these details have previously been disclosed under Rule 8. A Dealing Disclosure by a person to whom Rule 8.3(b) applies must be made by no later than 3.30 pm (London time) on the Business Day following the date of the relevant dealing.*

*If two or more persons act together pursuant to an agreement or understanding, whether formal or informal, to acquire or control an interest in relevant securities of an offeree company or a securities exchange offeror, they will be deemed to be a single person for the purpose of Rule 8.3.*

*Opening Position Disclosures must also be made by the offeree company and by any offeror and Dealing Disclosures must also be made by the offeree company, by any offeror and by any persons acting in concert with any of them (see Rules 8.1, 8.2 and 8.4).*

*Details of the offeree and offeror companies in respect of whose relevant securities Opening Position Disclosures and Dealing Disclosures must be made can be found in the Disclosure Table on the Takeover Panel's website at [www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk), including details of the number of relevant securities in issue, when the offer period commenced and when any offeror was first identified. You should contact the Panel's Market Surveillance Unit on +44 (0)20 7638 0129 if you are in any doubt as to whether you are required to make an Opening Position Disclosure or a Dealing Disclosure.*



## **Publication on a website**

*In accordance with Rule 26.1 of the Takeover Code, a copy of this announcement will be made available, subject to certain restrictions relating to persons resident in Restricted Jurisdictions, on Tungsten's website at [www.tungsten-network.com/takeover-documentation/](http://www.tungsten-network.com/takeover-documentation/) and on Bidco's website at [www.kofax.com/tungsten](http://www.kofax.com/tungsten) by no later than 12 noon (London time) on the Business Day following this announcement. For the avoidance of doubt, the contents of these websites are not incorporated by reference and do not form part of this announcement.*

## **No profit forecasts, estimates or quantified benefits statements**

*No statement in this announcement is intended as a profit forecast, profit estimate or quantified benefits statement for any period and no statement in this announcement should be interpreted to mean that earnings or earnings per share for Tungsten for the current or future financial years would necessarily match or exceed the historical published earnings or earnings per share for Tungsten.*

## **Requesting hard copy documents**

*In accordance with Rule 30.3 of the Takeover Code, Tungsten Shareholders, persons with information rights and participants in Tungsten Share Plans may request a hard copy of this announcement by contacting Tungsten's registrars, Equiniti, either in writing to Aspect House, Spencer Road, Lancing, West Sussex, BN99 6DA, United Kingdom, or by calling +44 (0)371 3842030. Calls outside the UK will be charged at the applicable international rate. Lines are open between 8.30 am and 5.30 pm Monday to Friday excluding public holidays in England and Wales. For persons who receive a copy of this announcement in electronic form or via a website notification, a hard copy of this announcement will not be sent unless so requested. Such persons may also request that all future documents, announcements and information to be sent to you in relation to the Acquisition should be in hard copy form.*

## **Electronic Communications**

*Please be aware that addresses, electronic addresses and certain other information provided by Tungsten Shareholders, persons with information rights and other relevant persons for the receipt of communications from Tungsten may be provided to Bidco during the offer period as required under Section 4 of Appendix 4 of the Takeover Code to comply with Rule 2.11(c).*

## **Rounding**

*Certain figures included in this announcement have been subjected to rounding adjustments. Accordingly, figures shown for the same category presented in different tables may vary slightly and figures shown as totals in certain tables may not be an arithmetic aggregation of figures that precede them.*

**Appendix 1**  
**Conditions and Further Terms of the Transaction**

**Part A**  
***Conditions to the Scheme and Acquisition***

1. The Acquisition will be conditional upon the Scheme becoming unconditional and becoming effective, subject to the provisions of the Takeover Code, by no later than 11.59 p.m. on the Long Stop Date, or such later date (if any) as Bidco and Tungsten may, with the consent of the Panel, agree and (if required) the Court may allow.

Conditions of the Scheme

2. The Scheme will be subject to the following Conditions:
  - 2.1 (i) its approval by a majority in number representing not less than 75 per cent. in value of Scheme Shareholders who are on the register of members of Tungsten (or the relevant class or classes thereof) at the Voting Record Time, present and voting, whether in person or by proxy, at the Court Meeting and at any separate class meeting which may be required (or any adjournment thereof), and (ii) such Court Meeting being held on or before the 22nd day after the expected date of the Court Meeting to be set out in the Scheme Document in due course (or such later date as may be agreed between Bidco and Tungsten with the consent of the Panel (and that the Court may approve));
  - 2.2 (i) the Resolutions being duly passed at the General Meeting (or any adjournment thereof) and (ii) such General Meeting being held on or before the 22nd day after the expected date of the General Meeting to be set out in the Scheme Document in due course (or such later date as may be agreed between Bidco and Tungsten (and that the Court may approve)); and
  - 2.3 (i) the sanction of the Scheme by the Court (with or without modification (but subject to such modification being acceptable to Bidco and Tungsten)) and the delivery of the office copy of the Court Order to the Registrar of Companies; and (ii) the Sanction Hearing being held on or before the 22nd day after the expected date of the Sanction Hearing to be set out in the Scheme Document in due course (or such later date as may be agreed between Bidco and Tungsten (and that the Court may approve)).

General Conditions

3. In addition, Bidco and Tungsten have agreed that, subject as stated in Part B below and to the requirements of the Panel, the Acquisition will be conditional upon the following Conditions and, accordingly, the necessary actions to make the Scheme effective will not be taken unless the following Conditions (as amended if appropriate) have been satisfied or, where relevant, waived:

Other Third Party clearances

- 3.1 no central bank, government or governmental, quasi-governmental, supranational, statutory, regulatory, environmental, administrative, fiscal or investigative body, court, trade agency, association, institution, environmental

body, employee representative body or any other body or person whatsoever in any jurisdiction (each a “Third Party”) having given notice of a decision to take, institute, implement or threaten any action, proceeding, suit, investigation, enquiry or reference, or having required any action to be taken or otherwise having done anything or having enacted, made or proposed any statute, regulation, decision, order or change to published practice and there not continuing to be outstanding any statute, regulation, decision or order which would reasonably be expected to:

- 3.1.1 make the Acquisition, its implementation or the acquisition or proposed acquisition of any shares or other securities in, or control or management of, any member of the Wider Tungsten Group by any member of the Wider Bidco Group void, illegal and/or unenforceable under the laws of any relevant jurisdiction, or otherwise directly or indirectly prevent, prohibit, or restrict, impede, challenge, delay or otherwise interfere with the implementation of, or impose material additional conditions or obligations with respect to, the Acquisition or the acquisition of any shares or other securities in, or control or management of, any member of the Wider Tungsten Group by any member of the Wider Bidco Group or require amendment of the Scheme in any such case in a manner that is material in the context of the Acquisition;
- 3.1.2 require, prevent or materially delay the divestiture or alter the terms of any proposed divestiture by any member of the Wider Bidco Group or by any member of the Wider Tungsten Group of all or any part of their businesses, assets or property or impose any material limitation on the ability of all or any of them to conduct their businesses (or any part thereof) or to own, control or manage any of their assets or properties (or any part thereof) to an extent which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.1.3 impose any material limitation on, or result in a material delay in, the ability of any member of the Wider Bidco Group directly or indirectly to acquire or hold or to exercise effectively all or any rights of ownership in respect of shares or other securities in Tungsten (or any member of the Wider Tungsten Group) or on the ability of any member of the Wider Tungsten Group or any member of the Wider Bidco Group directly or indirectly to hold or exercise effectively any rights of ownership in respect of shares or other securities (or the equivalent) in, or to exercise management control over, any member of the Wider Tungsten Group to an extent which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.1.4 other than pursuant to the implementation of the Scheme or, if applicable, sections 974 to 991 of the Companies Act 2006, require any member of the Wider Bidco Group or the Wider Tungsten Group to acquire or offer to acquire any shares, other securities (or the equivalent) or interest in any member of the Wider Tungsten Group or

any asset owned by any third party which is material in the context of the Wider Tungsten Group or the Wider Bidco Group, in either case taken as a whole;

- 3.1.5 require, prevent or delay a divestiture by any member of the Wider Bidco Group of any shares or other securities (or the equivalent) in any member of the Wider Tungsten Group;
- 3.1.6 result in any member of the Wider Tungsten Group ceasing to be able to carry on business under any name under which it presently carries on business to an extent which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.1.7 impose any limitation on the ability of any member of the Wider Bidco Group or any member of the Wider Tungsten Group to conduct, integrate or co-ordinate all or any part of their respective businesses with all or any part of the business of any other member of the Wider Bidco Group and/or the Wider Tungsten Group in a manner which is adverse and material to the Wider Bidco Group and/or the Wider Tungsten Group, in either case, taken as a whole or in the context of the Acquisition; or
- 3.1.8 otherwise materially and adversely affect the business, assets, value, profits, prospects or operational performance of any member of the Wider Tungsten Group or any member of the Wider Bidco Group in each case in a manner which is adverse to and material in the context of the Wider Tungsten Group taken as a whole or of the financing of the Acquisition;

and all applicable waiting and other time periods (including any extensions thereof) during which any such Third Party could decide to take, institute, implement or threaten any such action, proceeding, suit, investigation, enquiry or reference or take any other step under the laws of any jurisdiction in respect of the Acquisition or proposed acquisition of any Tungsten Shares or otherwise intervene having expired, lapsed, or been terminated;

- 3.2 all notifications, filings or applications which are deemed by Bidco to be necessary under applicable legislation or regulation or reasonably considered to be appropriate in any relevant jurisdiction having been made in connection with the Acquisition and all necessary waiting and other time periods (including any extensions thereof) under any applicable legislation or regulation of any relevant jurisdiction having expired, lapsed or been terminated (as appropriate) and all applicable statutory and regulatory obligations in any jurisdiction having been complied with and all authorisations which are deemed by Bidco to be necessary under applicable legislation or regulation or reasonably considered to be appropriate in any relevant jurisdiction for or in respect of the Acquisition or the proposed acquisition of any shares or other securities in, or control of, Tungsten by any member of the Wider Bidco Group having been obtained on terms and in a form reasonably satisfactory to Bidco from all appropriate Third Parties or (without prejudice to the generality of the foregoing) from any person or bodies with whom any member of the Wider Tungsten Group or the Wider

Bidco Group has entered into contractual arrangements in each case where the direct consequence of a failure to make such notification or filing or to wait for the expiry, lapse or termination of any such waiting or other time period or to comply with such obligation or obtain such Authorisation would be unlawful in any relevant jurisdiction or have a material adverse effect on the Wider Tungsten Group, any member of the Bidco Group or the ability of Bidco to implement the Scheme and all such Authorisations remaining in full force and effect at the time at which the Scheme becomes otherwise unconditional in all respects and there being no notice or threat in writing of an intention to revoke, suspend, restrict, modify or not to renew such Authorisations;

- 3.3 no temporary restraining order, preliminary or permanent injunction, preliminary or permanent injunction, or other order issued and being in effect by a court or other Third Party which has the effect of making the Acquisition or any acquisition or proposed acquisition of any shares or other securities or control or management of, any member of the Wider Tungsten Group by any member of the Wider Bidco Group, or the implementation of either of them, void, voidable, illegal and/or unenforceable under the laws of any relevant jurisdiction, or otherwise directly or indirectly prohibiting, preventing, restraining, restricting, delaying or otherwise interfering with the completion or the approval of the Acquisition or any matter arising from the proposed acquisition of any shares or other securities in, or control or management of, any member of the Wider Tungsten Group by any member of the Wider Bidco Group;

#### Confirmation of absence of adverse circumstances

- 3.4 except as Disclosed, there being no provision of any arrangement, agreement, licence, permit, franchise, lease or other instrument to which any member of the Wider Tungsten Group is a party or by or to which any such member or any of its assets is or may be bound, entitled or be subject or any event or circumstance which, as a consequence of the Acquisition or the proposed acquisition by any member of the Wider Bidco Group of any shares or other securities in Tungsten or because of a change in the control or management of any member of the Wider Tungsten Group or otherwise, would or might reasonably be expected to result in, in each case to an extent which is material and adverse in the context of the Wider Tungsten Group taken as a whole or to the financing of the Acquisition:
- 3.4.1 any monies borrowed by, or any other indebtedness, actual or contingent of, or any grant available to, any member of the Wider Tungsten Group being or becoming repayable, or capable of being declared repayable, immediately or prior to its or their stated maturity date or repayment date, or the ability of any such member to borrow monies or incur any indebtedness being withdrawn or inhibited or being capable of becoming or being withdrawn or inhibited;
- 3.4.2 the rights, liabilities, obligations, interests or business of any member of the Wider Tungsten Group or any member of the Wider Bidco Group under any such arrangement, agreement, licence, permit, lease or instrument or the interests or business of any member of the Wider

Tungsten Group or any member of the Wider Bidco Group in or with any other firm or company or body or person (or any agreement or arrangement relating to any such business or interests) being or likely to become terminated or adversely modified or affected or any onerous obligation or liability arising or any adverse action being taken or arising thereunder;

- 3.4.3 any member of the Wider Tungsten Group ceasing to be able to carry on business under any name under which it presently carries on business to an extent which is material in the context of the Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.4.4 any assets or interests of, or any asset the use of which is enjoyed by, any member of the Wider Tungsten Group being or falling to be disposed of or charged or any right arising under which any such asset or interest could be required to be disposed of or charged or could cease to be available to any member of the Wider Tungsten Group otherwise than in the ordinary course of business;
- 3.4.5 other than in the ordinary course of business, the creation or enforcement of any mortgage, charge or other security interest over the whole or any part of the business, property or assets of any member of the Wider Tungsten Group or any such mortgage, charge or other security interest (whenever created, arising or having arisen), becoming enforceable;
- 3.4.6 the business, assets, value, financial or trading position, profits, prospects or operational performance of any member of the Wider Tungsten Group being prejudiced or adversely affected; or
- 3.4.7 the creation or acceleration of any material liability (actual or contingent) by any member of the Wider Tungsten Group other than trade creditors or other liabilities incurred in the ordinary course of business; or
- 3.4.8 any liability of any member of the Wider Tungsten Group to make any severance, termination, bonus or other payment to any of its directors or other officers other than in the ordinary course of business;

No material transactions, claims or changes in the conduct of the business of the Tungsten Group

- 3.5 except as Disclosed, no member of the Wider Tungsten Group having since 30 April 2021:
  - 3.5.1 save as between Tungsten and its wholly-owned subsidiaries or between such wholly-owned subsidiaries and save for the issue or transfer out of treasury of Tungsten Shares on the exercise of options or vesting of awards granted in the ordinary course under the Tungsten Share Plans, issued or agreed to issue or authorised or proposed or announced its intention to authorise or propose the issue of additional

- shares of any class, or securities or securities convertible into, or exchangeable for, or rights, warrants or options to subscribe for or acquire, any such shares or convertible securities or transferred or sold or agreed to transfer or sell or authorised or proposed the transfer or sale of Tungsten Shares out of treasury;
- 3.5.2 recommended, declared, paid or made or agreed to recommend, declare, pay or make any bonus issue, dividend or other distribution (whether payable in cash or otherwise) other than to Tungsten or one of its wholly-owned subsidiaries;
- 3.5.3 save as between Tungsten and its wholly-owned subsidiaries or between such wholly-owned subsidiaries, merged with (by statutory merger or otherwise) or demerged from or acquired any body corporate, partnership or business or acquired or disposed of, or, other than in the ordinary course of business, transferred, mortgaged or charged or created any security interest over, any assets or any right, title or interest in any asset (including shares and trade investments) or authorised, proposed or announced any intention to do so, in each case to an extent which is material in the context of the Wider Tungsten Group taken as a whole;
- 3.5.4 save as between Tungsten and its wholly-owned subsidiaries or between such wholly-owned subsidiaries, made, authorised, proposed or announced an intention to propose any change in its loan capital other than in the ordinary course of business and to an extent which is material in the context of the Wider Tungsten Group taken as a whole;
- 3.5.5 issued, authorised or proposed or announced an intention to authorise or propose the issue of, or made any change in or to the terms of, any debentures or (save in the ordinary course of business and save as between Tungsten and its wholly-owned subsidiaries or between such wholly-owned subsidiaries) incurred or increased any indebtedness or become subject to any contingent liability to an extent which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.5.6 entered into, varied, authorised or proposed entry into or variation of, or announced its intention to enter into or vary, any contract, transaction, arrangement or commitment (whether in respect of capital expenditure or otherwise) (otherwise than in the ordinary course of business) which is of a long term, unusual or onerous nature, or which involves or could reasonably be expected to involve an obligation of a nature or magnitude which is or is likely to be materially restrictive on the business of any member of the Wider Tungsten Group to an extent which is or is reasonably likely to be material to the Wider Tungsten Group taken as a whole;
- 3.5.7 entered into any licence or other disposal of intellectual property rights of any member of the Wider Tungsten Group which are material in the

context of the Wider Tungsten Group and outside the normal course of business;

- 3.5.8 entered into, varied, authorised or proposed entry into or variation of, or announced its intention to enter into or vary the terms of or made any offer (which remains open for acceptance) to enter into or vary the terms of, any contract, commitment, arrangement or any service agreement with any director or senior executive of the Wider Tungsten Group save for salary increases, bonuses or variations of terms in the ordinary course, such entry, variation or authorisation being material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.5.9 proposed, agreed to provide or modified the terms of any share option scheme, incentive scheme, or other benefit relating to the employment or termination of employment of any employee of the Wider Tungsten Group which, taken as a whole, are material in the context of the Wider Tungsten Group taken as a whole;
- 3.5.10 (excluding the trustee of any pension scheme(s) established by a member of the Wider Tungsten Group other than Tungsten itself) made, agreed or consented to or procured any material change to the terms of any existing trust deeds, rules, policy or other governing documents, or entered into or established any new trust deeds, rules, policy or other governing documents, constituting any pension scheme or other retirement or death benefit arrangement established for the directors or employees of any entity in the Wider Tungsten Group and their dependants and established by a member of the Wider Tungsten Group (a “Relevant Pension Plan”); (b) the basis on which benefits accrue, pensions which are payable or the persons entitled to accrue or be paid benefits, under any Relevant Pension Plan; (c) the basis on which the liabilities of any Relevant Pension Plan are funded or valued; (e) the basis or rate of employer contribution to a Relevant Pension Plan, in each case to the extent which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition and other than as required in accordance with applicable law; or (ii) enter into or propose to enter into one or more bulk annuity contracts in relation to any Relevant Pension Plan; or (iii) carried out any act: (a) which would or could reasonably be expected to lead to the commencement of the winding up of any Relevant Pension Plan; (b) which would or is reasonably likely to create a material debt owed by an employer to any Relevant Pension Plan; (c) which would or might accelerate any obligation on any employer to fund or pay additional contributions to any Relevant Pension Plan; or (d) which would, having regard to the published guidance of the Pensions Regulator give rise directly or indirectly to a liability in respect of a Relevant Pension Plan arising out of the operation of sections 38 and 38A of the Pensions Act 2004 in relation to a Relevant Pension Plan, in each case to the extent which is material in the context of the Wider



Tungsten Group taken as a whole or in the context of the Acquisition and other than as required in accordance with applicable law;

- 3.5.11 changed the trustee or trustee directors or other fiduciary of any Relevant Pension Plan;
- 3.5.12 entered into, implemented or effected, or authorised, proposed or announced its intention to implement or effect, any joint venture, asset or profit sharing arrangement, partnership, composition, assignment, reconstruction, amalgamation, commitment, scheme or other transaction or arrangement (other than the Scheme) otherwise than in the ordinary course of business which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.5.13 purchased, redeemed or repaid or announced any proposal to purchase, redeem or repay any of its own shares or other securities or reduced or made any other change to any part of its share capital to an extent which (other than in the case of Tungsten) is material in the context of the Wider Tungsten Group taken as a whole;
- 3.5.14 other than with respect to claims between Tungsten and its wholly owned subsidiaries (or between such subsidiaries), waived, compromised or settled any claim otherwise than in the ordinary course of business which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.5.15 made any alteration to its articles of association or other constitutional documents (in each case, other than in connection with the Scheme) which is material in the context of the Acquisition;
- 3.5.16 (other than in respect of a member of the Wider Tungsten Group which is dormant and was solvent at the relevant time) taken or proposed any steps, corporate action or had any legal proceedings instituted or threatened against it in relation to the suspension of payments, a moratorium of any indebtedness, its winding-up (voluntary or otherwise), dissolution, reorganisation or for the appointment of any administrator, receiver, manager, administrative receiver, trustee or similar officer of all or any material part of its assets or revenues or any analogous proceedings in any jurisdiction or appointed any analogous person in any jurisdiction or had any such person appointed which is material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
- 3.5.17 been unable, or admitted in writing that it is unable, to pay its debts or commenced negotiations with one or more of its creditors with a view to rescheduling or restructuring any of its indebtedness, or having stopped or suspended (or threatened to stop or suspend) payment of its debts generally or ceased or threatened to cease carrying on all or a substantial part of its business which is material in the context of the

Wider Tungsten Group taken as a whole or in the context of the Acquisition;

- 3.5.18 entered into any contract, commitment, agreement or arrangement otherwise than in the ordinary course of business or passed any resolution or made any offer (which remains open for acceptance) with respect to or announced an intention to, or to propose to, effect any of the transactions, matters or events in the manner referred to in this Condition;
- 3.5.19 terminated or varied the terms of any agreement or arrangement between any member of the Wider Tungsten Group and any other person in a manner which would or might be expected to have a material adverse effect on the financial position of the Wider Tungsten Group taken as a whole; or
- 3.5.20 taken (or agreed or proposed to take) any action which requires, or would require, the consent of the Panel or the approval of Tungsten Shareholders in general meeting in accordance with, or as contemplated by, Rule 21.1 of the Takeover Code;

No material adverse change

3.6 since 30 April 2021, and except as Disclosed, there having been:

- 3.6.1 no adverse change and no circumstance having arisen which would be expected to result in any adverse change or deterioration in the business, assets, value, financial or trading position, profits, prospects or operational performance of any member of the Wider Tungsten Group to an extent which is material and adverse to the Wider Tungsten Group taken as a whole or to the financing of the Acquisition;
- 3.6.2 no litigation, arbitration proceedings, prosecution or other legal proceedings including, without limitation, with regard to intellectual property rights used by the Wider Tungsten Group having been threatened, announced or instituted by or against or remaining outstanding against any member of the Wider Tungsten Group or to which any member of the Wider Tungsten Group is or may become a party (whether as claimant or defendant or otherwise) and no enquiry, review or investigation by, or complaint or reference to, any Third Party against or in respect of any member of the Wider Tungsten Group having been threatened in writing, announced or instituted by or against, or remaining outstanding in respect of, any member of the Wider Tungsten Group which, in any such case, would reasonably be expected to have a material adverse effect on the Wider Tungsten Group taken as a whole;
- 3.6.3 no contingent or other liability having arisen, increased or become apparent which is reasonably likely to adversely affect the business, assets, financial or trading position, profits, prospects or operational

performance of any member of the Wider Tungsten Group to an extent which is material to the Wider Tungsten Group taken as a whole;

- 3.6.4 no steps having been taken and no omissions having been made which are reasonably likely to result in the withdrawal, cancellation, termination or modification of any licence held by any member of the Wider Tungsten Group, which is necessary for the proper carrying on of its business and the withdrawal, cancellation, termination or modification of which is material and reasonably likely to have a material adverse effect on the Wider Tungsten Group taken as a whole; and
- 3.6.5 no member of the Wider Tungsten Group having conducted its business in material breach of any applicable laws and regulations which in any case is material in the context of the Wider Tungsten Group taken as a whole;
- 3.7 except as Disclosed, Bidco not having discovered:
  - 3.7.1 that any financial, business or other information concerning the Wider Tungsten Group publicly announced since 30 April 2021 or disclosed to any member of the Wider Bidco Group at any time prior to the date of this announcement by or on behalf of any member of the Wider Tungsten Group or any director, officer or employee thereof or to any of their advisers was, when made, misleading, contains a misrepresentation of fact or omits to state a fact necessary to make that information not misleading and which is, in any case, material in the context of the Wider Tungsten Group taken as a whole or in the context of the Acquisition;
  - 3.7.2 that any member of the Wider Tungsten Group is subject to any liability, contingent or otherwise and which is material in the context of the Wider Tungsten Group taken as a whole; or
  - 3.7.3 any information which affects the import of any information disclosed to Bidco at any time prior to the date of this announcement by or on behalf of any member of the Wider Tungsten Group or any director, officer or employee thereof which is material in the context of the Wider Tungsten Group taken as a whole;

#### Environmental liabilities

- 3.8 except as Disclosed, Bidco not having discovered that, in relation to any release, emission, accumulation, discharge, disposal or other similar circumstance which has impaired or is likely to impair the environment (including property) or harmed or is likely to harm the health of humans, animals or other living organisms or eco-systems, no past or present member of the Wider Tungsten Group, in a manner or to an extent which is material in the context of the Wider Tungsten Group, (i) having committed any violation of any applicable laws, statutes, regulations, Authorisations, notices or other requirements of any Third Party giving rise to a material liability; and/or (ii) having incurred any material

liability (whether actual or contingent) to any Third Party; and/or (iii) being likely to incur any material liability (whether actual or contingent), or being required, to make good, remediate, repair, re-instate or clean up the environment (including any property) in each case of (i), (ii) or (iii) which such liability or requirement would be material to the Wider Tungsten Group taken as a whole;

### Intellectual Property

- 3.9 no circumstance having arisen or event having occurred in relation to any intellectual property owned or used by any member of the Wider Tungsten Group which would be reasonably likely to have a material adverse effect on the Wider Tungsten Group taken as a whole or is otherwise material in the context of the Acquisition, including:
- 3.9.1 any member of the Wider Tungsten Group losing its title to any intellectual property material to its business, or any intellectual property owned by the Wider Tungsten Group and material to its business being revoked, cancelled or declared invalid; or
  - 3.9.2 any claim being asserted in writing or threatened in writing by any person challenging the ownership of any member of the Wider Tungsten Group to, or the validity or effectiveness of, any of its intellectual property; or
  - 3.9.3 any agreement regarding the use of any intellectual property licensed to or by any member of the Wider Tungsten Group being terminated or varied;

### Anti-corruption and sanctions

- 3.10 except as Disclosed, Bidco not having discovered that (to an extent that is material in the context of the Wider Tungsten Group taken as a whole):
- 3.10.1 any past or present member of the Wider Tungsten Group or any person that performs or has performed services for or on behalf of any such company is or has at any time engaged in any activity, practice or conduct (or omitted to take any action) in contravention of the UK Bribery Act 2010, the US Foreign Corrupt Practices Act of 1977, as amended or any other applicable anti-corruption legislation;
  - 3.10.2 any member of the Wider Tungsten Group is ineligible to be awarded any contract or business under section 23 of the Public Contracts Regulations 2006 or section 26 of the Utilities Contracts Regulations 2006 (each as amended);
  - 3.10.3 any past or present member of the Wider Tungsten Group has engaged in any activity or business with, or made any investments in, or made any payments to any government, entity or individual covered by any of the economic sanctions administered by the United Nations or the European Union (or any of their respective member states) or the

United States Office of Foreign Assets Control or any other governmental or supranational body or authority in any jurisdiction; or

- 3.10.4 a member of the Tungsten Group has engaged in a transaction which would cause the Bidco Group to be in breach of any applicable law or regulation on completion of the Acquisition, including the economic sanctions administered by the United States Office of Foreign Assets Control or HM Treasury & Customs or any government, entity or individual targeted by any of the economic sanctions of the United Nations, United States or the European Union or any of its member states.

No criminal property

- 3.11 except as Disclosed, Bidco not having discovered that any asset of any member of the Wider Tungsten Group constitutes criminal property as defined by section 340(3) of the Proceeds of Crime Act 2002 (but disregarding paragraph (b) of that definition).

**Part B**  
***Further terms of the Acquisition***

1. Conditions 2.1(i), 2.2(i) and 3 must be fulfilled, be determined by Bidco to be or remain satisfied, or (if capable of waiver) be waived prior to the commencement of the Sanction Hearing, failing which the Scheme will lapse.
2. Notwithstanding the paragraph above, subject to paragraph 4 below and subject to the requirements of the Panel, Bidco reserves the right in its sole discretion to waive all or any of the Conditions, in whole or in part and to proceed with the Sanction Hearing prior to the fulfilment, satisfaction or waiver of any of the Conditions, except that Conditions 1, 2.1(i), 2.2(i) and 2.3(i) cannot be waived. If any of Conditions 2.1(ii), 2.2(ii) or 2.3(ii) is not satisfied by the relevant deadline specified in the relevant Condition, Bidco shall make an announcement by 8.00 a.m. on the business day following such deadline confirming whether it has invoked the relevant Condition, waived the relevant deadlines or agreed with Tungsten to extend the relevant deadline.
3. Bidco shall be under no obligation under the terms and conditions of the Acquisition to waive (if capable of waiver), to determine to be, or remain satisfied, or to treat as fulfilled any of Conditions set out in paragraph 3 that Bidco is entitled (with the consent of the Panel and subject to the requirements of the Takeover Code) to invoke, by a date earlier than the latest date specified in paragraph 1 above, notwithstanding that the other Conditions may at such earlier date have been waived or fulfilled and that there are, at such earlier date, no circumstances indicating that any Condition may not be capable of fulfilment.
4. Bidco reserves the right to elect to implement the Acquisition by way of an Offer as an alternative to the Scheme, subject to the Panel's consent and (while the Cooperation Agreement is continuing) to the terms of the Cooperation Agreement. In such event, such Offer will be implemented on the same terms and conditions so far as applicable, as those which would apply to the Scheme (subject to appropriate amendments, including (without limitation and for so long as the Cooperation Agreement is continuing) an acceptance condition set at 75 per cent. of the Tungsten Shares (or such other percentage as Bidco and Tungsten may agree in accordance with the terms of the Cooperation Agreement, and, where applicable with the consent of the Panel, being in any case more than 50 per cent. of the Tungsten Shares)). In the event that the Acquisition is implemented by way of an Offer, the acceptance condition shall not be capable of being satisfied until all of the other conditions to the Offer have either been satisfied or (if capable of waiver) waived.
5. Under Rule 13.5(a) of the Takeover Code and subject to paragraph 6, Bidco may only invoke a Condition so as to cause the Acquisition not to proceed, to lapse or to be withdrawn with the consent of the Panel. The Panel will normally only give its consent if the circumstances which give rise to the right to invoke the Condition are of material significance to Bidco in the context of the Acquisition. This will be judged by reference to the facts of each case at the time that the relevant circumstances arise.
6. Any Condition that is subject to Rule 13.5(a) of the Takeover Code may be waived by Bidco.

7. Conditions 1, 2.1(i), 2.2(i) and 2.3(i) (and, if applicable, any Offer acceptance condition adopted on the basis specified in paragraph 4 above if the Acquisition is implemented as an Offer), are not subject to Rule 13.5(a) of the Takeover Code.
8. If the Panel requires Bidco to make an offer or offers for Tungsten Shares under the provisions of Rule 9 of the Takeover Code, Bidco may make such alterations to the Conditions as are necessary to comply with the provisions of that Rule.
9. The Acquisition will be subject, inter alia, to the Conditions and certain further terms which are set out in this Appendix 1 and to the full terms which will be set out in the Scheme Document and such further terms as may be required to comply with the provisions of the AIM Rules, the provisions of the Takeover Code and the applicable requirements of the Panel and the London Stock Exchange.
10. Tungsten Shares will be acquired by Bidco fully paid and free from all liens, charges, encumbrances and other third party rights of any nature whatsoever and together with all rights attaching to them as at the Effective Date, including the right to receive and retain all dividends and distributions (if any) declared, made or paid after the Acquisition becomes Effective.
11. If, on or after the date of this announcement and before the Effective Date, any dividend, distribution and/or other return of value is declared, made or paid in respect of the Tungsten Shares on or after the date of this announcement and before the Effective Date, Bidco reserves the right to reduce the Consideration payable under the terms of the Acquisition for the Tungsten Shares by the amount of all or part of any such dividend, distribution and/or other return of value, in which case any reference in this announcement to the Consideration payable under the terms of the Acquisition will be deemed to be a reference to the Consideration as so reduced. In such circumstances, Tungsten Shareholders would be entitled to retain any such dividend, distribution and/or return of value. Any exercise by Bidco of its rights referred to in this paragraph 11 shall be the subject of an announcement and, for the avoidance of doubt, shall not be regarded as constituting any revision or variation of the Acquisition.
12. The Scheme will be governed by English law and be subject to the jurisdiction of the Court, to the Conditions set out above and full terms to be set out in the Scheme Document. The Acquisition will be subject to the applicable requirements of the Takeover Code, the Panel, the London Stock Exchange and the AIM Rules.
13. Each of the Conditions shall be regarded as a separate Condition and shall not be limited by reference to any other Condition.

## **Appendix 2**

### **Sources and Bases of Information**

In this announcement, unless otherwise stated or the context otherwise requires, the following bases and sources have been used.

- 1) Tungsten's fully diluted equity value has been calculated on the basis of a fully diluted issued ordinary share capital of 127,952,719 Tungsten Shares, calculated as:
  - a) 126,537,962 Tungsten Shares in issue as at 23 March 2022 (being the latest practicable date before this announcement); plus
  - b) 1,414,757 Tungsten Shares which may be issued on or after the date of this announcement pursuant to the Tungsten Share Plans and share awards made to advisers as at 23 March 2022 (being the latest practicable date before this announcement).
- 2) A value of approximately £53.7 million for the entire issued and to be issued share capital of Tungsten is based on:
  - a) an offer price of 42 pence per Scheme Share; and
  - b) Tungsten's fully diluted issued ordinary share capital of 127,952,719 Tungsten Shares, as set out in paragraph 1 above.
- 3) The premium calculations to the price per Tungsten Share used in this announcement have been calculated based on an offer price of 42 pence per Scheme Share and by reference to:
  - a) the Closing Price on 13 December 2021 (being the last business day before the commencement of the Offer Period) of 29.0 pence derived from the Daily Official List of the London Stock Exchange;
  - b) the one-month volume weighted average Closing Price of 26.0 pence per Tungsten Share on 13 December 2021 (being the last business day before the commencement of the Offer Period) derived from Bloomberg;
  - c) the three-month volume weighted average Closing Price of 26.8 pence per Tungsten Share on 13 December 2021 (being the last business day before the commencement of the Offer Period) derived from Bloomberg; and
  - d) the six-month volume weighted average Closing Price of 30.2 pence per Tungsten Share on 13 December 2021 (being the last business day before the commencement of the Offer Period) derived from Bloomberg.
- 4) Unless otherwise stated, the financial information of Tungsten is extracted (without material adjustment) from the annual report and audited accounts of the Tungsten Group for the 12 months ended 30 April 2021.
- 5) Certain figures included in this announcement have been subject to rounding adjustments.



### Appendix 3 Details of Irrevocable Undertakings

#### 1. Directors

The following Tungsten Directors have given irrevocable undertakings to vote in favour of the resolutions relating to the Acquisition at the Meetings in respect of their own beneficial holdings (or those Tungsten Shares over which they have control) of Tungsten Shares:

Name	Total Number of Tungsten Shares	Percentage of existing issued share capital	Percentage of existing Tungsten Shares eligible to vote at Court Meeting
Tony Bromovsky	934,104	0.74	0.74
Andrew Doman	251,649	0.20	0.20
Nicholas Wells	100,000	0.08	0.08
Paul Cooper	19,500	0.02	0.02
<b>Total</b>	<b>1,305,253</b>	<b>1.03</b>	<b>1.03</b>

The irrevocable undertakings referred to in paragraph 1 above cease to be binding on the earlier of the following occurrences (i) the press announcement not having been released by 11.59 p.m. (London time) on the date that is one business day from the date of the undertaking (or such later date as Tungsten and Bidco may agree); (ii) the Scheme Document is not sent to Tungsten Shareholders within 28 days (or such later period as the Panel may agree) after the date of this announcement; (iii) Bidco announces, with the consent of the Panel, that it does not intend to make or proceed with the Acquisition and no new, revised or replacement offer or scheme is announced at the same time; (iv) the Scheme lapses or is withdrawn in accordance with its terms and Bidco publicly confirmed that it does not intend to proceed with the Acquisition or to implement the Acquisition by way of an Offer or otherwise; (v) the Scheme has not become effective by 6.00 p.m. on the Long Stop Date (or such other time and date as agreed between Bidco and Tungsten, with the approval of the Court and/or the Panel, if required (other than in circumstances where Bidco has, prior to such date, elected to exercise its right to proceed by way of an Offer and announced the same in accordance with the requirements of Paragraph 8 of Appendix 7 to the Takeover Code, and such Offer has not lapsed or been withdrawn)); or (vi) the date on which any competing offer for the entire issued and to be issued share capital of Tungsten is declared wholly unconditional or, if proceeding by way of a scheme of arrangement, becomes Effective.

#### 2. Shareholders

The following shareholder has given an irrevocable undertaking to vote in favour of the resolutions relating to the Acquisition at the Meetings in respect of their own beneficial holding of Tungsten Shares:

Name	Total Number of Tungsten Shares	Percentage of existing issued share capital	Percentage of existing Tungsten Shares eligible to vote at Court Meeting
Truell Associates	21,542,558 owned	17.0	17.0
Truell Associates	1,500,000 subject to option to acquire	1.2	1.2
<b>Total</b>	<b>23,042,558</b>	<b>18.2</b>	<b>18.2</b>

The obligations contained in the irrevocable undertaking received from the Truell Associates, and referred to in paragraph 2 above, lapse and cease to have effect if (i) an announcement (including a press announcement) is not made in respect of the Acquisition at 40 pence per share by the later of 11 January 2022, such later date as the Panel may agree as being the last date for Kofax to make a formal offer for Tungsten pursuant to Rule 2.6 of the Takeover Code or such later time as may be agreed between Kofax and Tungsten; (ii) Bidco announces publicly, with the consent of the Panel, that it does not intend to make or proceed with the Acquisition and no new, revised or replacement offer or scheme is announced at the same time; (iii) Bidco informs the Truell Associates in writing that it does not intend to make or proceed with the Acquisition or to implement the Acquisition by way of takeover offer or otherwise; (iv) the Scheme lapses or is withdrawn in accordance with its terms and Bidco has publicly confirmed that it does not intend to proceed with the Acquisition or to implement the Acquisition by way of an Offer or otherwise; (v) the Scheme has not become effective by 30 August 2022, or if later, the Long Stop Date (or such other time and date as agreed between Bidco and Tungsten, with the approval of the Court and/or the Panel, if required (other than in circumstances where Bidco has, prior to such date, elected to exercise its right to proceed by way of an Offer and announced the same in accordance with the requirements of Paragraph 8 of Appendix 7 to the Takeover Code, and such Offer has not lapsed or been withdrawn)); (vi) any third party announces, in accordance with the Takeover Code, a firm intention to make a general offer (whether made by way of an offer or a scheme of arrangement) for the entire issued share capital of Tungsten not already owned by such third party at an offer price that is above 49.9 pence per Tungsten Share and Bidco has not announced a further offer at an offer price at least equal to the offer price of the competing offer within 28 days of the announcement of the competing offer or (vii) the date on which any competing offer for the entire issued and to be issued share capital of Tungsten is declared wholly unconditional or, if proceeding by way of a scheme of arrangement, becomes Effective.

## **Appendix 4 Definitions**

**The following definitions apply throughout this document unless the context otherwise requires:**

“2006 Act” means the Companies Act 2006, as amended from time to time;

“2021 Tungsten Annual Report” means the annual report and audited accounts of the Tungsten Group for the year ended 30 April 2021;

“Acquisition” means the proposed acquisition by Bidco of the entire issued and to be issued share capital of Tungsten not already owned or controlled by the Bidco Group, by means of the Scheme (and other matters to be considered at the Meetings), or should Bidco so elect, by means of an Offer, and, where the context admits, any subsequent revision, variation, extension or renewal thereof;

“AIM” means the market of that name operated by the London Stock Exchange;

“AIM Rules” means the AIM Rules for Companies published by the London Stock Exchange (as amended from time to time);

“Articles” means the articles of association of Tungsten from time to time;

“associated undertaking” shall be construed in accordance with paragraph 19 of Schedule 6 to The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (SI 2008/410) but for this purpose ignoring paragraph 19(1)(b) of Schedule 6 to those regulations);

“Authorisations” means authorisations, orders, grants, recognitions, confirmations, consents, licences, clearances, certificates, permissions or approvals, in each case of a Third Party;

“Bidco” means Project California Bidco Limited;

“Bidco Group” means Bidco and its subsidiary undertakings and where the context permits, each of them;

“Business Day” means a day, not being a public holiday, Saturday or Sunday, on which clearing banks in London are open for normal business;

“certificated” or “certificated form” means, in relation to a share or other security, a share or other security title to which is recorded in the relevant register of the share or other security as being held in certificated form (that is, not in CREST);

“Closing Price” means the closing middle market price of a Tungsten Share as derived from the AIM Appendix to the Daily Official List on any particular date;

“Confidentiality Agreement” means the confidentiality agreement dated 1 December 2021 between Tungsten and Kofax Inc.;

“Cooperation Agreement” means the co-operation agreement between Bidco and Tungsten dated 24 March 2022;

“Court Meeting” means the meeting of Tungsten Shareholders to be convened at the direction of the Court pursuant to Part 26 of the 2006 Act at which a resolution will be proposed to approve the Scheme, including any adjournment thereof;

“Court Order” means the order of the Court sanctioning the Scheme under Part 26 of the 2006 Act;

“CREST” means the relevant system (as defined in the Regulations) in respect of which Euroclear is the operator (as defined in CREST);

“Daily Official List” means the daily official list of the London Stock Exchange;

“Deferred Share Bonus Plan” means the deferred share bonus plan operated by Tungsten under which awards over ordinary shares have been granted to employees;

“Disclosed” means the information disclosed by or on behalf of Tungsten: (i) in the 2021 Tungsten Annual Report; (ii) in this announcement; (iii) in any other announcement to a Regulatory Information Service prior to the publication of this announcement; (iv) fairly disclosed in writing (including via the virtual data room operated by or on behalf of Tungsten in respect of the Acquisition) prior to the date of this announcement to Bidco or Bidco’s advisers (in their capacity as such);

“Disclosure Guidance and Transparency Rules” means the Disclosure Guidance and Transparency Rules sourcebook issued by the FCA;

“Effective Date” means the date on which the Acquisition becomes Effective;

“Effective” means, in the context of the Acquisition: (i) if the Acquisition is implemented by way of the Scheme, the Scheme having become effective pursuant to its terms; or (ii) if the Acquisition is implemented by way of the Offer, the Offer having been declared or having become unconditional in all respects in accordance with the requirements of the Takeover Code;

“ESG” means environmental, social and governance;

“Euroclear” means Euroclear UK & Ireland Limited;

“Excluded Shares” means any Tungsten Shares beneficially owned by Bidco or any subsidiary undertaking of Bidco, immediately prior to the Scheme Record Time;

“FCA Handbook” means the FCA’s Handbook of rules and guidance as amended from time to time;

“FCA” means the Financial Conduct Authority or its successor from time to time;

“General Meeting” means general meeting of Tungsten Shareholders to be convened to consider and if thought fit pass, inter alia, the Resolutions in relation to the Scheme including any adjournments thereof;

“Intra-Group Loan Agreement” means the loan agreement between Bidco, as borrower, and Project Leopard Holdings, Inc., a member of the Kofax Group and affiliate of Bidco, as lender,

relating to the advance of funds in an amount equal to the amount of the cash consideration payable by Bidco under the terms of the Acquisition;

“Kofax” means Kofax Parent Limited, a portfolio company of funds advised and/or managed by Thoma Bravo;

“Kofax Board” means the directors of Kofax;

“Kofax Group” means Kofax and its subsidiary undertakings and where the context permits, each of them;

“London Stock Exchange” means the London Stock Exchange plc or its successor;

“Long Stop Date” means 31 December 2022 or such later date as may be agreed between Bidco and Tungsten and, if required, the Panel and the Court may allow;

“Long Term Incentive Plan” means the long term incentive plan operated by Tungsten under which awards over ordinary shares have been granted to employees;

“Meetings” means the Court Meeting and the General Meeting;

“Offer” means subject to the consent of the Panel and the terms of the Cooperation Agreement, should the Acquisition be implemented by way of a takeover offer as defined in Chapter 3 of Part 28 of the Companies Act 2006, the offer to be made by or on behalf of Bidco to acquire the entire issued and to be issued share capital of Tungsten, other than Tungsten Shares owned or controlled by the Bidco Group and, where the context admits, any subsequent revision, variation, extension or renewal of such offer;

“Offer Period” means the offer period (as defined by the Code) relating to Tungsten which commenced on 14 December 2021;

“Overseas Shareholders” means holders of Scheme Shares who are resident in, ordinarily resident in, or citizens of, jurisdictions outside the United Kingdom;

“Panel” means the Panel on Takeovers and Mergers;

“Registrar of Companies” means the Registrar of Companies in England and Wales;

“Regulations” means the Uncertificated Securities Regulations 2001;

“Regulatory Information Service” means a regulatory information service as defined in the FCA Handbook;

“relevant securities” means, as the context requires, Tungsten Shares, other Tungsten share capital and any securities convertible into or exchangeable for, and rights to subscribe for, any of the foregoing;

“Resolutions” means the resolution(s) to be proposed at the General Meeting necessary to implement the Scheme, including, amongst other things, a special resolution proposed in connection with, inter alia, implementation of the Scheme and certain amendments to be made to the articles of association of Tungsten;

“Restricted Jurisdiction” means any jurisdiction where local laws or regulations may result in a significant risk of civil, regulatory or criminal exposure if information concerning the Offer is sent or made available to Tungsten Shareholders in that jurisdiction;

“Sanction Hearing” means the Court hearing to sanction the Scheme;

“Scheme” means the proposed scheme of arrangement under Part 26 of the 2006 Act between Tungsten and the holders of the Scheme Shares, with or subject to any modification, addition or condition approved or imposed by the Court and agreed by Tungsten and Bidco;

“Scheme Document” means the document to be sent to Tungsten Shareholders and persons with information rights containing, amongst other things, the Scheme and notices of the Meetings and proxy forms in respect of the Meetings;

“Scheme Record Time” means the time and date to be specified in the Scheme Document, expected to be 6.00 p.m. on the Business Day immediately prior to the date of the Sanction Hearing;

“Scheme Shareholders” means holders of Scheme Shares;

“Scheme Shares” means all Tungsten Shares: (i) in issue at the date of the Scheme Document; (ii) (if any) issued after the date of the Scheme Document but before the Voting Record Time; and (iii) (if any) issued at or after the Voting Record Time and before the Scheme Record Time in respect of which the original or any subsequent holders thereof are, or shall have agreed in writing to be, bound by the Scheme, in each case other than the Excluded Shares;

“subsidiary”, “subsidiary undertaking” and “undertaking” shall be construed in accordance with the 2006 Act;

“Takeover Code” means the Takeover Code issued by the Panel on Takeovers and Mergers, as amended from time to time;

“Thoma Bravo” means Thoma Bravo, L.P.;

“Truell Associates” means associates of Mr Edmund Truell, being Issus LP and Long Term Assets Limited;

“Tungsten” means Tungsten Corporation plc;

“Tungsten Board” or “Tungsten Directors” means the directors of Tungsten;

“Tungsten Directors” means the directors of Tungsten as at the date of this announcement;

“Tungsten Group” means Tungsten and its subsidiary undertakings and where the context permits, each of them;

“Tungsten Share Plans” means the Deferred Share Bonus Plan and the Long Term Incentive Plan;

“Tungsten Share(s)” means the existing unconditionally allotted or issued and fully paid ordinary shares of 0.438p each in the capital of Tungsten and any further shares which are

unconditionally allotted or issued before the Scheme becomes Effective but excluding in both cases any such shares held or which become held in treasury;

“Tungsten Shareholder(s)” means holders of Tungsten Shares;

“UK” or “United Kingdom” means United Kingdom of Great Britain and Northern Ireland;

“uncertificated” or “in uncertificated form” means a share or other security title to which is recorded in the relevant register of the share or security as being held in uncertificated form, in CREST, and title to which, by virtue of the Regulations may be transferred by means of CREST;

“Voting Record Time” means the time and date to be specified in the Scheme Document by reference to which entitlement to vote on the Scheme will be determined;

“Wider Bidco Group” means Bidco Group and associated undertakings and any other body corporate, partnership, joint venture or person in which Bidco and such undertakings (aggregating their interests) have an interest of more than 20 per cent. of the voting or equity capital or the equivalent; and

“Wider Tungsten Group” means Tungsten and associated undertakings and any other body corporate, partnership, joint venture or person in which Tungsten and such undertakings (aggregating their interests) have an interest of more than 20 per cent. of the voting or equity capital or the equivalent (excluding, for the avoidance of doubt, Bidco and all of its associated undertakings which are not members of the Tungsten Group).

References to an enactment include references to that enactment as amended, replaced, consolidated or re-enacted by or under any other enactment before or after the date of this announcement.

All times referred to are London time unless otherwise stated.

A reference to “includes” shall mean “includes without limitation”, and references to “including” and any other similar term shall be construed accordingly.

**THIS UNDERTAKING** is entered into as a deed on the date written at the beginning of this Undertaking.

**EXECUTED and DELIVERED** )  
as a **DEED** by )  
**NICHOLAS WELLS** )

in the presence of

Witness Signature: )  
)

Witness Name:

Witness Address

Witness Occupation:

