



**PainChek**

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**PAINCHEK LIMITED**

**ACN 146 035 127**

**NOTICE OF ANNUAL GENERAL MEETING**

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**TIME:** 3pm (AEDT)

**DATE:** 23 November 2022

**PLACE:** Suite 401/35 Lime St, Sydney NSW 2000.

***This Notice of Meeting should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their professional advisers prior to voting.***

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## **IMPORTANT INFORMATION**

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### **TIME AND PLACE OF MEETING**

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Notice is given that the Annual General Meeting of the Shareholders to which this Notice of Meeting relates will be held at 3pm (AEDT) on 23 November 2022 Suite 401/35 Lime St, Sydney NSW 2000.

### **WATCHING THE LIVE FEED**

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Shareholders will be able to view the meeting presentations and listen to the meeting live, by entering the URL into their browser. Register in advance for this webinar: [https://us02web.zoom.us/webinar/register/WN\\_UdFk5oEMRmmt0DHasdvIVQ](https://us02web.zoom.us/webinar/register/WN_UdFk5oEMRmmt0DHasdvIVQ) After registering, you will receive a confirmation email containing information about joining the webinar.

Watching the live feed does not enable Shareholders to ask questions or cast direct votes whilst the meeting is in progress. This must be done before the Meeting begins by Shareholders who are not physically attending the meeting. Shareholders are therefore requested to send any questions they may have for the Company or its Directors to the Company Secretary, Sally McDow, by emailing [company.secretary@boardroomlimited.com.au](mailto:company.secretary@boardroomlimited.com.au).

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### **ENTITLEMENT TO ATTEND AND VOTE**

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The Company's Directors have determined that all Shares of the Company that are quoted on ASX at 7:00pm (AEDT) on 21 November 2022 shall, for the purposes of determining voting entitlements at the Annual General Meeting, be taken to be held by the persons registered as holding the Shares at that time.

### **VOTING IN PERSON**

To vote in person, attend the Meeting at the time, date and using the link set out above.

### **VOTING BY PROXY**

To vote by proxy, please complete and sign the Proxy Form accompanying this notice and return by the time and in accordance with the instructions set out on the Proxy Form.

In accordance with section 249L of the Corporations Act, Shareholders are advised that:

- a) each Shareholder has a right to appoint a proxy;
- b) the proxy need not be a member of the Company; and

- c) a Shareholder who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If the member appoints two proxies and the appointment does not specify the proportion or number of the member's votes, then in accordance with section 249X(3) of the Corporations Act, each proxy may exercise one-half of the votes.

The enclosed Proxy Form provides further details on appointing proxies and lodging Proxy Forms.

### **CORPORATE REPRESENTATIVE**

Body corporate Members may attend and vote during the meeting via corporate representative by going to website and using the Voting Access Code found on the Proxy Form. Only one login per body corporate with voting rights will be permitted and any other people from the body corporate wishing to attend should register as guests to attend the meeting. By entering the body corporate's Voting Access Code, you will be taken to have certified pursuant to section 250D of the Corporations Act that you have been validly appointed as the body corporate's representative to exercise all or any of the powers the body corporate may exercise at the AGM.

### **ENQUIRIES**

Shareholders are invited to contact the Company Secretary, Sally McDow [company.secretary@boardroomlimited.com.au](mailto:company.secretary@boardroomlimited.com.au) if they have any queries in respect of the matters set out in this document.

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## BUSINESS OF THE MEETING

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### AGENDA

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#### ORDINARY BUSINESS

##### Financial Statements and Reports

To receive and consider the annual financial report of the Company for the financial year ended 30 June 2022 together with the declaration of the directors, the directors' report, the remuneration report and the auditor's report.

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#### 1. RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **non-binding resolution**:

*"That, for the purpose of section 250R(2) of the Corporations Act and for all other purposes, approval is given for the adoption of the Remuneration Report as contained in the Company's annual financial report for the financial year ended 30 June 2022."*

**Note: the vote on this Resolution is advisory only and does not bind the Directors or the Company.**

##### Voting Exclusion Statement:

A vote on this Resolution must not be cast (in any capacity) by or on behalf of any of the following persons:

- (a) a member of the Key Management Personnel, details of whose remuneration are included in the Remuneration Report; or
- (b) a Closely Related Party of such a member.

However, a person (the **voter**) described above may cast a vote on this Resolution as a proxy if the vote is not cast on behalf of a person described above and either:

- (a) the voter is appointed as a proxy by writing that specifies the way the proxy is to vote on the Resolution; or
- (b) the voter is the Chair and the appointment of the Chair as proxy:
  - (i) does not specify the way the proxy is to vote on this Resolution; and
  - (ii) expressly authorises the Chair to exercise the proxy even if the Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel for the Company, or if the Company is part of a consolidated entity, for the entity.

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#### 2. RESOLUTION 2 – RE-ELECTION OF DIRECTOR – ADAM DAVEY

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an **ordinary resolution**:

*"That, for the purpose of clause 11.3 of the Constitution and for all other purposes, Mr Adam Davey, a Director, retires by rotation, and being eligible, is re-elected as a Director."*

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### 3. RESOLUTION 3 – ELECTION OF DIRECTOR- CYNTHIA PAYNE

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

“That, for the purpose of clause 11.3 of the Constitution and for all other purposes, Ms Cynthia Payne, is elected as a Director.”

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### 4. RESOLUTION 4- APPROVAL OF 10% PLACEMENT CAPACITY – SHARES

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **special resolution**:

*“That, for the purpose of ASX Listing Rule 7.1A and for all other purposes, approval is given for the issue of equity securities totalling up to 10% of the Shares (on issue at the time of the issue), calculated in accordance with the formula prescribed in ASX Listing Rule 7.1A.2 and on the terms and conditions set out in the Explanatory Statement.”*

**Voting Exclusion Statement:** The Company will disregard any votes cast in favour of this Resolution by or on behalf of:

- a person who is expected to participate in or who will obtain a material benefit as a result of the proposed issue; or
- an associate of that person or those persons.

In accordance with Listing Rule 14.11 and the relevant note under that rule concerning Rule 7.1A, as at the date of this Notice of Meeting it is not known who may participate in the proposed issue (if any). On that basis, no security holders are currently excluded.

However, this does not apply to a vote cast in favour of a resolution by:

- a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with the directions given to the proxy or attorney to vote on the resolution in that way; or
- the chair of the meeting as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with a direction given to the chair to vote on the resolution as the chair decides; or
- a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - o the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the resolution; and
  - o the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

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### 5. RESOLUTION 5- RATIFICATION OF PRIOR SHARE ISSUES (PLACEMENT)

To consider and, if thought fit, to pass the following Resolution as an Ordinary Resolution:

“That for the purposes of ASX Listing Rule 7.4 and for all other purposes, approval is given for the ratification and approval of the prior share issue on 30 June 2022 of 107,142,858 Shares at an issue price of A\$0.028 per Share under the

Company's share placement, on the terms and conditions set out in the Explanatory Statement."

Voting exclusion: The Company will disregard any votes cast in favour of the Resolution by anyone who participated in the Share issue under the share placement, or any of their associates.

However, this does not apply to a vote cast in favour of the Resolution by:

- A person as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with directions given to the proxy or attorney to vote on the Resolution in that way; or
- The Chair of the Meeting as proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with a direction given to the Chair to vote on the Resolution as the Chair decides; or
- A holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - o The beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting, on the Resolution; and
  - o The holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

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## **6. RESOLUTION 6- ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR ROSS HARRICKS**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

"That, for the purposes of ASX Listing Rule 10.14 and for all other purposes, Shareholder approval is given for the Company to issue Performance Rights in three annual awards of \$20,000 to the total value of \$60,000 to Ross Harricks (or his nominee) under the LTI Plan and on the terms and conditions set out in the Explanatory Statement."

Voting Exclusion Statement: The Company will disregard any votes cast in favour of this Resolution by or on behalf of any Director or an associate of any Director. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

Voting Prohibition Statement of section 250BD of the Corporations Act:

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

- (a) the proxy is either:
  - (i) a member of the Key Management Personnel; or
  - (ii) a Closely Related Party of such a member; and
- (b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, the above prohibition does not apply if:

- (a) the proxy is the Chair of the Meeting; and
- (b) the appointment expressly authorises the Chair to exercise the proxy even if the Resolution is connected directly or indirectly with remuneration of a member of the Key Management Personnel.

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## **7. RESOLUTION 7- ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR ADAM DAVEY**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

"That, for the purposes of ASX Listing Rule 10.14 and for all other purposes, Shareholder approval is given for the Company to issue Performance Rights in three annual awards of \$20,000 to the total value of \$60,000 to Adam Davey (or his nominee) under the LTI Plan and on the terms and conditions set out in the Explanatory Statement."

Voting Exclusion Statement: The Company will disregard any votes cast in favour of this Resolution by or on behalf of any Director or any associate of any Director. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

Voting Prohibition Statement of section 250BD of the Corporations Act:

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

- (a) the proxy is either:
  - (i) a member of the Key Management Personnel; or
  - (ii) a Closely Related Party of such a member; and
- (b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, the above prohibition does not apply if:

- (a) the proxy is the Chair of the Meeting; and
- (b) the appointment expressly authorises the Chair to exercise the proxy even if the Resolution is connected directly or indirectly with remuneration of a member of the Key Management Personnel.

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## **8. RESOLUTION 8 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR CYNTHIA PAYNE**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

"That, for the purposes of ASX Listing Rule 10.14 and for all other purposes, Shareholder approval is given for the Company to issue Performance Rights in three annual awards of \$20,000 to the total value of \$60,000 to Cynthia Payne (or her nominee) under the LTI Plan and on the terms and conditions set out in the Explanatory Statement."

Voting Exclusion Statement: The Company will disregard any votes cast in favour of this Resolution by or on behalf of any Director or any associate of any Director. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

Voting Prohibition Statement of section 250BD of the Corporations Act:

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

- (a) the proxy is either:
  - (i) a member of the Key Management Personnel; or
  - (ii) a Closely Related Party of such a member; and
- (b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, the above prohibition does not apply if:

- (a) the proxy is the Chair of the Meeting; and
- (b) the appointment expressly authorises the Chair to exercise the proxy even if the Resolution is connected directly or indirectly with remuneration of a member of the Key Management Personnel.

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## **9. RESOLUTION 9 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR JOHN MURRAY**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

“That, for the purposes of ASX Listing Rule 10.14 and for all other purposes, Shareholder approval is given for the Company to issue Performance Rights in three annual awards of \$40,000 to the total value of \$120,000 to John Murray (or his nominee) under the LTI Plan and on the terms and conditions set out in the Explanatory Statement.”

Voting Exclusion Statement: The Company will disregard any votes cast in favour of this Resolution by or on behalf of any Director or any associate of any Director. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

Voting Prohibition Statement of section 250BD of the Corporations Act:

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

- (a) the proxy is either:
  - (i) a member of the Key Management Personnel; or
  - (ii) a Closely Related Party of such a member; and

(b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, the above prohibition does not apply if:

(a) the proxy is the Chair of the Meeting; and

(b) the appointment expressly authorises the Chair to exercise the proxy even if the Resolution is connected directly or indirectly with remuneration of a member of the Key Management Personnel.

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## **10. RESOLUTION 10 – ISSUE OF PERFORMANCE RIGHTS TO DIRECTOR PHILIP DAFFAS**

To consider and, if thought fit, to pass, with or without amendment, the following resolution as an ordinary resolution:

“That, for the purposes of ASX Listing Rule 10.14 and for all other purposes, Shareholder approval is given for the Directors to issue Performance Rights in three annual awards of \$250,000 to the total value of \$750,000 to Philip Daffas (or his nominee) under the LTI Plan and on the terms and conditions set out in the Explanatory Statement.”

Voting Exclusion Statement: The Company will disregard any votes cast in favour of this Resolution by or on behalf of any Director or any associate of any Director. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or, it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form to vote as the proxy decides.

Voting Prohibition Statement of section 250BD of the Corporations Act:

A person appointed as a proxy must not vote, on the basis of that appointment, on this Resolution if:

(a) the proxy is either:

(i) a member of the Key Management Personnel; or

(ii) a Closely Related Party of such a member; and

(b) the appointment does not specify the way the proxy is to vote on this Resolution.

However, the above prohibition does not apply if:

(a) the proxy is the Chair of the Meeting; and

the appointment expressly authorises the Chair to exercise the proxy even if the Resolution is connected directly or indirectly with remuneration of a member of the Key Management Personnel.

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**DATED: 18 OCTOBER 2022**

**BY ORDER OF THE BOARD**

  
**SALLY MCDOW**  
**COMPANY SECRETARY**

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## EXPLANATORY STATEMENT

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This Explanatory Statement has been prepared to provide information which the Directors believe to be material to Shareholders in deciding whether or not to pass the Resolutions which are the subject of the business of the Meeting.

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### 1. FINANCIAL STATEMENTS AND REPORTS

In accordance with clause 9.5 of the Constitution, the business of the Meeting will include receipt and consideration of the annual financial report of the Company for the financial year ended 30 June 2022 together with the declaration of the directors, the directors' report, the remuneration report and the auditor's report.

The Company will not provide a hard copy of the Company's annual financial report to Shareholders unless specifically requested to do so. The Company's annual financial report is available on its website at [www.painchek.com](http://www.painchek.com)

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### 2. RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

#### 2.1 General

Section 249L(2) of the Corporations Act requires that at a listed company's annual general meeting, a resolution that the remuneration report be adopted must be put to the shareholders. However, section 250R(3) expressly provides that such a resolution is advisory only and does not bind the Directors or the Company.

The remuneration report sets out the Company's remuneration arrangements for the Directors and senior management of the Company. The remuneration report is part of the Directors' report contained in the annual financial report of the Company for the financial year ending 30 June 2022.

A reasonable opportunity will be provided for discussion of the remuneration report at the Annual General Meeting.

#### 2.2 Voting consequences

Under Part 2G.2, Division 9 of the Corporations Act, if at least 25% of the votes cast on a remuneration report resolution are voted against adoption of the remuneration report in two consecutive annual general meetings, the Company will be required to put to Shareholders a resolution proposing the calling of an extraordinary general meeting to consider the appointment of directors of the Company (**Spill Resolution**) at the second annual general meeting.

If more than 50% of shareholders vote in favour of the Spill Resolution, the company must convene the extraordinary general meeting (**Spill Meeting**) within 90 days of the second annual general meeting.

All of the directors of the company who were in office when the directors' report (as included in the company's annual financial report for the financial year ended immediately before the second annual general meeting) was approved, other than the managing director of the company, will cease to hold office immediately before the end of the Spill Meeting but may stand for re-election at the Spill Meeting.

Following the Spill Meeting those persons whose election or re-election as directors of the company is approved will be the directors of the company.

At the Company's previous annual general meeting the votes cast against the remuneration report considered at that annual general meeting were less than 25%. Accordingly, the Spill Resolution is not relevant for this Annual General Meeting.

## **2.3 Proxy Restrictions**

Shareholders appointing a proxy for Resolution 1 should note the following:

### **2.3.1 If you appoint a member of the Key Management Personnel as your proxy**

If you elect to appoint a member of Key Management Personnel whose remuneration details are included in the Remuneration Report, or a Closely Related Party of that member, **you must direct the proxy how they are to vote.** Undirected proxies granted to these persons will not be included in any vote on Resolution 1.

### **2.3.2 If you appoint the Chair as your proxy**

If you elect to appoint the Chair as your proxy, you **do not** need to direct the Chair how you wish them to exercise your vote on Resolution 1.

By signing and returning the Proxy Form, you are considered to have provided the Chair with an express authorisation to vote the proxy in accordance with the Chair's intention, even though the Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel of the Company.

### **2.3.3 If you appoint any other person as your proxy**

You **do not** need to direct your proxy how to vote.

## **2.4 Directors' recommendation**

As the resolution relates to matters including the remuneration of the Directors, the Board, as a matter of corporate governance and in accordance with the spirit of section 250R(4) Corporations Act, makes no recommendation regarding this resolution.

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## **3. RESOLUTION 2 – RE-ELECTION OF DIRECTOR – ADAM DAVEY**

- 3.1** ASX Listing Rule 14.4 and clause 11.3 of the Constitution requires that at the Company's annual general meeting in every year, one-third of the Directors for the time being, or, if their number is not a multiple of 3, then the number nearest one-third, shall retire from office, provided always that no Director (except a Managing Director) shall hold office for a period in excess of 3 years, or until the third annual general meeting following his or her appointment, whichever is the longer, without submitting himself or herself for re-election.

Clause 11.5 of the Constitution provides that the Director to retire at an annual general meeting is the Director who has been longest in office since their last election. Clause 11.4 of the Constitution provides that a Director who retires by rotation under clause 11.3 of the Constitution is eligible for re-election.

The Company currently has 4 Directors (including 1 Managing Director) and accordingly 1 must retire.

Mr Adam Davey, the Director longest in office since his last election, retires by rotation and seeks re-election.

### **3.2 Experience**

Mr Adam Davey is the Director, Private Clients and Institutional at Patersons Securities. His expertise spans over 25 years and includes ASX Listings, Capital Raising (both private and public), Mergers and Acquisitions as well as Transaction Due Diligence. Mr Davey has held various roles within different organizations including Chairman, Managing Director as well as Corporate Adviser to the board.

### **3.3 Directors' Recommendation**

The Board (with Mr Davey abstaining) supports Mr Davey's re-election as a Non-Executive Director of the Company and recommends that Shareholders vote in favour of this Resolution.

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## **4. RESOLUTION 3 –ELECTION OF DIRECTOR – CYNTHIA PAYNE**

**4.1** Ms Cynthia Payne was appointed to the PainChek Board as a Casual Vacancy as defined in section 11.10 of the Constitution on 30 March 2022. The PainChek Board seeks to now ratify that appointment as permanent by shareholders under section 11.7 of the Constitution.

### **4.2 Experience**

Ms Cynthia Payne brings 30 years executive leadership experience as well as significant board and operational experience in residential and home aged care services in Australia. That experience includes over 16 years as CEO for a large private aged care Provider in NSW and before that head of operation manager for a large Not for Profit with home care, residential and retirement living portfolios. She is the founder and Managing Director of Anchor Excellence, a leading consultancy firm in the aged care services industry in Australia that advises boards and management on operational and compliance best practices.

Ms Payne is a board advisor to Total Constructions Pty Ltd, a former Director of the Heart Foundation and past Chair of Business Excellence Australia. Cynthia holds a Bachelor of Applied Science (Nursing) with specific interest in Dementia Care, an MBA from the University of New England, is a Member of the Australian Institute of Company Directors, Fellow of the Governance Institute Australia and Certified Chair with The Board Advisory centre

### **4.3 Directors' Recommendation**

The Board (with Mrs Payne abstaining) supports Ms Payne's election as a Non-Executive Director of the Company and recommends that Shareholders vote in favour of this Resolution.

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## **5. RESOLUTION 4 APPROVAL OF 10% PLACEMENT CAPACITY – SHARES**

### **5.1 General**

ASX Listing Rule 7.1A provides that an Eligible Entity as defined in section 4.2 below, may seek Shareholder approval at its annual general meeting to allow it to issue equity securities up to 10% of its issued capital at the time of the issue

over a period up to 12 months after the annual general meeting (**10% Placement Capacity**).

The Company is an Eligible Entity.

If Shareholders approve Resolution 4, the number of equity securities the Eligible Entity may issue under the 10% Placement Capacity will be determined in accordance with the formula prescribed in ASX Listing Rule 7.1A.2 (as set out in Section 4.2 below).

The effect of Resolution 4 will be to allow the Directors to issue equity securities up to 10% of the Company's fully paid ordinary securities on issue at the time of the issue under the 10% Placement Capacity during the period up to 12 months after the Meeting, without subsequent Shareholder approval and without using the Company's 15% annual placement capacity granted under ASX Listing Rule 7.1. Resolution 3 is a special resolution and therefore requires approval of 75% of the votes cast by Shareholders present and eligible to vote (in person, by proxy, by attorney or, in the case of a corporate Shareholder, by a corporate representative).

ASX Listing Rule 7.1A.4 provides that if and when the Company utilises the 10% Placement Capacity within the 12 months following the AGM, assuming Resolution 3 is passed, the Company will be required to give ASX details of who will be issued the equity securities and how many equity securities they each received. In addition, the Company will be required to release by way of ASX announcement the information set out in ASX Listing Rule 3.10.5A, namely:

- (a) details about the dilution to the existing Shareholders caused by the issue of equity securities under the 10% Placement Capacity;
- (b) if cash is raised, an explanation why a pro rata issue or other type of issue allowing existing shareholders to participate was not adopted instead of or as well as using the 10% Placement Capacity;
- (c) details about any underwriting and underwriting fees paid; and
- (d) details about any other fees or costs incurred in connection with the issue of equity securities under the 10% Placement Capacity.

The Directors of the Company believe that Resolution 4 is in the best interests of the Company and unanimously recommend that Shareholders vote in favour of this Resolution.

Resolution 4 is a special resolution. Accordingly, at least 75% of votes cast by Shareholders present and eligible to vote at the Meeting must be in favour of Resolution 4 for it to be passed.

## **5.2 ASX Listing Rule 7.1A**

ASX Listing Rule 7.1A enables an Eligible Entity to seek shareholder approval at its annual general meeting to issue equity securities in addition to those under the Eligible Entity's 15% annual placement capacity.

An Eligible Entity is one that, as at the date of the relevant annual general meeting:

- (a) is not included in the S&P/ASX 300 Index; and

- (b) has a maximum market capitalisation (excluding restricted securities and securities quoted on a deferred settlement basis) of \$300,000,000.

The Company is an Eligible Entity as it is not included in the S&P/ASX 300 Index and has a current market capitalisation of approximately \$112.6 million.

Any equity securities issued must be in the same class as an existing class of quoted equity securities issued for cash consideration per security per LR 7.1A.3. The Company currently has one class of equity securities on issue, being the Shares (ASX Code: PCK).

The exact number of equity securities that the Company may issue under an approval under ASX Listing Rule 7.1A will be calculated according to the following formula:

$$(A \times D) - E$$

**A** = the number of fully paid +ordinary securities on issue at the commencement of the relevant period,

- plus the number of fully paid +ordinary securities issued in the relevant period under an exception in rule 7.2 other than exception 9, 16 or 17,
- plus the number of fully paid +ordinary securities issued in the relevant period on the +conversion of +convertible securities within rule 7.2 exception 9 where:
  - the convertible securities were issued or agreed to be issued before the commencement of the relevant period; or
  - the issue of, or agreement to issue, the +convertible securities was approved, or taken under these rules to have been approved, under rule 7.1 or rule 7.4,
- plus the number of fully paid +ordinary securities issued in the relevant period under an agreement to issue +securities within rule 7.2 exception 16 where:
  - the agreement was entered into before the commencement of the relevant period; or
  - the agreement or issue was approved, or taken under these rules to have been approved, under rule 7.1 or rule 7.4,
- plus the number of any other fully paid +ordinary securities issued in the relevant period with approval under rule 7.1 or rule 7.4,

Note: This may include fully paid ordinary securities issued in the relevant period under an agreement to issue securities within rule 7.2 exception 17 where the issue is subsequently approved under rule 7.1.

- plus the number of partly paid +ordinary securities that became fully paid in the relevant period,
- less the number of fully paid +ordinary securities cancelled in the relevant period;

**D** is 10%.

**E** is the number of equity securities issued or agreed to be issued under ASX Listing Rule 7.1A.2 in the relevant period where the issue or agreement has not been approved by the holders of ordinary securities under ASX Listing Rule 7.4.

**5.3 Technical information required by ASX Listing Rule 7.1A**

Pursuant to and in accordance with ASX Listing Rule 7.3A, the information below is provided in relation to this Resolution 4:

**(a) Minimum Price**

The minimum price at which the equity securities may be issued is 75% of the volume weighted average price of equity securities in that class, calculated over the 15 ASX trading days on which trades in that class were recorded immediately before:

- (i) the date on which the price at which the equity securities are to be issued is agreed; or
- (ii) if the equity securities are not issued within 10 trading days of the date in Section 4.3(a)(i), the date on which the equity securities are issued.

**(b) Date of Issue**

The equity securities may be issued under the 10% Placement Capacity commencing on the date of the Meeting and expiring on the first to occur of the following:

- (i) 12 months after the date of this Meeting at which the approval is obtained;
- (ii) The time and date of the company's next AGM; and
- (iii) the date of approval by Shareholders of any transaction under ASX Listing Rules 11.1.2 (a significant change to the nature or scale of the Company's activities) or 11.2 (disposal of the Company's main undertaking).

**(c) Risk of economic and voting dilution**

Any issue of equity securities under the 10% Placement Capacity will dilute the interests of Shareholders who do not receive any Shares under the issue.

If Resolution 4 is approved by Shareholders and the Company issues the maximum number of equity securities available under the 10% Placement Capacity, the economic and voting dilution of existing Shares would be as shown in the table below.

The table below shows the dilution of existing Shareholders calculated in accordance with the formula outlined in ASX Listing Rule 7.1A(2), on the basis of the current market price of Shares and the current number of equity securities on issue as at the date of this Notice.

The table also shows the voting dilution impact where the number of Shares on issue (variable A in the formula) changes and the economic dilution where there are changes in the issue price of Shares issued under the 10% Placement Capacity.

Variable "A" in ASX Listing Rule 7.1.A.2	Dilution		
	Issue Price	\$0.017	\$0.033

	(per Share)	50% decrease in Issue Price	Current Issue Price	50% increase in Issue Price
(Current fully paid shares) 1,296,405,383	10% voting dilution	129,640,538	129,640,538	129,640,538
	Funds raised	\$2,203,889	\$4,278,138	\$6,482,027
(50% increase)	10% voting dilution	194,460,807	194,460,807	194,460,807
	Funds raised	\$3,305,834	\$6,417,207	\$9,723,040
(100% increase)	10% voting dilution	259,281,077	259,281,077	259,281,077
	Funds raised	\$4,407,778	\$8,556,276	\$12,964,054

\*The number of Shares on issue (variable A in the formula) could increase as a result of the issue of Shares that do not require Shareholder approval (such as under a pro-rata rights issue or scrip issued under a takeover offer) or that are issued with Shareholder approval under ASX Listing Rule 7.1.

**The table above uses the following assumptions:**

1. the current Shares on issue are the Shares on issue as at 4 October 2022;
2. the issue price set out above is the closing price of the Shares on the ASX on 4 October 2022;
3. the Company issues the maximum possible number of equity securities under the 10% Placement Capacity;
4. the Company has not issued any equity securities in the 12 months prior to the Meeting that were not issued under an exception in ASX Listing Rule 7.2 or with approval under ASX Listing Rule 7.1;
5. the calculations above do not show the dilution that any one particular Shareholder will be subject to. All Shareholders should consider the dilution caused to their own shareholding depending on their specific circumstances;
6. this table does not set out any dilution pursuant to approvals under ASX Listing Rule 7.1;

Shareholders should note that there is a risk that:

- (i) the market price for the Company's Shares may be significantly lower on the issue date than on the date of the Meeting; and

- (ii) the Shares may be issued at a price that is at a discount to the market price for those Shares on the date of issue.

**(d) Purpose of Issue under 10% Placement Capacity**

The Company may issue equity securities under the 10% Placement Capacity as cash consideration in which case the Company intends to use funds raised for general working capital and business expansion.

**(e) Allocation policy under the 10% Placement Capacity**

The Company's allocation policy for the issue of equity securities under the 10% Placement Capacity will be dependent on the prevailing market conditions at the time of the proposed placement(s).

The person being issued the equity securities which is yet to be issued under the 10% Placement Capacity have not yet been determined. However, the person being issued the equity securities could consist of current Shareholders or new investors (or both), none of whom will be related parties of the Company.

The Company will determine the person to be issued the equity securities at the time of the issue under the 10% Placement Capacity, having regard to the following factors:

- (i) the purpose of the issue;
- (ii) alternative methods for raising funds available to the Company at that time, including, but not limited to, an entitlement issue or other offer where existing Shareholders may participate;
- (iii) the effect of the issue of the equity securities on the control of the Company;
- (iv) the circumstances of the Company, including, but not limited to, the financial position and solvency of the Company;
- (v) prevailing market conditions; and
- (vi) advice from corporate, financial and broking advisers (if applicable).

**(f) Previous Approval under ASX Listing Rule 7.1A**

No securities were issued under ASX Listing Rule 7.1A in the last 12 months.

**5.4 Voting Exclusion**

A voting exclusion statement is included in this Notice. As at the date of this Notice, the Company has not invited any existing Shareholder to participate in an issue of equity securities under ASX Listing Rule 7.1A. Therefore, no existing Shareholders will be excluded from voting on Resolution 4.

**5.5 Directors' recommendation**

The Directors unanimously recommend that Shareholders vote in favour of Resolution 4.

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## 6. RESOLUTION 5- RATIFICATION OF PRIOR SHARE ISSUES (PLACEMENT)

### Background to the Placement

On 24 June 2022, the Company announced an equity capital raising consisting of the following elements:

- a fully underwritten share placement to institutional, professional and sophisticated investors at a per share price of A\$0.028 to raise a A\$3 million (Placement); and
- a fully underwritten accelerated non-renounceable entitlement offer at a per share price of A\$0.028 to raise A\$1.59 million (Entitlement Offer).

On 30 June 2022 (Issue Date), the Company issued 107,142,858 new Shares under the Placement. Of these, 107,142,858 Shares were issued using the Company's 15% capacity pursuant to Listing Rule 7.1 with nil remaining Shares issued using the Company's additional 10% placement capacity pursuant to Listing Rule 7.1A approved at the Company's 2021 AGM.

Under Resolution 5, the Company is seeking shareholder ratification pursuant to Listing Rule 7.4 of the issue of 107,142,858 Shares on 30 June 2022 to institutional, sophisticated and professional investors under the Placement in order to restore the ability of the Company to issue further Shares within the 15% limit during the next 12 months.

### General

Broadly speaking, and subject to a number of exceptions, Listing Rule 7.1 limits the amount of equity securities that a listed company can issue without the approval of its shareholders over any 12 month period to 15% of the fully paid ordinary securities it had on issue at the start of that period.

The issue of the Placement shares does not fit within any of these exceptions and, as it has not yet been approved by the Shareholders, it effectively uses up part of the 15% limit in Listing Rule 7.1, reducing the Company's capacity to issue further equity securities without Shareholder approval under Listing Rule 7.1 for the 12 month period following the Issue Date.

Listing Rule 7.4 allows the shareholders of a listed company to approve an issue of equity securities after it has been made or agreed to be made. If they do, the issue is taken to have been approved under Listing Rule 7.1 and so does not reduce the Company's capacity to issue further equity securities without shareholder approval under that rule.

The Company wishes to retain as much flexibility as possible to issue additional equity securities in the future (including for acquisitions) without having to obtain Shareholder approval for such issues under Listing Rule 7.1.

To this end, the Resolution seeks Shareholder approval for the issue of the Placement Shares under and for the purposes of Listing Rule 7.4.

If the Resolution is passed, the Placement Shares will be deemed to have been issued with Shareholder approval for the purposes of Listing Rule 7.1 and will accordingly be excluded in calculating the Company's 15% limit in Listing Rule 7.1, effectively increasing the number of equity securities it can issue without Shareholder approval over the 12-month period following the Issue Date.

If the Resolution is not passed, the Placement Shares will be included in calculating the Company's 15% limit in Listing Rule 7.1, effectively decreasing the number of equity securities it can issue without Shareholder approval over the 12-month period following the Issue Date.

### **Specific information required**

The following information is provided in accordance with ASX Listing Rule 7.5:

a) Number of securities issued:

107,142,858 fully paid ordinary Shares.

b) Date on which securities were issued:

The Shares were issued and allotted on 30 June 2022.

c) Issue price of securities:

The Shares were issued for A\$0.028 per Share.

d) Allottees of the securities:

The Placement Shares were issued to existing and new institutional, professional and sophisticated investors, allocated in consultation between the Company and the joint lead managers and underwriters to the Placement, Canaccord Genuity (Australia) Limited.

e) Terms of securities:

The Placement Shares were issued on the same terms as existing ordinary shares on issue and rank equally in all respects with the existing fully paid ordinary Shares on issue.

f) The intended use of the funds:

Additional working capital.

### **Directors' Recommendation**

The Board unanimously recommends that Shareholders vote in favour of this Resolution.

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## **7. RESOLUTIONS 6 TO 9 – APPROVAL OF NON-EXEC DIRECTOR PERFORMANCE RIGHTS**

### **7.1 General**

In August 2019, the Company commissioned a review of its director remuneration from an independent remuneration consultant to benchmark current director remuneration to comparable companies. The report recommended that the Company's non-executive director remuneration be supplemented with the following annual grant of Performance Rights for the financial years ended 30 June 2019, 2020 and 2021:

Director	Current Fee	New Performance		% Increase
		Rights	Total New Remuneration	
John Murray	\$ 80,000	\$ 40,000	\$ 120,000	50%
Adam Davey	\$ 40,000	\$ 20,000	\$ 60,000	50%
Ross Harricks	\$ 40,000	\$ 20,000	\$ 60,000	50%
	\$ 160,000	\$ 80,000	\$ 240,000	50%

Shareholders approved the issue of these Performance Rights at the AGM on 20th November 2019 on the following principles and terms:

- (a) each non-executive director will in each end of financial year on 30 June 2020, 2021 and 2022 receive 1/3 of their total annual remuneration in Performance Rights subject to shareholder approval;
- (b) the number of Performance Rights issued for a year will be calculated based on the VWAP of the Company's ordinary shares calculated 5 days either side of and including the date of announcement of the company's annual statutory results for the financial year;
- (c) Performance Rights will vest at 30 June each subsequent year - being the end of the financial year subject to the director remaining a director of the Company at that date;
- (d) each Performance Right has the conditional right to acquire one Share;
- (e) the Performance rights are issued for Nil consideration;
- (f) the Performance Rights expire 3 months after the vesting date; and
- (g) the Performance Rights are subject to the terms and conditions of the LTI Plan.

The Company proposes that individual non-executive director remuneration is unchanged and is summarised:

Director	Cash Fee	New Performance Rights	Total Remuneration (Unchanged)
John Murray	\$80,000	\$40,000	\$120,000
Adam Davey	\$40,000	\$20,000	\$60,000
Ross Harricks	\$40,000	\$20,000	\$60,000
Cynthia Payne (new director)	\$40,000	\$20,000	\$60,000
	<b>\$200,000</b>	<b>\$100,000</b>	<b>\$300,000</b>

This requires the approval of shareholders to issue new Performance Rights to non-executive directors for each of the 3 financial years beginning FY2023. The below table summarises the position:

Remuneration for year ended 30 June	Share price calculation date	Grant/issue date	Vesting date	Likely date that Performance	Expiry Date of Performance

	(estimated)			Rights will convert to shares	Rights if not converted to shares
2023	5/9/2022	[30] November 2022 after shareholder approval	30/6/2023	30/7/2023	30/9/2023
2024	5/9/2023	30/9/2023	30/6/2024	30/7/2024	30/9/2024
2025	5/9/2024	30/9/2024	30/6/2025	30/7/2025	30/9/2025

## 7.2 Calculation of the Number of Performance Rights

As noted in section 1.1 above, the number of Performance Rights to be issued to the non-executive Directors each year will depend on the VWAP of the Company's ordinary shares calculated 5 days either side of and including the date of announcement of the company's annual statutory results for the financial year preceding the financial year of the grant of the Performance Rights. The following table shows the calculation of the Performance Rights to be issued as part of the Director remuneration for holding office during FY2023 and vesting on 30 June 2023 if the Director remains in office:

Name	Annual Value of Performance Rights	Share price calculated based on the VWAP 5 days (and including the day of) either side of FY22 statutory results	No. of Performance Rights that vest on 30 June 2023
Mr John Murray	\$40,000	\$0.0296	1,351,351
Mr Adam Davey	\$20,000	\$0.0296	675,676
Mr Ross Harricks	\$20,000	\$0.0296	675,676
Ms Cynthia Payne	\$20,000	\$0.0296	675,676

The following table shows an example of the calculation of the Performance Rights to be issued as part of the Director remuneration for holding office during FY24 and vesting on 30 June 2024 (if the Director remains in office):

Name	Annual Value of Performance Rights	No. of Performance Rights that vest on 30 June 2024 based on an issue price of \$0.0370 representing the VWAP 5 days either side of (and including the day of) FY23 statutory results which would represent a 25% increase on the FY22 Share price	No. of Performance Rights that vest on 30 June 2024 based on an issue price of \$0.0296 representing the VWAP 5 days either side of (and including the day of) FY23 statutory results which would represent no change from the FY22 Share price	No. of Performance Rights that vest on 30 June 2024 based on an issue price of \$0.0222 representing the VWAP 5 days either side of (and including the day of) FY23 statutory results which would represent a 25% decrease on the FY22 Share price
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Mr John Murray	\$40,000	1,081,081	1,351,351	1,801,802
Mr Adam Davey	\$20,000	540,541	675,676	900,901
Mr Ross Harricks	\$20,000	540,541	675,676	900,901
Ms Cynthia Payne	\$20,000	540,541	675,676	900,901

The following table shows an example of the calculation of the Performance Rights to be issued as part of the Director remuneration for holding office for FY25 and vesting on 30 June 2025 (if the Director remains in office):

Name	Annual Value of Performance Rights	Performance Rights that vest on 30 June 2025 based on an issue price of \$0.0444 representing the VWAP 5 days either side of (and including the day of) FY24 statutory results which would represent a 50% increase on the FY22 Share price	No. of Performance Rights that vest on 30 June 2025 based on an issue price of \$0.0296 representing the VWAP 5 days either side of (and including the day of) FY24 statutory results which would represent no change from the FY22 Share price	No. of Performance Rights that vest on 30 June 2025 based on an issue price of \$0.0148 representing the VWAP 5 days either side of (and including the day of) FY24 statutory results which would represent a 50% decrease on the FY22 Share price
Mr John Murray	\$40,000	900,901	1,351,351	2,702,703
Mr Adam Davey	\$20,000	450,450	675,676	1,351,351
Mr Ross Harricks	\$20,000	450,450	675,676	1,351,351
Ms Cynthia Payne	\$20,000	450,450	675,676	1,351,351

### 7.3 Long Term Incentive Plan

The LTI Plan provides for the issuance of Performance Rights or Options (**Awards**) to directors, full-time and part-time employees as well as consultants and contractors of the Company and its subsidiaries. The form and implementation of the LTI Plan was approved by the Board on 27 August 2015 and by the company's Shareholders at the annual general meeting on 7 October 2015 and subsequently at the annual general meeting on 20 November 2018.

The key features of the LTI Plan are as follows:

- (a) the Board may offer Awards under the LTI Plan to full-time or part-time employees, directors, consultants and/or contractors of any member of the Company's group (being the Company and its subsidiaries) (a holder of securities under the LTI Plan being a participant);
- (b) each Award represents a conditional right to be issued or transferred one or more Shares;
- (c) there is no fee payable by the participant on the grant of the Awards;

- (d) an Award may only be exercised when the vesting conditions, as determined by the Board, attaching to that Award have been satisfied or waived and a vesting notice has been provided to the plan participant.
- (e) the Award exercise price will be determined by the Board at the time it resolves to grant Awards under the LTI Plan, having regard to such matters that the board considers appropriate;
- (f) a participant may, if provided by the terms of the Award, and at their election, exercise their vested Awards by choosing to receive (in Shares) only the positive difference between the exercise price and the Company's share price at exercise, determined by using a volume weighted average price over the 10 trading days immediately preceding the exercise date. This mechanism will not change the fundamental entitlement of participants nor does it result in a more favourable economic outcome than if the participant were to pay the exercise price in respect of all their Awards;
- (g) a participant's Award will expire on the expiry date specified by the Board when the Award is granted.
- (h) Awards are not transferable;
- (i) a participant must not enter into any arrangement for the purpose of hedging their economic exposure to an Award that has been granted to them; and
- (j) Awards will not be quoted on ASX. The Company will make an application to the ASX for official quotation of the Shares (if any) issued to a participant on the exercise of the Awards.

A copy of the LTI Plan can be obtained by contacting the Company secretary.

#### **7.4 Chapter 2E of the Corporations Act**

For a public company, section 208 of the Corporations Act requires that, if an entity that the public company controls, gives a financial benefit to a related party of the public company, the public company or entity must:

- (a) obtain the approval of the public company's members in the manner set out in Sections 217 to 227 of the Corporations Act; and

give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in Sections 210 to 216 of the Corporations Act.

The proposed issue of Performance Rights constitutes giving a financial benefit and Messrs Murray, Davey, Harricks, and Ms Payne are each related parties of the Company by virtue of being a Director.

In addition, ASX Listing Rule 10.14 also requires shareholder approval to be obtained where an entity issues, or agrees to issue, securities to a Director, an associate of the Director or a person whose relationship with the Director or an associate of the Directors, in ASX's opinion, such that approval should be obtained unless an exception in ASX Listing Rule 10.15B applies.

For the reasons set out in section 6.1, the Board considers that the grant of Performance Rights to Messrs Murray, Davey, Harricks, and Ms Payne is an

appropriate and reasonable component of their remuneration, and that the financial benefit represented by the grant of the Performance Rights falls within the "reasonable remuneration" exception in section 211 of the Corporations Act. For this reason, it is unnecessary to seek specific Shareholder approval of Resolutions 5 to 7 for the purposes of Chapter 2E of the Corporations Act.

## 7.5 Information required by the ASX Listing Rules

Pursuant to ASX Listing Rule 10.15A, the following information is provided in relation to the proposed issue of Performance Rights:

- (a) the related parties are John Murray, Ross Harricks, Adam Davey, and Cynthia Payne who are related parties by virtue of being directors of the Company;
- (a) the maximum number of Performance Rights will depend on the VWAP at the relevant time (as detailed in sections 1.1 and 1.2 above);
- (b) the formula for calculating the price per Share is set out in sections 1.1 and 1.2;
- (b) since the approval of the LTI Plan on 20 November 2018, the following Performance Rights have been received by persons who received securities under the LTI Plan:

<b>Year of Award</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021</b>
Philip Daffas	933,270	2,063,957	3,960,396
John Murray	186,654	412,791	792,079
Adam Davey	93,327	206,396	396,040
Ross Harricks	93,327	206,396	396,040

- (c) John Murray, Ross Harricks, Adam Davey, Cynthia Payne and Philip Daffas are all the persons entitled to participate in the Performance Rights issued under the LTI Plan;
- (c) no loan is being given in relation to the issue of the Performance Rights;
- (d) details of any Performance Rights issued under the LTI Plan will be published in each annual report of the entity relating to a period in which Performance Rights have been issued and that approval for the issue of the Performance Rights was obtained under ASX Listing Rule 10.14 and any additional persons who become entitled to participate in the LTI Plan after Resolutions 5-8 are approved who were not named in this Notice will not participate until approval is obtained under ASX Listing Rule 10.14; and
- (d) the annual issue of the Performance Rights to Messrs Murray, Davey, Harricks and Ms Payne will occur no later than 10 trading days after the date the relevant financial year results are released and in any event, no later than 3 years after the date of this meeting.

Directors' recommendation

The Directors make the following recommendations:

- (e) Philip Daffas recommends Shareholders vote in favour of Resolutions 6 to 9;
- (e) Ross Harricks declines to make a recommendation to Shareholders in relation to Resolution 6<sup>1</sup>, but recommends Shareholders vote in favour of Resolutions 7 to 9;
- (f) Adam Davey declines to make a recommendation to Shareholders in relation to Resolution 7<sup>2</sup>, but recommends Shareholder vote in favour of Resolutions 6, 8 and 9;
- (f) Cynthia Payne declines to make a recommendation to Shareholders in relation to Resolution 8<sup>3</sup>, but recommends Shareholder vote in favour of Resolutions 6, 7 and 9; and
- (g) John Murray declines to make a recommendation to Shareholders in relation to Resolution 9<sup>4</sup>, but recommends that Shareholders vote in favour of Resolutions 6, 7 and 8.

### **Voting Exclusion Statement**

A person referred to in rule 10.14.1, 10.14.2 or 1.14.3 who is eligible to participate in the "employee incentive scheme" in question, ie the LTI Plan. However this does not apply to a vote cast in a favour of a resolution by:

- A person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way;
- The chair of the meeting as proxy or attorney for a person who is entitled to vote, on the resolution, in accordance, with directions given to the proxy or attorney to vote on the resolution in that way; or
- A holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - The beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associated of a person excluded from voting, on the resolution; and
  - The holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

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<sup>1</sup> Due to the respective Director having a material personal interest in the outcome of that Resolution on the basis that, that Director is to be granted Performance Rights in the Company should that Resolution be passed.

<sup>2</sup> See footnote 1

<sup>3</sup> See footnote 1

<sup>4</sup> See footnote 1

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## 8. RESOLUTION 10 – APPROVAL OF THE ISSUE OF PERFORMANCE RIGHTS TO PHILIP DAFFAS

### 8.1 General

In September 2019, the Company commissioned a review of its chief executive officer (**CEO**) remuneration from an independent remuneration consultant to benchmark current CEO remuneration to comparable companies. The report recommended that the Company's CEO remuneration be supplemented with an annual grant of \$200,000 worth of Performance Rights for the financial years ended 30 June 2020, 2021 and 2022. This was approved by shareholders at the AGM on 20<sup>th</sup> November 2019.

Philip Daffas's annual remuneration package has been unchanged for the last 3 years ending 30 June 2022 and is summarised:

Fixed Base Salary (inclusive of superannuation)	\$250,000
Variable Short Term Incentive (maximum payable based on achievement of annual objectives agreed with the Board)	\$150,000
Long Term Incentive (value of Performance Rights)	\$200,000
Total statutory remuneration	\$600,000

During this period the remuneration awarded to Philip Daffas for each of the financial years was:

	<b>FY 2020</b>	<b>FY2021</b>	<b>FY 2022</b>
Fixed Base Salary (inclusive of superannuation)	\$250,000	\$250,000	\$250,000
Short Term Incentive	\$75,000	\$52,500	\$36,000
Long Term Incentive	\$200,000	\$200,000	\$200,000
Total statutory remuneration	\$525,000	\$450,000	\$486,000

The Performance Rights awarded in relation to the Long Term Incentive during this period were issued on the following key terms:

(a) The Performance Rights issued for a year will be issued at the VWAP of the Company's ordinary shares calculated 5 days either side of and including the date of announcement of the company's annual statutory results for the financial year preceding the financial year of the grant of the Performance Rights (**Award Issue Price**).

(b) Vesting of the Performance Rights is conditional on the following:

- (i) 50% of the annual grant of \$200,000 worth of Performance Rights will vest two years after the commencement of each vesting period on 1 October of the year of grant, subject to the Company's Share price achieving a compounded annual increase in Share price of 15% p.a. (**Award Target Price**) from the relevant Award Issue Price and provided that Philip Daffas remains employed by the Company at that date (unless he is a Good Leaver as defined in the LTI Plan in which case he retains the relevant pro rata portion of the grant subject to the increase in Share price vesting condition); and
- (i) 50% of the annual grant of \$200,000 worth of Performance Rights will vest three years after the commencement of each vesting period on 1 October of the year of grant, subject to the Company's Share price achieving a compounded annual increase in Share price of 15% p.a. from the relevant Award Issue Price and provided that Philip Daffas remains employed by the Company on that date (unless he is a Good Leaver as defined in the LTI Plan in which case he retains the relevant pro rata portion of the grant subject to the increase in Share price vesting condition).
- (ii) The Award Target Price will be calculated based on the 10 days VWAP leading up to and including the relevant vesting date.

The current status of Performance Rights awarded during this period is summarised:

Annual Value of Performance Rights for FY20, FY21 and FY22	Award Issue Price calculated based on the VWAP 5 days (and including the day of) either side of FY19, FY20 and FY21 statutory results	No. of Performance Rights	Vesting Date	Award Target Price	Comments
\$100,000 FY20 Award	\$0.2143	466,636	1 October 2021	\$0.28	Expired as Target Price not achieved
\$100,000	\$0.2143	466,635	1 October	\$0.33	Expired as Target

FY20 Award			2022		Price not achieved
\$100,000 FY21 Award	\$0.0969	1,031,979	1 October 2022	\$0.13	
\$100,000 FY21 Award	\$0.0969	1,031,979	1 October 2023	\$0.15	
\$100,000 FY22 Award	\$0.05	1,980,198	1 October 2023	\$0.07	
\$100,000 FY22 Award	\$0.05	1,980,198	1 October 2024	\$0.08	

The Company will enter into a new agreement with Philip Daffas to increase his total statutory remuneration package to \$650,000 representing an 8.3% increase. The fixed and variable cash remuneration will remain unchanged at a maximum of \$400,000 per annum. The value of Performance Rights awarded each year will be increased by 25% to \$250,000.

Philip Daffas has not had an increase in remuneration for 3 years and the proposed increase of 8.3% is reasonable given the development of the business over this period and the increase in inflation. The proposed increase will not be paid in cash and will be paid in Performance Rights which only vest if minimum share price growth targets are achieved, which aligns the incentive with shareholder outcomes.

The Company seeks Shareholder approval for the issue of Performance Rights to Philip Daffas to the value of \$750,000 over the next 3 years with an annual limit of \$250,000 for Philip Daffas or his nominee(s) to acquire one Share for each Performance Right held pursuant to the LTI Plan and as part of Philip Daffas' remuneration.

The key terms of the Performance Rights will remain unchanged except in relation to vesting conditions which are summarised:

- a) The Performance Rights awarded for a year will vest over 3 years in equal annual amounts commencing one year after the 1 October of the year of award subject to:
  - 1) the Company's Share price achieving a target Share price for each tranche of an award that is vesting (**Award Target Price**);
  - 2) Philip Daffas remains employed by the Company at the vesting date (unless he is a Good Leaver as defined in the LTI Plan in which case he retains the relevant pro rata portion of the grant subject to the increase in Share price vesting condition); and
  - 3) accelerated vesting of all Performance Rights which have been awarded in the event of a change of control transaction provided that Award Target Prices have been met (with the compounded return calculated up until the date of change of control).

- b) The Award Target Price for the FY23 award is twice the Award Issue Price for the first annual tranche and thereafter a compounded annual increase in Share price of 20% p.a. for the second and third tranche
- c) The Award Target Price for the FY24 and FY25 Awards is a compounded annual increase in Share price of 20% p.a. from the relevant Award Issue Price

The following table summarises the timing of these terms:

Remuneration for year ended 30 June	Share Price Calculation date (estimated)	Grant / issue date	Vesting date assuming share price hurdle is met	Likely date that Performance Rights will convert to shares	Expiry Date of Performance Rights if not converted to shares
2023	5/09/2022	25 November 2022 after shareholder approval	33.3% on 1/10/2023; 1/10/2024; 1/10/2025	33.3% on 30/10/2023; 30/10/2024; 30/10/2025	33.3% on 1/1/2024; 1/1/2025; 1/1/2026
2024	5/09/2023	1/10/2023	33.3% on 1/10/2024; 1/10/2025; 1/10/2026	33.3% on 30/10/2024; 30/10/2025; 30/10/2026	33.3% on 1/1/2025; 1/1/2026; 1/1/2027
2025	5/09/2024	1/10/2024	33.3% on 1/10/2025; 1/10/2026; 1/10/2027	33.3% on 30/10/2025; 30/10/2026; 30/10/2027	33.3% on 1/1/2026; 1/1/2027; 1/1/2028

## 8.2 Calculation of the Number of Performance Rights and Vesting Conditions

As noted in section 2.1 above, the number of Performance Rights to be issued to Philip Daffas each year will depend on the VWAP of the Company's ordinary shares calculated 5 days either side of and including the date of announcement of the company's annual statutory results for the financial year preceding the financial year of the grant of the Performance Rights.

The following table shows the calculation of the Performance Rights to be issued as part of Philip Daffas' remuneration for holding office during FY23 and vesting on 1 October 2023, 1 October 2024, and 1 October 2025 if Philip Daffas remains in office and the relevant Award Target Price is achieved on the relevant vesting date:

Annual Value of Performance Rights for FY23	Award Issue Price calculated based on the VWAP 5 days (and including the day of) either side of	No. of Performance Rights	Vesting Date	Award Target Price based on 2x Award Issue Price in first year and increase of 20% p.a. for second and third years

	FY22 statutory results			
\$83,333	\$0.0296	2,815,315	1 October 2023	\$0.0592
\$83,333	\$0.0296	2,815,315	1 October 2024	\$0.0710
\$83,333	\$0.0296	2,815,315	1 October 2025	\$0.0852

The following table shows an example of the calculation of the Performance Rights to be issued as part of Philip Daffas' remuneration for holding office during FY24 and vesting on 1 October 2024, 1 October 2025, and 1 October 2026, if Philip Daffas remains in office and the relevant Award Target Price is achieved on the relevant vesting date:

Annual Value of Performance Rights for FY24	Assumed Award Issue Price calculated based on the VWAP 5 days (and including the day of) either side of FY23 statutory results	No. of Performance Rights	Vesting Date	Award Target Price based on increase of 20% p.a. on Award Issue Price
\$83,333	\$0.08	1,041,667	1 October 2024	\$0.0960
\$83,333	\$0.08	1,041,667	1 October 2025	\$0.1152
\$83,333	\$0.08	1,041,667	1 October 2026	\$0.1382

**8.3 Chapter 2E of the Corporations Act**

For a public company, section 208 of the Corporations Act requires that, if an entity that the public company controls, gives a financial benefit to a related party of the public company, the public company or entity must:

- (a) obtain the approval of the public company's members in the manner set out in Sections 217 to 227 of the Corporations Act; and

give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in Sections 210 to 216 of the Corporations Act.

The proposed issue of Performance Rights constitutes giving a financial benefit and Philip Daffas is a related party of the Company by virtue of being a Director.

In addition, ASX Listing Rule 10.14 also requires shareholder approval to be obtained where an entity issues, or agrees to issue, securities to a Director, an associate of the Director or a person whose relationship with the Director or an associate of the Directors, in ASX's opinion, such that approval should be obtained unless an exception in ASX Listing Rule 10.15B applies.

For the reasons set out in section 2.1, the Board considers that the grant of Performance Rights to Philip Daffas is an appropriate and reasonable component of his remuneration, and that the financial benefit represented by the grant of the Performance Rights falls within the "reasonable remuneration" exception in section 211 of the Corporations Act. For this reason, it is unnecessary to seek specific Shareholder approval of Resolution 8 for the purposes of Chapter 2E of the Corporations Act.

**8.4 ASX Listing Rules**

The Company is required by ASX Listing Rule 10.14 to obtain Shareholder approval to grant equity securities, including Performance Rights, to Philip Daffas under the LTI Plan.

In accordance with the ASX Listing Rules, Shareholders are being asked under Resolution 8 to approve the grant of \$250,000 worth of Performance Rights to Philip Daffas under the LTI Plan, and to the extent those Performance Rights vest, the underlying Shares.

Exception 14 in ASX Listing Rule 7.2 provides that ASX Listing Rule 7.1 does not apply where Shareholder approval for an issue of securities is obtained for Resolution 8, approval is not required for the purposes of ASX Listing Rule 7.1.

**8.5 Specific information required by ASX Listing Rule 10.15A**

In accordance with ASX Listing Rule 10.15A, which contains requirements as to the contents of a notice sent to shareholders for the purposes of ASX Listing Rule 10.14, the following information is provided to Shareholders:

Relationship between Philip Daffas and the Company	Executive Director
Maximum no. of Performance Rights to be issued	The exact number of Performance Rights that will be granted to Philip Daffas cannot be calculated as at the date of this Notice as it depends on

	<p>the future price of the Company's Shares. However, the maximum value of the Performance Rights to be issued to Philip Daffas will not exceed \$750,000, with an annual cap of \$250,000 worth of Performance Rights.</p> <p>Please see the table in section 2.2 of this Notice for an example of the formula to be used to calculate the maximum number of Performance Rights to be issued.</p>
Acquisition Price	The subscription price paid by Mr Philip Daffas is \$Nil.
The names of all persons who received Performance Rights under the LTI Plan since its last Shareholder approval on 20 November 2018, the number of Performance Rights received and the acquisition price for each Performance Right	Refer 1.5
Persons who are entitled to participate in the plan	The persons referred to in the Listing Rule 10.14 who are entitled to participate in the LTI Plan are Messrs Harricks, Davey, Murray, Daffas and Ms Payne.
Terms of any related loan	There is no loan provided in relation to the acquisition of the Performance Rights by Philip Daffas.
Issue date of the Performance Rights	<p>\$250,000 worth of Performance Rights will be granted on each of the following 3 dates and in any event no later than 3 years after the date of this meeting:</p> <ul style="list-style-type: none"> <li>• 30 November 2022;</li> <li>• 1 October 2023; and</li> <li>• 1 October 2024.</li> </ul>
Voting exclusion Statement	A voting exclusion statement applies to this item of business, as set out in the Notice.

Additionally, details of any Performance Rights issued under the LTI Plan will be published in each annual report of the entity relating to a period in which the Performance Rights have been issued, and that approval for the issue of Performance Rights was obtained under ASX Listing Rule 10.14.

Any additional persons who become entitled to participate in the LTI Plan after this Resolution 8 is approved and who were not named in this Notice, will not participate until approval is obtained under ASX Listing Rule 10.14

## 8.6 Directors' recommendation

The Board, with Philip Daffas abstaining on making a recommendation due to his interest in the resolution, recommends that shareholders vote in favour of Resolution 10 for the reasons outlined in section 2.1.

### Voting Exclusion Statement

A person referred to in rule 10.14.1, 10.14.2 or 1.14.3 who is eligible to participate in the "employee incentive scheme" in question, ie the LTI Plan. However this does not apply to a vote cast in a favour of a resolution by:

- A person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution in that way;
- The chair of the meeting as proxy or attorney for a person who is entitled to vote, on the resolution, in accordance, with directions given to the proxy or attorney to vote on the resolution in that way; or
- A holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - The beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associated of a person excluded from voting, on the resolution; and

The holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

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## GLOSSARY

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**\$** means Australian dollars.

**AEDT** means Australian Eastern Daylight-Savings Time

**Annual General Meeting** or **AGM** or **Meeting** means the meeting convened by the Notice.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited.

**ASX Listing Rules** means the Listing Rules of ASX.

**Board** means the current board of directors of the Company.

**Business Day** means Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that ASX declares is not a business day.

**Chairman** means the chairman of the Board from time to time.

**Closely Related Party** of a member of the Key Management Personnel means:

- (a) a spouse or child of the member;
- (b) a child of the member's spouse;

- (c) a dependent of the member or the member's spouse;
- (d) anyone else who is one of the member's family and may be expected to influence the member, or be influenced by the member, in the member's dealing with the entity;
- (e) a company the member controls; or
- (f) a person prescribed by the *Corporations Regulations 2001 (Cth)*.

**Company** means PainChek Limited (ACN 146 035 127).

**Constitution** means the Company's constitution.

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

**Directors** means the current directors of the Company.

**Explanatory Statement** means the explanatory statement accompanying the Notice.

**Key Management Personnel** has the same meaning as in the accounting standards and broadly includes those persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly, including any director (whether executive or otherwise) of the Company.

**Notice** or **Notice of Meeting** or **Notice of Annual General Meeting** means this notice of annual general meeting including the Explanatory Statement and the Proxy Form.

**Proxy Form** means the proxy form accompanying the Notice.

**Remuneration Report** means the remuneration report set out in the Director's report section of the Company's annual financial report for the year ended 30 June 2022.

**Resolutions** means the resolutions set out in the Notice of Meeting, or any one of them, as the context requires.

**Share** means a fully paid ordinary share in the capital of the Company.

**Shareholder** means a holder of a Share.

**WST** means Western Standard Time as observed in Perth, Western Australia.



**All Correspondence to:**

- ✉ **By Mail** Boardroom Pty Limited  
GPO Box 3993  
Sydney NSW 2001 Australia
- 📠 **By Fax:** +61 2 9290 9655
- 💻 **Online:** [www.boardroomlimited.com.au](http://www.boardroomlimited.com.au)
- ☎ **By Phone:** (within Australia) 1300 737 760  
(outside Australia) +61 2 9290 9600

## YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 3:00pm (AEDT) on Monday, 21 November 2022.**

### 🖥 TO VOTE ONLINE

**STEP 1: VISIT** <https://www.votingonline.com.au/pckagm2022>

**STEP 2: Enter your Postcode OR Country of Residence (if outside Australia)**

**STEP 3: Enter your Voting Access Code (VAC):**

### 📱 BY SMARTPHONE



Scan QR Code using smartphone  
QR Reader App

### TO VOTE BY COMPLETING THE PROXY FORM

#### STEP 1 APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

If you wish to appoint the Chair of the Meeting as your proxy, mark the box. If you wish to appoint someone other than the Chair of the Meeting as your proxy please write the full name of that individual or body corporate. If you leave this section blank, or your named proxy does not attend the meeting, the Chair of the Meeting will be your proxy. A proxy need not be a securityholder of the company. Do not write the name of the issuer company or the registered securityholder in the space.

#### Appointment of a Second Proxy

You are entitled to appoint up to two proxies to attend the meeting and vote. If you wish to appoint a second proxy, an additional Proxy Form may be obtained by contacting the company's securities registry or you may copy this form.

To appoint a second proxy you must:

- complete two Proxy Forms. On each Proxy Form state the percentage of your voting rights or the number of securities applicable to that form. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half your votes. Fractions of votes will be disregarded.
- return both forms together in the same envelope.

#### STEP 2 VOTING DIRECTIONS TO YOUR PROXY

To direct your proxy how to vote, mark one of the boxes opposite each item of business. All your securities will be voted in accordance with such a direction unless you indicate only a portion of securities are to be voted on any item by inserting the percentage or number that you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on a given item, your proxy may vote as he or she chooses. If you mark more than one box on an item for all your securities your vote on that item will be invalid.

#### Proxy which is a Body Corporate

Where a body corporate is appointed as your proxy, the representative of that body corporate attending the meeting must have provided an "Appointment of Corporate Representative" prior to admission. An Appointment of Corporate Representative form can be obtained from the company's securities registry.

#### STEP 3 SIGN THE FORM

The form **must** be signed as follows:

**Individual:** This form is to be signed by the securityholder.

**Joint Holding:** where the holding is in more than one name, all the securityholders should sign.

**Power of Attorney:** to sign under a Power of Attorney, you must have already lodged it with the registry. Alternatively, attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** this form must be signed by a Director jointly with either another Director or a Company Secretary. Where the company has a Sole Director who is also the Sole Company Secretary, this form should be signed by that person. **Please indicate the office held by signing in the appropriate place.**

#### STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **3:00pm (AEDT) on Monday, 21 November 2022.** Any Proxy Form received after that time will not be valid for the scheduled meeting.

Proxy forms may be lodged using the enclosed Reply Paid Envelope or:

🖥 **Online** <https://www.votingonline.com.au/pckagm2022>

📠 **By Fax** + 61 2 9290 9655

✉ **By Mail** Boardroom Pty Limited  
GPO Box 3993,  
Sydney NSW 2001 Australia

👤 <b>In Person</b>	<b>Until 28 October 2022</b> Boardroom Pty Limited Level 12, 225 George Street, Level 8, 210 George Street	<b>From 31 October 2022</b> Boardroom Pty Limited Level 8, 210 George Street
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#### Attending the Meeting

If you wish to attend the meeting please bring this form with you to assist registration.

**Your Address**  
This is your address as it appears on the company's share register. If this is incorrect, please mark the box with an "X" and make the correction in the space to the left. Securityholders sponsored by a broker should advise their broker of any changes.  
**Please note, you cannot change ownership of your securities using this form.**

**PROXY FORM**

**STEP 1 APPOINT A PROXY**

I/We being a member/s of **PainChek Limited** (Company) and entitled to attend and vote hereby appoint:

the **Chair of the Meeting (mark box)**

**OR** if you are **NOT** appointing the Chair of the Meeting as your proxy, please write the name of the person or body corporate (excluding the registered securityholder) you are appointing as your proxy below

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the Annual General Meeting of the Company to be held at the **Suite 401/35 Lime Street, Sydney, NSW on Wednesday, 23 November 2022 at 3:00pm (AEDT)** and at any adjournment of that meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

The Chair of the Meeting intends to vote undirected proxies in favour of each of the items of business.

**STEP 2 VOTING DIRECTIONS**  
\* If you mark the Abstain box for a particular item, you are directing your proxy not to vote on your behalf on a show of hands or on a poll and your vote will not be counted in calculating the required majority if a poll is called.

		For	Against	Abstain*
Resolution 1	Adoption of Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Re-Election of Director – Adam Davey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Election of Director – Cynthia Payne	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Approval of 10% Placement Capacity - Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Ratification of Prior Share Issues (Placement)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Issue of Performance Rights to Director Ross Harricks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Issue of Performance Rights to Director Adam Davey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Issue of Performance Rights to Director Cynthia Payne	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Issue of Performance Rights to Director John Murray	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Issue of Performance Rights to Director Philip Daffas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**STEP 3 SIGNATURE OF SECURITYHOLDERS**  
This form must be signed to enable your directions to be implemented.

Individual or Securityholder 1	Securityholder 2	Securityholder 3
Sole Director and Sole Company Secretary	Director	Director / Company Secretary