

NOTICE OF ANNUAL GENERAL MEETING

27 October 2022

Data#3 Limited

ABN 31 010 545 267

The Annual General Meeting of Data#3 Limited (“Data#3” or the “Company”) will be held at **2:00pm (AEST) on Thursday 27 October 2022** for the purpose of transacting the business set out in this notice.

The Meeting will be held as a hybrid meeting at Data#3’s head office, Level 1, 555 Coronation Drive, Toowong, Brisbane, Queensland, and using the online platform provided by our share registry, Link Market Services, at <https://meetings.linkgroup.com/DTL22>. At Data#3, your health and safety are of paramount importance. In person attendance is subject to prevailing COVID-19 restrictions that may be in place at the time, and Data#3’s COVID-19 safety management plan. If Data#3 is required to adjust the planned approach, we will announce it via the ASX and also publish it on our website.

As permitted by the *Corporations Act 2001* (Cth), the Company will not be sending hard copies of the Notice of Meeting to Shareholders unless a Shareholder has previously requested a hard copy. Instead, the Notice of Meeting can be viewed and downloaded from the website link: <https://investor.data3.com/investor-centre/?page=annual-general-meetings>

Information about the meeting will be available on Data#3’s AGM website one month prior to the meeting: <https://investor.data3.com/investor-centre/?page=annual-general-meetings>

The accompanying Explanatory Statement provides information about the Resolutions, voting and a summary of important information which form part of this Notice and should be read in conjunction with it. Shareholders should read this Notice and the Explanatory Statement in full before making any decision in relation to the Resolutions.

ITEMS OF BUSINESS

Item 1: Financial statements and reports

To receive and consider the financial report, Directors’ report and independent auditor’s report for Data#3 and its controlled entities for the financial year ended 30 June 2022.

Note:

This item of business does not require Shareholders to vote on a resolution or to approve these reports.

Item 2: Adoption of the remuneration report (Resolution 1)

To consider and, if thought fit, pass the following in accordance with section 250R(2) of the *Corporations Act 2001* (Cth) (“Corporations Act”) as an **ordinary resolution**:

‘To adopt the remuneration report for the financial year ended 30 June 2022.’

Note:

This resolution is advisory only and does not bind the Company or the Directors. The Directors will consider the outcome and comments made by Shareholders on the remuneration report at the meeting when reviewing the Company's remuneration policies.

Voting exclusion

In accordance with the Corporations Act, the Company will disregard any vote cast (in any capacity) on Resolution 1 by, or on behalf of:

- (a) a member of the key management personnel ("KMP") as disclosed in the 2022 remuneration report; and*
- (b) a closely related party ("CRP") (such as close family members and any controlled companies) of those persons,*

unless the vote is cast by a person described above as a proxy for a person who is entitled to vote on the resolution and:

- (i) the proxy appointment is in writing that specifies the way the proxy is to vote and the person casts the vote as proxy in accordance with the directions as set out in the proxy form; or*
- (ii) the vote is cast by the Chairman of the Meeting pursuant to an express authorisation on the proxy form to vote as the proxy decides, and the appointment of the Chairman as proxy does not specify the way the proxy is to vote on the resolution and expressly authorises the Chairman to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.*

Item 3: Election of Director - Ms Susan Forrester (Resolution 2)

To consider and, if thought fit, pass as an **ordinary resolution**:

'That Ms Susan Forrester, who was appointed as a non-executive director by the Board on 30 March 2022 and retires in accordance with rule 18.3(b) of the Company's Existing Constitution, and being eligible, be elected as a Director of the Company.'

Item 4: Re-election of Director - Mr Mark Esler (Resolution 3)

To consider and, if thought fit, pass as an **ordinary resolution**:

'That Mr Mark Esler, who retires by rotation in accordance with rule 18.4(b) of the Company's Existing Constitution, and being eligible, be re-elected as a Director of the Company.'

Item 5: Increase in Non-Executive Director fee pool (Resolution 4)

To consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

'That, in accordance with Rule 18.6(a) of the Company's Existing Constitution and ASX Listing Rule 10.17 and for all other purposes, the aggregate maximum amount of fees available to be paid by the Company to non-executive directors of the Company each financial year as remuneration for their services as directors (inclusive of superannuation), be increased to \$900,000 per financial year (being an increase of \$300,000), with effect on and from 1 January, 2023, to be divided among the non-executive directors in such proportion and manner as they agree.'

Voting exclusion

In accordance with the ASX Listing Rules, the Company will disregard any vote cast in favour of Resolution 4, by or on behalf of:

- (a) a director of the Company; or
- (b) any associate of those persons.

However, the Company need not disregard a vote cast in favour of Resolution 4 by:

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

In addition, in accordance with the Corporations Act, the Company will disregard any vote cast (in any capacity) on Resolution 4 by, or on behalf of:

- (a) a member of the KMP as disclosed in the 2022 remuneration report; and
- (b) a CRP of those persons,

unless the vote is cast by a person described above as a proxy for a person who is entitled to vote on the resolution and:

- (i) the proxy appointment is in writing that specifies the way the proxy is to vote and the person casts the vote as proxy in accordance with the directions as set out in the proxy form; or
- (ii) the vote is cast by the Chairman of the Meeting pursuant to an express authorisation on the proxy form to vote as the proxy decides, and the appointment of the Chairman as proxy does not specify the way the proxy is to vote on the resolution and expressly authorises the Chairman to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.

Item 6: Approval to issue Rights to a related party: Mr Laurence Baynham (Resolution 5)

To consider and, if thought fit, pass the following resolution as an **ordinary resolution**:

'That, for the purposes of ASX Listing Rule 10.14, and for all other purposes, approval is given for the Company to grant a maximum of 50,722 'Rights' (as that term is defined in the Explanatory Statement) to Mr Laurence Baynham (or his nominee), who is a Director of the Company.'

Voting exclusion

In accordance with the ASX Listing Rules, the Company will disregard any vote cast:

- (a) in favour of Resolution 5, by or on behalf of a person referred to in ASX Listing Rule 10.14.1, 10.14.2 or 10.14.3 who is eligible to participate in the LTIP, or any associate of those persons; and
- (b) Mr Laurence Baynham or any of his associates, regardless of the capacity in which the vote is cast.

However, the Company need not disregard a vote cast in favour of Resolution 5 by:

- (a) a person as a proxy or attorney for a person 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
- (b) the Chairman 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 Chairman to vote on the resolution as the Chairman decides; or

- (c) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
- (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate or a person excluded from voting, on the resolution; and
 - (ii) the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

In addition, in accordance with the Corporations Act, the Company will disregard any vote cast (in any capacity) on Resolution 5 by, or on behalf of:

- (a) a member of the KMP as disclosed in the 2022 remuneration report; and
- (b) a CRP of those persons,

unless the vote is cast by a person described above as a proxy for a person who is entitled to vote on the resolution and:

- (i) the proxy appointment is in writing that specifies the way the proxy is to vote and the person casts the vote as proxy in accordance with the directions as set out in the proxy form; or
- (ii) the vote is cast by the Chairman of the Meeting pursuant to an express authorisation on the proxy form to vote as the proxy decides, and the appointment of the Chairman as proxy does not specify the way the proxy is to vote on the resolution and expressly authorises the Chairman to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.

Item 7: Amendments to the Company's constitution (Resolution 6)

To consider and, if considered appropriate, pass the following resolution as a **special resolution**:

'That, in accordance with section 136(2) of the Corporations Act and for all other purposes, Data#3 Limited's constitution be amended in the manner set out in the Explanatory Statement, effective from the day on which this resolution is passed.'

Copies of the existing and amended constitution is available via the Data#3 website at <https://investor.data3.com/investor-centre/?page=annual-general-meetings> (and can be mailed out on request by Shareholders).

By order of the Board

Terence Bonner
Company Secretary and General Counsel
19 September 2022

HOW TO VOTE

You may vote by attending the Meeting in person or electronically on the AGM online platform, by proxy or authorised representative.

VOTING ONLINE

Shareholders are encouraged to participate in the meeting via the online platform. We recommend logging on to the online platform at least 30 minutes prior to the scheduled start time for the meeting using the following instructions:

1. Enter <https://meetings.linkgroup.com/DTL22> into a web browser on your computer or online device.
2. Shareholders will need their Shareholder Reference Number (**SRN**) or Holder Identification Number (**HIN**), as printed on the holding statement.
3. Proxyholders will need their proxy code which Link Market Services will provide via email prior to the meeting.

Shareholders are encouraged to lodge their votes and submit any written questions ahead of the Meeting by logging in to their portfolio or holding(s) via the share registry's website at www.linkmarketservices.com.au

Votes must be received by **2:00pm (AEST) on Tuesday 25 October 2022**.

VOTING IN PERSON

To vote in person, attend the Meeting on the date and at the place set out above. The meeting will commence at **2:00pm (AEST)**.

DETERMINATION OF ENTITLEMENT TO ATTEND AND VOTE

The Company has determined under regulation 7.11.37 *Corporation Regulations 2001* (Cth) that for the purposes of voting at the meeting or adjourned meeting, shares in the Company will be taken to be held by the persons who are registered as Shareholders as at **7:00pm (AEST) on Tuesday 25 October 2022**. Transactions registered after that time will be disregarded in determining entitlements to attend and vote.

PROXIES

If you are a Shareholder entitled to attend and vote, you may choose to appoint a proxy.

The proxy need not be a Shareholder of the Company. 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 not specified, each proxy may exercise half of the votes.

To appoint a second proxy, please contact the Data#3 share registry (refer to the contact details below).

To be effective, the appointing document, together with the original or a certified copy of the power of attorney (if any) under which the voting form is signed, must be received no later than **2:00pm (AEST) on Tuesday 25 October 2022** (48 hours before the commencement of the meeting).

CORPORATE REPRESENTATIVES

A corporation may elect to appoint a representative in accordance with the Corporations Act, in which case the Company will require written proof of the representative's appointment, which must be lodged with or presented to the Company 48 hours before the Meeting.

QUESTIONS AND COMMENTS BY SHAREHOLDERS AT THE MEETING

In accordance with the Corporations Act, a reasonable opportunity will be given to Shareholders to direct questions to the Chairman about, or to make comments on, the management of Data#3 at the Meeting.

Similarly, a reasonable opportunity will be given to Shareholders to ask Data#3's external auditor, Pitcher Partners, questions relevant to:

- (a) the conduct of the audit;
- (b) the preparation and content of the auditor's report;
- (c) the accounting policies adopted by Data#3 in relation to the preparation of its financial statements; and
- (d) the independence of the auditor in relation to the conduct of the audit.

Shareholders may also submit a written question to Pitcher Partners if the question is relevant to the content of the audit report or the conduct of its audit of Data#3's financial report for the year ended 30 June 2022. Relevant written questions for Pitcher Partners must be received no later than **5:00pm (AEST) on Thursday 20 October 2022**.

Please send any written questions for Pitcher Partners:

- to Data#3's share registry - refer to the contact details below; or
- to Data#3 - by fax: 1300 32 82 32, or by email: info@data3.com.au by no later than **5:00pm (AEST) on Thursday 20 October 2022**.

Shareholders will also be able to ask a question or make a comment orally through a Shareholder questions and comments phone line. To utilise the questions and comments phone line, please call Link Market Services on 1800 990 363 by **2:00pm (AEST) on Tuesday 25 October 2022** to register your participation and obtain the required access code. Further details can be found in the Virtual Meeting Online Guide.

CONTACT DETAILS FOR SHARE REGISTRY

Link Market Services Limited
Locked Bag A14
SYDNEY SOUTH NSW 1235

Online: www.linkmarketservices.com.au
Telephone: +61 1300 554 474
Fax: +61 2 9287 0309
Email: registrars@linkmarketservices.com.au

EXPLANATORY STATEMENT

This Explanatory Statement is provided to shareholders of the Company to explain the resolutions to be put to shareholders of the Annual General Meeting of Data#3 to be held at 2:00pm (Brisbane time) on Thursday 27 October 2022.

Shareholders should read the accompanying Notice of Meeting and this Explanatory Statement in full before making any decision in relation to the Resolutions.

Item 1: Financial statements and reports

The Corporations Act requires the Company to lay before the Annual General Meeting the financial report, Directors' report and the independent auditor's report for the previous financial year. Copies of these reports have been sent to Shareholders and are available on the Company's website: www.data3.com.au

No resolution is required for this item, but Shareholders will be provided with a reasonable opportunity to ask questions or make comments in relation to these reports. The Company's auditor will also be present at the meeting and Shareholders will be given the opportunity to ask the auditor questions about the conduct of the audit, the preparation and content of the auditor's report, the accounting policies adopted by the Company and the independence of the auditor.

Item 2: Adoption of remuneration report (Resolution 1)

A resolution for the adoption of the remuneration report is required to be considered and voted on in accordance with section 250R(2) of the Corporations Act. The remuneration report is set out on pages 33 to 43 of the Company's 2022 annual report and identifies Data#3's key management personnel. They include all Directors of the Company and those other persons having authority and responsibility for planning, directing and controlling the activities of Data#3, directly or indirectly.

This remuneration report:

- explains the principles used to determine the nature and amount of remuneration paid to key management personnel of Data#3;
- explains the link between the remuneration of key management personnel and Data#3's performance;
- provides details of the actual remuneration elements paid to key management personnel; and
- provides a summary of the terms of employment of the Chief Executive Officer and Managing Director, and other key management personnel.

A reasonable opportunity will be provided for discussion of the remuneration report at the meeting. Section 250R(3) of the Corporations Act requires that the vote on this resolution is advisory only and does not bind the Company or the directors. The Directors will consider the outcome of the vote and comments on the remuneration report made by Shareholders at the Meeting when reviewing the Company's remuneration policies.

If you choose to appoint a proxy, you are encouraged to direct your proxy on how to vote on this item.

In accordance with the Corporations Act, the Chairman of the meeting is entitled to vote undirected proxies on this resolution that is connected with the remuneration of the Company's key management personnel. If you appoint the Chairman as your proxy and wish to support this resolution, please mark an 'X' in the box at Step 1 on the voting form.

Any undirected proxies held by other key management personnel or any of their closely related parties will not be voted on this item.

Directors' recommendation

As Resolution 1 relates to matters including the remuneration of the Directors, the Directors make no recommendation regarding Resolution 1 in the interests of good corporate governance and in accordance with the spirit of section 250R(4) of the Corporations Act.

Item 3: Election of Director - Ms Susan Forrester (Resolution 2)

Rule 18.3(b) of the Company's Existing Constitution provides that a director appointed by the Directors to fill a casual vacancy or as an addition to the existing directors, who is not a managing director, only holds office until the next annual general meeting following his or her appointment and must then retire from office.

Ms Susan Forrester was appointed as a non-executive director by the directors on 30 March 2022. Ms Forrester is also a member of the Company's remuneration and nomination committee.

Information regarding Susan Forrester's qualifications, experience and responsibilities is summarised below:

Susan Forrester AM, BA, LLB (Hons), EMBA, FAICD (Non-executive Director)

Susan has served as Chair and Non-Executive Director on multiple ASX-listed companies, with broad experience in setting strategic direction as well as specific responsibility for corporate governance and compliance. With experience drawn from a career in corporate law and human resources, her strengths lie in strategy and governance within industries that are undergoing rapid change.

Susan is a qualified lawyer, has an EMBA from the Melbourne Business School, and is a Fellow and Councillor of the Australian Institute of Company Directors. Susan serves on the Diligent Institute Advisory Board in New York as a corporate governance specialist, representing Asia Pacific and is a Queensland Councillor with the AICD. Susan is also a Member (AM) in the General Division of the Order of Australia for significant service to business through governance and strategic roles and as an advocate for women. Susan is currently the Chair of Jumbo Interactive Limited and a Non-Executive Director of Plenti Ltd. Her previous listed directorships include Over the Wire Holdings Limited, National Veterinary Care Ltd, Xenith IP Limited, G8 Education Limited and Viva Leisure Limited.

Special responsibilities:

- Member of remuneration and nomination committee

The Board considers that Ms Forrester will, if elected, qualify as an independent director.

Directors' recommendation

The Directors, with Susan Forrester abstaining, recommend that Shareholders vote in favour of Resolution 2, and the Chairman of the meeting intends to vote undirected proxies in favour of this Resolution.

Item 4: Re-election of Director - Mr Mark Esler (Resolution 3)

Mark Esler has served as a non-executive director of Data#3 Limited since his initial appointment on 30 August 2019 and was last elected for appointment at the 2019 AGM. Mr Esler is also a member of the Company's audit and risk committee.

In accordance with rule 18.4(b) of the Company's Existing Constitution and ASX Listing Rule 14.4, Mr Mark Esler retires by rotation and, being eligible, offers himself for re-election.

Information regarding Mark Esler's qualifications, experience and responsibilities is summarised below:

Mark Esler, FAICD (Non-executive Director)

Mark has extensive experience in IT, first in a number of roles with IBM before joining the Data#3 group in 1984 as an executive director. Mark served as an executive director of Data#3 Limited from 1997 to 2002, and performed senior management roles in Sales and Marketing, Operations and Supply Chain before retiring from his role as Queensland General Manager in 2014.

Mark has been actively involved in many IT-related forums and was a member of both the Asia Pacific and Worldwide Hewlett-Packard Global Partner Advisory Boards from 2011 until 2014. He has also been a Fellow of the Australian Institute of Company Directors for 29 years.

Special responsibilities:

- Member of audit and risk committee

The Board considers that Mr Esler will, if re-elected, continue to qualify as an independent director.

Directors' recommendation

The Directors, with Mark Esler abstaining, recommend that Shareholders vote in favour of Resolution 3, and the Chairman of the meeting intends to vote undirected proxies in favour of this resolution.

Item 5: Increase in Non-Executive Director fee pool (Resolution 4)

Rule 18.6(a) of the Company's Existing Constitution and ASX Listing Rule 10.17 provide that the Company's non-executive Directors may be remunerated for their services from a maximum aggregate sum determined from time to time by the Company in general meeting. The Company must not increase the total maximum aggregate sum of non-executive Directors' remuneration payable by it without the members' approval by ordinary resolution at a general meeting.

In accordance with the Existing Constitution and ASX Listing Rule 10.17, Shareholders are being asked to approve a \$300,000 increase in the maximum aggregate amount that may be paid as non-executive Directors' fees, to a maximum of \$900,000 (including superannuation) per annum. This amount may be divided among the non-executive directors in such proportion and manner as the Board agrees.

The current maximum aggregate fee pool of \$600,000 was approved at the annual general meeting in 2018. Since the current fee pool was approved at the 2018 annual general meeting, the size and complexity of the Company has grown, the size of the Board has increased and fees paid to non-executive Directors have increased in line of market movements.

The Board currently consists of one executive Director, a non-executive Chairman, and four non-executive Directors. In the 2022 financial year on an annualised basis, the board and committee fees paid to the Company's non-executive Directors was approximately \$463,015 or 77.17% of the current fee pool (as detailed in the remuneration report set out on pages 33 to 43 of the Company's 2022 annual report). The current annual Board and committee fees paid to non-executive Directors are disclosed on page 38 of the Company's 2022 annual report.

The Board is of the view that the proposed increase to the non-executive directors' fee pool (50% increase) is reasonable and in line with market remuneration paid to non-executive directors at similar ASX listed companies (in particular, in terms of growth, sector and market capitalisation) and is necessary to attract and retain suitably qualified non-executive directors to facilitate the ongoing program of board succession.

The proposed increase to the fee pool will also allow room to accommodate an increase in the number of non-executive Directors in the event the Board feels additional appointments may be necessary and appropriate in light of the expanded scope and complexity of the Company's business and to ensure the Board has the

appropriate mix of skills and experience in order to properly discharge its duties. The increased fee pool will also facilitate orderly Board succession planning, whereby new directors may be appointed prior to retirement of existing directors. This may result in short term increases in the size of the Board and the total fees payable to Directors.

If shareholder approval is obtained, the Board considers that it is appropriate to apply the increase to the non-executive directors' fee pool with effect from 1 January 2023 and thereafter in respect of each financial year of the Company. If shareholder approval is not obtained, the fee pool will remain at \$600,000.

In accordance with ASX Listing Rule 10.17 the Company confirms that no securities have been issued to a non-executive director under Listing Rule 10.11 or Listing Rule 10.14 with the approval of shareholders at any time in the preceding three (3) years.

Directors' recommendation

The Directors abstain from making a recommendation in relation to Resolution 4, in the interests of good corporate governance.

Item 6: Approval to Issue of Rights to a related party: Mr Laurence Baynham (Resolution 5)

Laurence Baynham is Managing Director and Chief Executive Officer of the Company, and a related party of the Company by virtue of him being a Director (and so is within the category of persons in Listing Rule 10.14.1).

Accordingly, the Company seeks Shareholder approval for the purposes of ASX Listing Rule 10.14 and for all other purposes to grant a maximum of 50,722 performance rights with the key terms detailed below ("**Rights**") and any fully paid Shares issued on vesting of those Rights to Laurence Baynham (or his nominee).

Subject to obtaining the required Shareholder approval detailed below, the Rights will be issued under and subject to the terms of the Data#3 Limited Long Term Incentive Plan ("**LTIP**") approved originally at the annual general meeting for the Company held in 2018, and re-approval at the annual general meeting for the Company held in 2021, and otherwise on the terms set out below ("**Rights Issue**").

ASX Listing Rule 10.14 provides that a listed Company must not permit any of the following persons to acquire securities under an employee incentive scheme:

- 10.14.1 a director of the Company;
- 10.14.2 an associate of a director of the Company;
- 10.14.3 a person whose relationship with the Company or a person referred to in Listing Rule 10.14.1 or 10.14.2 is such that, in ASX's opinion, the acquisition should be approved by its shareholders;
unless it obtains the approval of its shareholders.

The Rights Issue falls within Listing Rule 10.14.1 and therefore requires the approval of Shareholders under Listing Rule 10.14.

The Board has decided to grant these Rights as part of Laurence Baynham's remuneration package, and in recognition of his contribution to the Company. The Board considers the grant of Rights to be a cost-effective long-term incentive method, which further aligns the interests of the Managing Director and Chief Executive Officer with Shareholders by linking long-term incentives to growth in the Company's earnings per share. This approach is consistent with best practice in executive remuneration and corporate governance.

If Resolution 5 is passed, the Company will be able to proceed with the Rights Issue on the terms (and with the effects) detailed below.

If Resolution 5 is not passed, the Company will not be able to proceed with the Rights Issue and will consider other ways to recognise Laurence Baynham’s contribution to the Company and incentive methods, which may include a cash-based incentive.

If approval is obtained pursuant to ASX Listing Rule 10.14, the Company is entitled to rely on ASX Listing Rule 10.12 (exception 8) as an exception to any requirement that may otherwise apply requiring Shareholder approval under ASX Listing Rule 10.11. Similarly, approval will not be required under Listing Rule 7.1.

Key terms of the Rights

The Rights will be subject to the following key terms and conditions:

- each Right is a right for Laurence Baynham (or his nominee) to be issued one Share upon satisfaction of the following vesting conditions (“**Relevant Vesting Conditions**”):
 - Laurence Baynham remains an employee of the Company on the date the Relevant Vesting Conditions are satisfied;
 - the Rights will vest on a straight-line proportional basis, from 0 up to a maximum of 50,722 Shares based on the actual cumulative earnings per share over a three year period ending on 30 June 2025 (“**Vesting Period**”) compared to a target as determined by the Board;
- notwithstanding the specific vesting conditions outlined above, in accordance with the LTIP rules the Board may, in its absolute discretion, waive or alter the Relevant Vesting Conditions;
- prior to vesting the Rights will not be transferrable other than with the written consent of the Board;
- prior to vesting the Rights do not carry any dividend or voting rights; and
- the Rights will automatically vest (subject to another determination by the Board) such that the corresponding number of Shares will be delivered for the benefit of Laurence Baynham upon satisfaction of the Relevant Vesting Conditions.

In accordance with the requirements under ASX Listing Rule 10.15:

- (a) Laurence Baynham is a Director of the Company (“**LR 10.14.1 Party**”);
- (b) the number of Rights that may be acquired by Laurence Baynham in accordance with this resolution is 50,722 calculated by taking \$314,000 and dividing that by the volume weighted average price of the Shares for the five day trading period commencing on the day after the 18 August 2022 announcement to the ASX of the Company’s results for the year ended 30 June 2022, being \$6.1906 per Share;
- (c) for the purposes of ASX Listing Rule 10.15.4, the details of Laurence Baynham’s total remuneration package for the year ending 30 June 2023 are set out below:

	\$
Cash salary	628,983
Superannuation	25,292
Short-term incentive	274,667
Proposed long-term incentive	314,000
Total remuneration package for FY23	1,242,942

- (d) for the purposes of ASX Listing Rule 10.15.5, Laurence Baynham has previously been granted the following Rights under the LTIP since the LTIP was last approved by Shareholders at the 2021 AGM:
 - 98,160 Rights as approved at the 2018 AGM as disclosed in the Company’s 2019 annual report;
 - 65,574 Rights as approved at the 2019 AGM as disclosed in the Company’s 2020 annual report;
 - 27,510 Rights as approved at the 2020 AGM as disclosed in the Company’s 2021 annual report; and
 - 47,067 Rights as approved at the 2021 AGM as disclosed in the Company’s 2022 annual report

("Previous Issues"). Of these Rights, 98,160 Rights vested on 19 August 2021 and 65,574 Rights vested on 18 August 2022. The remaining Rights are scheduled to vest following the release of the FY23 and FY24 financial results subject to satisfaction of the Relevant Vesting Conditions in accordance with the terms previously disclosed.

- (e) for the purposes of ASX Listing Rule 10.15.5, the average acquisition price for the Previous Issues was nil and they have a nil exercise price;
- (f) for the purposes of ASX Listing Rule 10.5.6:
 - (i) Rights are being issued rather than Options (being the two types of Securities that are able to be issued under the LTIP), for consistency with the Previous Issues;
 - (ii) a summary of the material terms of the Rights and the rules of the LTIP are set out in this notice of meeting; and
- (g) the Company has attributed a value of \$314,000 to the Rights, which has been determined with reference to independent benchmarking and advice regarding Laurence Baynham's remuneration for the financial year ending 30 June 2023. The maximum value of Laurence Baynham's long-term incentive award is equivalent to 25.26% of his total remuneration if 100% of his short-term and long-term incentives are achieved (refer to 'Key Terms of the Rights' above for further detail). For the purposes of ASX Listing Rule 10.15.8, the Rights will be granted for nil consideration on the basis their grant represents an incentive for future performance, and will be subject to the Relevant Vesting Conditions, and the Rights have a nil exercise price;
- (h) whilst participating in the LTIP is open to all executive and non-executive directors, the Board has determined that Laurence Baynham, as the Company's current executive director, is the only Director eligible to participate in the LTIP at this time;
- (i) subject to Shareholder approval, it is intended that the Rights will be issued within five days after the 2022 Annual General Meeting, but in any event will be issued no later than twelve months after the Meeting in accordance with ASX Listing Rule 10.15.7;
- (j) for the purposes of ASX Listing Rule 10.15.10, there are no loan arrangements with Laurence Baynham in relation to the acquisition of the Rights; and
- (k) for the purposes of ASX Listing Rule 10.15.11:
 - details of any Rights or Options issued under the LTIP will be published in the Company's annual report relating to the period in which they were issued, along with a statement that approval for the issue was obtained under ASX Listing Rule 10.14; and
 - any additional persons covered by ASX Listing Rule 10.14 who become entitled to participate in an issue of Rights or Options under the LTIP after the resolution is approved and who were not named in the Notice of Meeting will not participate until approval is obtained under that rule.

Other general terms of the Rights

The other general terms of the Rights are:

- should the Company undergo any reconstruction of capital, the number of Rights may be adjusted in the Board's discretion in accordance with the ASX Listing Rules and other laws as applicable at the time of the reorganisation;
- all Shares issued pursuant to vesting of the Rights will, subject to the Company's constitution, rank equally in all respects (other than in respect of dividends, rights issues or bonus issues declared prior to allotment) with the existing Shares at the date of issue and allotment;
- the Rights do not entitle the holder to participate in any new issues by the Company without having vested into Shares; and
- the Rights will not be quoted on the ASX.

Corporations Act

Under Chapter 2E of the Corporations Act a public Company cannot give a financial benefit to a related party unless an exception applies or Shareholders have, in a general meeting, approved the giving of that financial benefit.

Laurence Baynham is a related party of the Company due to the fact that he is a Director. The issue of the Rights will constitute the giving of a financial benefit to a related party for the purposes of section 229(3)(e) of the Corporations Act.

The Board of the Company (excluding Laurence Baynham) considers that the issue of the Rights to Laurence Baynham constitutes reasonable remuneration within the meaning of the exception in section 211(1) of the Corporations Act on the basis that the Rights are a necessary part of the incentive and remuneration package for Laurence Baynham in his current role and having regard to the circumstances of the Company, the duties and responsibilities of Laurence Baynham and market levels of remuneration for people in his position in similar sized companies. Therefore, the Company is not seeking Shareholder approval pursuant to section 208 of the Corporations Act in addition to the approval being sought under the Listing Rules.

Existing interests and the dilutionary effect on other Shareholders' interests

The effect that the grant and vesting of the Rights will have on the interest of Laurence Baynham relative to other Shareholders' interests is set out in the following table:

Details as at the date of this Notice of Meeting	Number
The total number of Shares on issue in the capital of the Company	154,599,184
Shares currently held by director (including indirect interests)	300,325
% of Shares currently held by director (including indirect interests)	0.19%
Rights to be issued under Resolution 5 to director (or his nominee) following the Annual General Meeting	Maximum of 50,722
The total number of Shares on issue in the capital of the Company following the vesting of all Rights held by director (assuming no other Rights or Options were exercised and no other Shares or other equity securities are issued)	154,722,483
Shares that will be held following the vesting of all Rights held by director (assuming no other Rights or Options or Shares are held by, exercised or vested by Laurence Baynham (including indirect interests)	Maximum of 423,624
% of Shares that would be held by director following the vesting of all Rights assuming no other Awards held by other parties were exercised or vested (as applicable) and assuming no other Rights or Options or Shares are held by, exercised or vested by Director (including indirect interests)	Maximum of 0.27%

Directors' recommendation

The Directors abstain from making a recommendation in relation to Resolution 5, in the interests of good corporate governance.

Item 7: Amendments to the Company's constitution (Resolution 6)

Pursuant to section 136(2) of the Corporations Act, a company may amend its constitution by way of a special resolution passed by its Shareholders (being a resolution that can only be passed if at least 75% of the total votes cast by Shareholders entitled to vote on the Resolution are voted in its favour).

The Company's constitution was last adopted at the 2014 annual general meeting held on 21 November 2014 and has not been amended since that time (**Existing Constitution**).

As there have been a number of developments in law, corporate governance principles, terminology and general corporate and commercial practices for ASX listed companies since the Existing Constitution was adopted, the Company is proposing to make changes to its Existing Constitution and to give effect to those changes through the adoption of a new (amended) version of the Existing Constitution (**Amended Constitution**).

For the avoidance of doubt, the Amended Constitution is just an amended version of the Existing Constitution. Many of the proposed changes are administrative or relatively minor in nature. A copy of the Amended Constitution and Existing Constitution are available from the Company's website at <https://investor.data3.com/investor-centre/?page=annual-general-meetings> (and can be mailed out on request by Shareholders).

An overview of the material differences between the Existing Constitution and the Amended Constitution is set out below.

General meetings	<p>Following the recent amendments to the Corporations Act, rule 15.1 of the Amended Constitution specifically allows for meetings to be held at one or more physical venues, using virtual meeting technology only, or at one or more physical venues and using virtual meeting technology (i.e. a hybrid meeting). There are a number of related amendments (including to rules 1.2(ix), 1.2(x), 15.2, 15.3, 15.6, 15.7, 15.10, 15.11 and 16.1 of the Amended Constitution) to align with this change, including allowing the venue (physical and/or virtual) to be changed, and for a rescheduled meeting to be held by any of these methods.</p> <p>While the Company prefers and has always held physical or hybrid meetings of Shareholders, the proposed amendments in the Amended Constitution will preserve flexibility for meetings using virtual meeting technology only should it be required in the future.</p> <p>The amendments make it clear that regardless of type of meeting, the Company will need to ensure that the meeting complies with the requirements under the Corporations Act (as amended) to ensure that members, as a whole, are given a reasonable opportunity to participate in the meeting.</p> <p>In addition, rules 15.13 and 15.14 of the Amended Constitution make clear that a resolution put to the vote at a meeting of Shareholders must be decided on a poll (and not on a show of hands) in the circumstances required under the Corporations Act and ASX Listing Rules or if otherwise effectively demanded. Following the recent amendments to the Corporations Act, this will include (among other circumstances) where a notice of meeting sets out an intention to propose the resolution and states the resolution.</p> <p>The Amended Constitution also incorporates a number of other changes to assist with the orderly conduct of general meetings of the Company.</p>
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Notices	<p>Rule 15.2 has been updated in the Amended Constitution to allow the directors to determine the appropriate method for notice to be given regarding a cancelled or postponed general meeting, or a change of venue, which may include notice to the ASX. The rule has also been updated to clarify matters general meetings that cannot be postponed or cancelled by the directors without consent, to remove previous restrictions applying in the Existing Constitution limiting the time period for, and number of, postponed meetings to be held and other matters.</p> <p>The general notice provisions in rules 29.1 and 29.2 have also been updated to clarify that notices given under the constitution includes any document and/or notification by electronic means and to confirm that such notices or documents do not need to be physically signed, and may be given by the Company by any method permitted under the Corporations Act (in addition to specific methods contemplated by the Amended Constitution).</p>
Joint holders of shares	<p>Rule 4.1(a) of the Existing Constitution contemplates that the Company is not bound to register more than three persons as joint holders of a share. To accommodate proposed developments affecting ASX-listed entities, rule 4.1(b) of the Amended Constitution specifically allows the Company to register up to four persons as joint holders of a share (or such other number permitted by the ASX settlement operating rules at the relevant time).</p>
Director retirement by rotation	<p>Rule 18.4 of the Amended Constitution regarding Director appointment and retirement by rotation has been updated to align with the current ASX Listing Rules.</p>
Restricted securities	<p>Rule 2.5 of the Existing Constitution contains various provisions relating to 'restricted securities' (as that term is defined in the ASX Listing Rules). In certain circumstances, ASX Listing Rule 15.12 requires a listed company to include specific language in its constitution regarding 'restricted securities'. Although the Company does not currently have any 'restricted securities' on issue, the provisions in rule 2.5 of the Amended Constitution have been updated to ensure they are consistent with the requirements of ASX Listing Rule 15.12.</p>
Dividends	<p>Rule 24.1 of the Amended Constitution has been updated with relatively minor changes to clarify that the directors can determine or declare to pay dividends, fix the amount, time for payment and method for payment of any dividend and revoke or alter (in addition to 'rescind') a dividend that has previously been determined to be paid.</p>
Director indemnity and insurance	<p>Rule 23 of the Amended Constitution which relates to Director Indemnity and Insurance has been updated to align with current practice and clarify some ambiguities to ensure they do not go beyond what is permitted by the Corporations Act and ASX Listing Rules.</p>
Director remuneration	<p>Rule 18.6 of the Amended Constitution relating to director remuneration has been updated to align with the current ASX Listing Rules and remove some previous ambiguity.</p>
Other general amendments	<p>As the current Constitution has not been updated for a number of years, certain other non-substantive amendments have been made to the Amended Constitution to update terminology and provide clarifications to align with modern drafting/practices (including, but not limited to rules 1.1, 1.5, 3.1, 9(m), 11.1, 12.2, 12.3, 13.3, 13.7, 15.10, 15.16, 16.1, 17.1, 18.8, 19.2 and 20.7).</p>

If Resolution 6 is passed, the Amended Constitution will become the constitution of the Company and will be lodged with ASIC. If Resolution 6 is not passed, the Existing Constitution will continue to apply.

Director's recommendation

The Director's recommend that Shareholders vote in favour of Resolution 6, and the Chairman of the meeting intends to vote undirected proxies in favour of this Resolution.

GLOSSARY

\$ means Australian Dollars.

AEST means Australian Eastern Standard Time.

Amended Constitution means the proposed amended constitution, the form of which is being put to Shareholders for approval in Resolution 6.

ASX means ASX Limited (ACN 008 624 691) or the financial market operated by ASX Limited, as the context requires.

Board means the current board of directors of the Company.

Chair or Chairman means the chair of the Meeting.

Company means Data#3 Limited ACN 010 545 267.

Corporations Act means the Corporations Act 2001 (Cth)

Directors means the current directors of the Company

Existing Constitution means the Company's constitution in effect at the date of this Notice which was approved for adoption at the 2014 annual general meeting held on 21 November 2014.

Explanatory Statement means the explanatory statement accompanying the Notice.

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

Listing Rules or ASX Listing Rules means the Listing Rules of ASX.

Notice or Notice of Meeting means this notice of meeting including the Explanatory Statement.

Resolutions means the resolutions set out in the Notice, 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 registered holder of a Share.