

2020



2020



NOTICE OF ANNUAL
GENERAL MEETING

Notice of ANNUAL GENERAL MEETING

Notice is hereby given that the Annual General Meeting (**AGM**) of shareholders of Virtus Health Limited (the **Company**) will be held online at <https://agmlive.link/VRT20> on Thursday 19 November 2020 at 11.00am (AEDT) (**Meeting**).

Due to current circumstances relating to COVID-19 and associated government-imposed restrictions and recommendations, the Meeting is being held by way of a virtual meeting which will be held online at <https://agmlive.link/VRT20>. Shareholders through the online platform will be able to:

- attend the meeting.
- ask questions at the meeting; and
- vote at the meeting electronically.

Further information on how to participate in the meeting electronically is set out in the Virtual Participation section of this Notice of Meeting and the User Guide is appended to this Notice.

The Explanatory Notes to this Notice provides additional information on matters to be considered at the Meeting. The Explanatory Notes and the Proxy Form are part of this notice.

BUSINESS OF THE MEETING

ITEM 1: FINANCIAL STATEMENTS AND REPORTS

To receive and consider the Financial Statements, the Directors' Report and the Auditor's Report for the year ended 30 June 2020.

ITEM 2: REMUNERATION REPORT

To consider and, if thought fit, to pass the following as an ordinary resolution of the Company:

"To adopt the Remuneration Report for the year ended 30 June 2020."

Notes:

- In accordance with section 250R of the Corporations Act, the vote on this Resolution will be advisory only and will not bind the Directors or the Company.
- A voting exclusion statement applies to this Resolution (see Explanatory Notes for details).

ITEM 3: RE-ELECTION OF MS SONIA PETERING

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

"That Ms Sonia Petering, being a Director who is retiring in accordance with Article 10.3(a) of the Company's Constitution and ASX Listing Rule 14.4, and being eligible, offers herself for re-election as a Director of the Company."

ITEM 4: GRANT OF PERFORMANCE RIGHTS TO KATE MUNNINGS, CHIEF EXECUTIVE OFFICER

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

"That, for the purposes of Part 2D.2 of the Corporations Act, ASX Listing Rule 10.14 and for all other purposes, Shareholders approve the grant by the Company to Chief Executive Officer, Ms Kate Munnings, under the Virtus Health Limited Executive Option Plan and Specialist Option Plan, of 204,082 performance rights to acquire ordinary Shares in the Company, subject to achievement of performance conditions and on other terms set out in the Explanatory Notes to this Notice of Meeting."

Note: A voting exclusion statement applies to this Resolution (see Explanatory Notes for details).

ITEM 5: GRANT OF LOYALTY SHARES TO LYNDON HALE, EXECUTIVE DIRECTOR

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

"That, for the purposes of ASX Listing Rule 10.14 and for all other purposes, Shareholders approve the issue of 4,538 Loyalty Shares to Dr Lyndon Hale, Executive Director, or his nominee(s), on the terms set out in the Explanatory Notes to this Notice of Meeting."

Note: A voting exclusion statement applies to this Resolution (see Explanatory Notes for details).

ITEM 6: APPROVAL TO ALTER THE COMPANY'S CONSTITUTION

To consider and, if thought fit, pass the following as a special resolution of the Company:

"That, for the purpose of section 136(2) of the Corporations Act and for all other purposes, approval is given for the Company to alter the Constitution in the manner set out in the Explanatory Notes and in the form presented at the Meeting and received by the Chairman for identification purposes, with effect from the close of the Meeting."

ENTITLEMENT TO VOTE

The Directors have determined that the persons eligible to vote at the Meeting are those who are registered Shareholders of the Company as at 7.00 p.m. (AEDT) on Tuesday 17 November 2020 (Entitlement Time), subject to any applicable voting exclusion.

This means that if you are not the registered holder of a Share in the Company at the Entitlement Time, you will not be entitled to vote at the Meeting.

VIRTUAL PARTICIPATION

In accordance with Corporations (Coronavirus Economic Response) Determination (No. 1) 2020, and to facilitate Shareholder participation, the Board has determined that Shareholders will have the opportunity to participate in the Annual General Meeting by electronic means through an online platform.

Shareholders who wish to participate in the Meeting online may do so from their computer, by entering the URL in their browser: <https://agmlive.link/VRT20>. Instructions on how to log into the online portal are provided in the User Guide appended to this Notice. If you have any problems accessing the meeting please call **1800 990 363** for technical assistance.

If you choose to participate in the Meeting this way, you will be able to view the Annual General Meeting live, lodge a direct vote in real time and ask questions online.

Shareholders participating in the Meeting using the online platform will be able to cast direct votes between the commencement of the Meeting (11.00am (AEDT) on Thursday 19 November 2020) and the closure of voting as announced by the Chairman during the Meeting.

More information regarding online participation at the Meeting (including how to vote and ask questions online during the Meeting) is available in the User Guide. The User Guide is attached to this Notice of Meeting and will be lodged with the ASX and will also be available from our website.

ANNUAL REPORT

Copies of the Company's 2020 Annual Report may be accessed at our website www.virtushealth.com.au or from the Company.

VOTING OPTIONS AND PROXIES

If you do not plan to attend the Meeting in person through the online platform, you are encouraged to complete and return the Proxy Form which accompanies this Notice of Meeting.

VOTING BY PROXY

A Shareholder who is entitled to attend and vote at this Meeting is entitled to appoint not more than two proxies to attend and vote in place of the Shareholder.

If the Shareholder appoints two proxies, the Shareholder may specify the proportion or number of votes each proxy is entitled to exercise. If no proportion or number of votes is specified, each proxy may exercise half of the Shareholder's votes. If the specified proportion or number of votes exceeds that which the Shareholder is entitled to, each proxy may exercise half of the Shareholder's votes. Any fractions of votes brought about by the apportionment of votes to a proxy will be disregarded.

A proxy need not be a Shareholder of the Company. A body corporate appointed as a Shareholder's proxy may appoint a representative to exercise any of the powers the body may exercise as a proxy at the Meeting. If a body corporate is appointed as a proxy, that body corporate must ensure that it appoints a corporate representative in accordance with section 250D of the Corporations Act 2001 (Cth) (the Act) to exercise its powers as proxy at the AGM.

Subject to the specific proxy provisions applying to Items 2 and 4 (see the Explanatory Notes below):

- ~ If a Shareholder has not directed their proxy on how to vote, the proxy may vote as the proxy determines; and
- ~ If a Shareholder appoints the Chair of the Meeting as proxy and does not direct the Chair on how to vote on an item of business, the Chair will vote in accordance with her voting intention as stated in this Notice of Meeting, namely in favour of each of the proposed resolutions set out in the Notice of Meeting.

PROXY VOTING BY THE CHAIR

For Item 2 (Remuneration Report), Item 4 (Performance Rights to CEO), Item 5 (Loyalty shares to Executive Director) where the Chair is appointed as a Shareholder's proxy and that Shareholder has not specified the way in which the Chairman is to vote on Items 2, 4 and 5, the Shareholder is directing the Chairman to vote in accordance with the Chairman's voting intentions for these items of business; even though Items 2, 4 and 5 are connected with the remuneration of Key Management Personnel (**Key Management Personnel or KMP**).

The Chairman intends to vote all undirected proxies in favour of the resolutions put in the Notice of Meeting, including Items 2, 4 and 5.

PROXY FORMS

To be effective, the Proxy Form must be completed, signed and lodged (together with the relevant original Power of Attorney or a certified copy if the proxy is signed by an attorney) with the Company's share registry, as an original or by facsimile, **no later than** 11.00am (AEDT) on Tuesday 17 November 2020 (**Proxy Deadline**).

Proxy forms may be submitted in one of the following ways:

- i **By mail** to Link Market Services Limited using the reply-paid envelope or Locked Bag A14, Sydney South, NSW, 1235, Australia. Please allow sufficient time so that it reaches Link Market Services Limited by the Proxy Deadline;
- ii **By fax** to Link Market Services Limited on +61 2 9287 0309;
- iii **Online** via the Company's Share Registry website at www.linkmarketservices.com.au. Please refer to the Proxy Form for more information; or
- iv **By hand** delivery to Link Market Services Limited at Level 12, 680 George Street, Sydney NSW 2000.

Proxy Forms and Powers of Attorney must be received by the Proxy Deadline.

CORPORATE REPRESENTATIVES

Where a shareholding is registered in the name of a corporation, the corporate shareholder may appoint a person to act as its representative to attend the meeting by providing that person with:

- i a letter or certificate authorising him or her as the corporation's representative, executed in accordance with the corporation's constitution; or
- ii a copy of the resolution appointing the representative, certified by a secretary or director of the corporation.

BY ORDER OF THE BOARD



Glenn Powers
Company Secretary
14 October 2020

Explanatory NOTES

ITEM 1 – FINANCIAL STATEMENTS AND REPORTS

As required by section 317 of the Corporations Act, the Financial Report, Directors' Report and Auditor's Report for the Company for the most recent financial year will be presented to the Meeting.

The Company's financial report comprises the consolidated financial statements of the consolidated entity consisting of Virtus Health Limited and its subsidiaries.

There is no requirement for a formal resolution on this item.

The Chairman of the Meeting will allow a reasonable opportunity at the Meeting for Shareholders to ask questions about or make comments on the management of the Company. Shareholders will also be given a reasonable opportunity at the Meeting to ask the Company's auditor, PricewaterhouseCoopers (**PwC**) questions about the:

- Auditor's Report.
- conduct of its audit of the Company's Financial Report for the year ended 30 June 2020.
- preparation and content of the Audit Report.
- accounting policies adopted by the Company in its preparation of the financial statements; and
- independence of PwC in relation to the conduct of the audit.

Shareholders may submit written questions to the Company in relation to the above matters.

A form to facilitate the submission of questions is attached to this Notice and it includes details on the return of this form to the share registry, including how to lodge questions online.

ITEM 2 – REMUNERATION REPORT

2.1 Reasons for Resolution

In accordance with section 300A of the Corporations Act, the Company has proposed a Remuneration Report for the consideration of shareholders.

As provided by section 250R (3) of the Corporations Act, the resolution on this item of business is advisory only and does not bind the Board or the Company.

The Company has designed a remuneration framework to support both a high performance culture and a team focus on adhering to agreed business objectives and directions.

The objective of the Company's executive reward framework is to ensure reward for performance is competitive and appropriate for the results delivered. The framework aligns executive reward with achievement of strategic objectives and the creation of value for shareholders and conforms to market practice for delivery of reward.

Directors' Recommendation

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

2.2 Voting Exclusion Statement

As required by the Corporations Act, the Company will disregard any votes cast on Item 2 by any member of the Company's KMP or a Closely Related Party of any such member unless the person:

- i votes as a proxy appointed by writing that specifies how the person is to vote on the resolution; or
- ii is the Chairman of the Meeting and votes as a proxy appointed by writing that authorises the Chairman to vote on the resolutions even though that resolution relates to the remuneration of a member of the Company's KMP.

What this means for Shareholders: If you intend to appoint a member of the KMP (such as one of the Directors) as your proxy, please ensure that you direct them on how to vote on the proposed resolution in Item 2. If you intend to appoint the Chairman of the Meeting as your proxy, you can direct him/her on how to vote by marking the boxes for Item 2 (for example, if you wish to vote for, against or abstain from voting), or you can choose not to mark any of the boxes for Item 2 and give the Chairman your express authority to vote your undirected proxy (in which case the Chairman will vote in favour of this item of business).

ITEM 3 – RE-ELECTION OF MS SONIA PETERING

In accordance with the Constitution and ASX Listing Rule 14.4, an election of Directors must be held at each annual general meeting.

Article 10.3(a) of the Constitution states that a director must not hold office without re-election:

- i past the third annual general meeting following the director's last election; or
 - ii for more than three years,
- whichever is the longer.

In accordance with Article 10.3(a) of the Constitution and ASX Listing Rule 14.4, Ms Sonia Petering is retiring by rotation and submitting herself for re-election as a Director of the Company, having last been elected by Shareholders on 22 November 2017.

Sonia has more than 15 years' experience in non-executive director and chair roles with listed and unlisted companies and government authorities across financial services, payments, insurance, professional services, and healthcare. Sonia is an experienced commercial lawyer who commenced her legal practice in 2001. She holds a current Victorian legal practicing certificate. Sonia previously served as a non-executive director on the boards of Transport Accident

Commission of Victoria and Rural Finance Corporation of Victoria and as Chair of the Board of Rural Finance Corporation from 2009 - 2016. Sonia is also a non-executive director of TAL Dai-ichi Australia Ltd, Qantm IP (ASX: QIP) and Cuscal Ltd.

Having had regard to the ASX Corporate Governance Principles and Recommendations (3rd edition) (**ASX Principles**), the Board considers Ms Petering to be an independent Non-Executive Director.

Directors' Recommendation

The Board (other than Ms Petering) unanimously supports the re-election of Ms Sonia Petering and recommends that Shareholders vote in favour of this resolution.

ITEM 4: GRANT OF PERFORMANCE RIGHTS TO KATE MUNNINGS, CHIEF EXECUTIVE OFFICER AND MANAGING DIRECTOR

The terms of Ms Munnings' employment contract with the Company entitle her to participate in the Virtus Health Limited Executive Option Plan and Specialist Option Plan (**Plan**). The Board has proposed that for the financial year ending 30 June 2021, Ms Munnings be eligible for performance rights (**Rights**) under the Plan of up to 100% of her fixed remuneration.

The Company adopted the Plan to assist in the reward, motivation and retention of personnel (including executive directors, eligible employees and fertility specialists). The Plan is also designed to recognise the abilities, efforts and contributions of participants to Virtus' performance and success and provide the participants with an opportunity to acquire or increase their ownership interest in the Company.

For the financial year ending 30 June 2021, Ms Munnings' remuneration comprises the following components:

- ~ fixed remuneration, including statutory superannuation of \$700,000 per annum.
- ~ an at-risk short-term incentive of up to 50% of fixed remuneration subject to the achievement of specified targets; and
- ~ an at-risk long-term incentive of up to 100% of fixed remuneration under the Plan.

When considered necessary, the Nomination and Remuneration Committee has obtained external advice from independent consultants in determining the consolidated entity's remuneration practices including remuneration levels.

During FY2020, the Committee engaged KPMG to provide advice on a range of matters, including CEO remuneration and FY2021 incentive arrangements.

The remuneration package for the Ms Munnings was considered in the context of a report prepared by KPMG and legal advice from employment law specialists.

The remuneration package also took account of a peer group benchmark agreed by the Nomination and Remuneration Committee.

The Committee concluded that:

- CEO remuneration would comprise fixed remuneration, STI, LTI and an initial one-off grant of performance rights under the LTI Plan as compensation for the incentives foregone by the CEO as a result of leaving her previous employment position.

In recognition of incentives Ms Munnings has foregone a one-off grant of performance rights was made under the LTI Plan valued at \$700,000. Vesting of the performance rights is subject to the Board's assessment of Ms Munnings' performance over each year of a three year vesting period and will vest as follows:

- 1/3rd in FY21 on the first anniversary of the date of commencement of employment.
 - 1/3rd in FY22 on the second anniversary of the date of commencement of employment; and
 - 1/3rd in FY23 on the third anniversary of the date of commencement of employment.
- It would retain the measure of 50% of the LTI grant to be linked to average annual Return on Equity ("ROE"). The Committee noted that the ROE hurdle had previously been set at a fixed percentage. In light of the current uncertainty and volatility created by the COVID-19 pandemic the Committee determined to amend the average annual ROE hurdle to one that is directly related to the Virtus Health weighted average cost of capital ("WACC"). Target average annual ROE for FY21 to FY23 will be 1.35 times WACC, agreed with the Audit Committee.
 - It would retain the measure of 50% of the LTI grant to be linked to relative total shareholder return (**RTSR**) measured over a three year period against the constituents of a single comparator group, the ASX300, as this index appears to have the closest correlation to Virtus Health share price volatility.

The Company is seeking the approval by Shareholders for all purposes (including ASX Listing Rule 10.14) for the grant and issue of a maximum of 204,082 Rights to the Chief Executive Officer and Managing Director of the Company, Ms Kate Munnings (the Rights Issue).

If approved by Shareholders, the Rights will be issued as soon as possible, and no later than 12 months after the AGM.

The Rights will only vest if the performance hurdles relating to **RTSR** and average return on equity attributable to shareholders (**Average ROE**) are met as set out below. No dividends are paid with respect to Rights. Shares resulting from the exercise of Rights, following their vesting will have full voting and dividend rights corresponding to the rights

of other holders of ordinary shares in the Company.

The Executive Option Plan and Specialist Option Plan

The Plan contemplates the grant of options or performance rights over Shares in the Company. The Company does not have the ability to provide any cash equivalent on exercise.

The Company may offer additional incentive schemes to executive directors, employees, or fertility specialists over time.

The performance hurdles for the Plan are RTSR and Average ROE. Each hurdle applies to 50% of the grant. RTSR is measured on the Company's TSR relative to a peer group of companies in the S&P ASX 300 Index over the three year performance period ending 8 September 2023. TSR is a measure of the return on investment in a company's shares, including dividends and all other returns to shareholders notionally invested over the relevant performance period.

Once the Company's relative TSR ranking is determined, the performance rights will vest in accordance with the following vesting scale:

| If at the end of the Performance Period, the TSR percentile ranking compared to the TSRs of the S&P/ASX 300 index is: | The percentage of the TSR Component which will vest is: |
|--|---|
| Below 50 th percentile | 0% |
| 50 th percentile | 50% |
| Exceeds the 50 th percentile but does not reach the 75 th percentile | Progressive pro rata vesting from 50% to 100% (i.e. on a straight line basis) |
| Equal to or above the 75 th percentile | 100% |

The percentage of the Average ROE attributable to shareholders component which may vest is based against an Average ROE target established by the Nomination and Remuneration Committee. The Average ROE will be calculated as an average of the ROE for each of the financial years over the period 1 July 2020 to 30 June 2023 and compared to the Company's average WACC for each of the financial years in the same period. The performance rights will vest in accordance with the following table:

Calculations of the Company's RTSR and Average ROE

| If at the end of the Performance Period, the average ROE of the Company: | The percentage of the ROE Component which will vest is: |
|---|---|
| Less than 115% of WACC | 0% |
| Equal to 115% of WACC | 50% |
| Is between 115% and 135% of WACC | Progressive pro rata vesting from 50% to 100% (i.e. on a straight line basis) |
| Equal to or above 135% of WACC | 100% |

attributable to shareholders will be determined at the end of the three year period and approved by the Board. Accordingly, Ms Munnings' benefits are aligned with the interests of Shareholders.

Termination of employment

If Ms Munnings' employment is terminated for cause, then Ms Munnings loses the benefit of her Rights.

If Ms Munnings resigns due to illness or for exceptional circumstances, then some of her unvested Rights will be retained according to the formulae outlined in the Plan Rules, which is based on the period of service from grant date till resignation date.

Shareholder approval – Corporations Act

Under Part 2D.2 of the Corporations Act, subject to a number of exemptions, Shareholder approval must be obtained before the Company (or a Related Body Corporate or prescribed superannuation fund in relation to the Company) can give a person a "benefit" in connection with the person's retirement from a managerial or executive office.

Under the Plan, where a participant in that Plan ceases to be an employee of Virtus (other than in prescribed circumstances) all unvested performance rights held by that participant will lapse. In circumstances where the reason for that participant ceasing employment is because of death, total and permanent disability, retirement or redundancy (as determined by the Board) or any other reason with the approval of the Board, the Board has discretion as to how unvested performance rights are to be treated. In the context of exercising this discretion, providing Securities to the person may constitute a termination benefit regulated by Part 2D.2 of the Corporations Act.

For a person who holds a managerial or executive office with the Company (or a Related Body Corporate), if performance rights vest because a person ceases to be employed due to death, disability or any other reason in the Board's discretion, the person will receive a benefit in connection with retirement from office, or position of employment regulated by Part 2D.2 of the Corporations Act. The value of the benefit received will be the market price of the shares that are received following the exercise of the vested performance rights.

Shareholder approval – ASX Listing Rules

ASX Listing Rule 10.14 requires Shareholder approval before a Director can acquire securities or performance rights to securities under an employee incentive scheme. Approval from Shareholders is being sought to grant Rights to Ms Munnings under the Plan in respect of the period commencing on and from the date of this Meeting, with any Rights issued within 12 months of the date of this Meeting.

The Rights Issue to Ms Munnings falls within Listing Rule 10.14.1 and therefore requires the approval of the Company's Shareholders under Listing Rule 10.14.

This Resolution seeks the required Shareholder approval to the Rights Issue under and for the purposes of Listing Rule 10.14.

If the Resolution is passed, the Company will be able to proceed with the Rights Issue and the Rights (and Shares issued upon vesting of the Rights) will not be included in calculating the Company's capacity to issue equity securities equivalent to 15% of the Company's ordinary securities under Listing Rule 7.1.

If the Resolution is not passed, the Company will not be able to proceed with the Rights Issue. In that circumstance, issues may arise with the competitiveness of Ms Munnings' total remuneration package and alignment of rewards with other senior executives in the Company. The Board would then need to consider alternative remuneration arrangements which are consistent with the Company's remuneration principles, including providing an equivalent cash long term incentive subject to the risk of forfeiture, performance conditions and performance period as described in this section of the Explanatory Notes.

Information required by ASX Listing Rule 10.15

ASX Listing Rule 10.15 requires the following information to be disclosed in relation to the Rights to be granted to Ms Munnings under the Plan:

1. Maximum number of Rights and Shares

The maximum number of Rights that may be granted to Ms Munnings within 12 months of this Meeting has been calculated in accordance with the following formula and is in any case not more than 204,082:

- The maximum number of Rights of 204,082 to be granted to Ms Munnings has been calculated as 100% of base salary of \$700,000 divided by the volume weighted average daily closing price of the Company's

shares for the business days commencing 19 August to 08 September 2020 (inclusive) of \$3.43.

After the grant of Rights, the number of Rights that vest will determine the number of Shares that Ms Munnings may receive at the end of the vesting period on the vesting date, 9 September 2023. Only those Rights that satisfy the performance hurdles as outlined above will vest, and the remaining Rights will lapse. Each Right, will upon vesting, convert into one fully paid ordinary share.

On vesting of the Rights, the Board will decide on or around the vesting day whether to purchase the number of new shares on market or to issue shares held by the Employee Share Trust (**EST**).

2. Price for each Right (and the price for each Share that vests)

No payment for the Rights is required by Ms Munnings and the exercise price of the Rights is zero.

3. Securities issued under the Plan to Ms Munnings

During the financial year ended 30 June 2020, 162,037 Performance Rights were issued to Ms Munnings on 11 June 2020 under the Plan. As announced to the ASX on 24 January 2020, in recognition of incentives that Ms Munnings had foregone as a result of leaving her previous employment and accepting employment with the Company, the Board agreed to issue Ms Munnings with the Rights upon commencement of employment with the Company. Further details of these performance rights are outlined in the Company's Remuneration Report contained in the 2020 Annual Report.

4. Persons who are entitled to participate in the Executive Option Plan

Eligibility to participate in the Plan and the number of securities offered to each individual participant will be determined by the Board. It is expected that options or performance rights may be granted to certain senior executives of the Company on an annual basis as part of their annual remuneration review.

Current participants in the Plan are Ms Kate Munnings (Managing Director and Chief Executive Officer) and senior executives in the business. (It is noted that the only director currently eligible to participate in the Plan is Ms Munnings.) The granting of the Rights to senior executives other than Ms Munnings did not require Shareholder approval.

During the financial year ended 30 June 2020, there were no shares issued because of the exercise of options or performance rights.

During the financial year ended 30 June 2020, 151,272 performance rights were forfeited because of failing to meet vesting hurdles and no rights were cancelled because of failure to meet performance hurdles.

On 20 November 2019, a total of 146,506 performance rights were granted under the Plan to KMP, at a nil acquisition price:

FY2020

| Executives | No. of Performance Rights |
|-------------------|----------------------------------|
| Glenn Powers | 56,671 |
| Jade Phelan | 31,726 |
| Richard Banks | 29,678 |
| Steve Zappia | 28,431 |

Rights granted to Steve Zappia have lapsed as he is no longer an employee. The Board may agree that other nominated members of the executive management team may participate in the Plan for the year ending 30 June 2021.

5. Terms of any related loan

There is no loan provided in relation to the acquisition of Rights by Ms Munnings.

6. Issue date of Rights

The Rights will be granted to Ms Munnings no earlier than the date of this Meeting and no later than 12 months from the date of the Meeting, on the conditions described in this Explanatory Note.

Voting exclusion

The Company will disregard any votes cast in favour of Item 4 by or on behalf of any Director of the Company (except one who is ineligible to participate in the Plan) or any associate of any such persons. 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:
 - 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
 - The holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

In addition, no KMP of the Company or a Closely Related Party of such a member may vote as a proxy on Item 4 unless:

- ~ the person votes as a proxy appointed by writing that specifies how the person is to vote on Item 4; or

- ~ the person is the Chairman and votes as a proxy appointed by writing that authorises the Chairman to vote on Item 4 even though the resolution is connected directly or indirectly with the remuneration of KMP of the Company.

Details of any securities issued under the scheme will be published in the annual report of the Company relating to the period in which they were issued, along with a statement that approval for the issue was obtained under Listing Rule 10.14.

Any additional persons covered by Listing Rule 10.14 who become entitled to participate in the scheme after this Resolution is approved and who were not named in this Notice of Meeting will not participate until approval is obtained under that rule.

Directors' Recommendation

The Board (other than Ms Munnings) unanimously recommends that Shareholders vote in favour of this resolution.

ITEM 5: GRANT OF LOYALTY SHARES TO LYNDON HALE, EXECUTIVE DIRECTOR

The Company is proposing to issue Shares to Dr Lyndon Hale under the Fertility Specialist Loyalty Scheme (the **Loyalty Shares**).

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

- 10.14 - A director of the Company.
- 10.15 - An associated of a Director of the Company; or
- 10.16 - A person whose relationship with the Company or a person referred to in Listing Rule 10.14.1 or 10.1.2 is such that, in ASX's opinion, the acquisition should be approved by its Shareholders,

unless it obtains the approval of its Shareholders.

The Loyalty Share issue falls within Listing Rule 10.14.1 above and therefore requires the approval of the Company's Shareholders under Listing Rule 10.14.

Item 5 seeks the required Shareholder approval to the Loyalty Share issue under and for the purposes of Listing Rule 10.14.

If Item 5 is passed the Company will proceed with the Loyalty Share issue. The Company buys back shares on market and holds them in an Employee Share Trust (EST). The Loyalty Shares will be issued from the EST and will not be new issued shares. Due to this the issue of Loyalty Shares will not be included in calculating the Company's capacity to issue equity securities equivalent to 15% of the Company's ordinary securities under Listing Rule 7.1.

If Item 5 is not passed the Company will not be able to proceed with the Loyalty Share issue.

Chapter 2E of the Corporations Act requires shareholder approval where a public company seeks to give a financial benefit to a related party (unless an exception applies). The Directors are considered to be related parties of the Company and the issue of Loyalty Shares to Dr Hale would constitute a financial benefit.

An exception to the requirement to obtain shareholder approval in accordance with Chapter 2E applies where the financial benefit constitutes part of the related party's "reasonable remuneration".

The Board has determined that the grant of Loyalty Shares to Dr Hale constitutes part of his reasonable remuneration as a fertility specialist.

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

| | |
|--|--|
| The Director for whom approval is being sought | Dr Lyndon Hale, Executive Director Dr Hale falls into the category set out in ASX Listing Rule 10.14.1. |
| Maximum number of Loyalty Shares to be issued | 4,538 Shares. The Shares will be issued from the Company's EST and will not be new issued Shares. |
| Remuneration package of the Director | Salary – AUD\$160,011 Superannuation – AUD\$6,882 |
| Previous issues of Loyalty Shares to the Director under the Fertility Specialist Loyalty Scheme | 2,878 |
| Issue price of Loyalty Shares | Loyalty Shares are issued for nil consideration |
| Date of issue of Loyalty Shares | As soon as practicable but in any event no later than three (3) years following the date of the Meeting. |
| Terms of the Fertility Specialist Loyalty Scheme | The Loyalty Share Scheme ('LSS') is designed to recognise the sustained contribution of the top quartile of specialists on an annual basis and replaced the High Performance Share Incentive Scheme in FY19. The key features of the LSS are as follows: |

- Value of award is variable and dependent on individual number of cycles delivered adjusted by a loading factor to recognise a higher award for specialists making a higher contribution to the business.
- Annual Qualifying hurdle is 200 cycles.
- Annual vesting, no waiting period, no escrow arrangements.

Other considerations.

- awards are payable in shares; conversion from award value is at the Virtus share price on the 15th business day following the group's annual result announcement (normally mid-September); and
- Loyalty scheme annual pool value for the Company in FY20 is capped at \$500,000 (assessed annually by the Nomination and Remuneration Committee).

| | |
|---|---|
| Future statement regarding issued Options | Details of any Options issued under the Fertility Specialist Loyalty Scheme or LSS will be published in the annual report of the Company relating to the period in which the Loyalty Shares are issued, along with a statement that approval for the issue was obtained under ASX Listing Rule 10.14. |
| Future persons covered by ASX Listing Rule 10.14 | Any additional persons covered by ASX Listing Rule 10.14 who become entitled to participate in an issue of Loyalty Shares under the Fertility Specialist Loyalty Scheme or LSS after Item 5 is approved and who are not named above will not participate until approval is obtained under ASX Listing Rule 10.14. |

Voting exclusion

The Company will disregard any votes cast in favour of Item 5 by or on behalf of any Director of the Company (except one who is ineligible to participate in the Plan) or any associate of any such persons. 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:
 - 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
 - The holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

In addition, no KMP of the Company or a Closely Related Party of such a member may vote as a proxy on Item 5 unless:

- ~ the person votes as a proxy appointed by writing that specifies how the person is to vote on Item 5; or
- ~ the person is the Chair and votes as a proxy appointed by writing that authorises the Chairman to vote on Item 5 even though the resolution is connected directly or indirectly with the remuneration of KMP of the Company.

Directors' Recommendation

The Board (other than Dr Hale) unanimously recommends that Shareholders vote in favour of this Resolution.

ITEM 6: APPROVAL TO ALTER THE COMPANY'S CONSTITUTION

The ASX announced changes to the ASX Listing Rules and Guidance Notes that came into effect from 1 December 2019, including amendments to the ASX escrow regime.

Restricted Securities

The amendments to Listing Rule 9.1(a) require an ASX listed entity to include in its constitution the provisions set out in Listing Rule 15.12. Listing Rule 15.12 prescribes the required clause for the Constitution on Restricted Securities. Listing Rule 15.12 has also been amended. Accordingly, it is proposed that clause 21 of the Constitution be altered to reflect the amendments to ASX Listing Rule 15.12 which came into effect on 1 December 2019.

If this Resolution is passed, clauses 21.2 and 21.3 of the Constitution will be deleted and replaced with the following:

"Disposal of Restricted Securities"

If any securities of the Company issued on or after 1 December 2019 are classified as restricted securities under the ASX Listing Rules:

- *a holder of restricted securities must not dispose of, or agree or offer to dispose of, the securities during the escrow period applicable to those securities except as permitted by the Listing Rules or ASX.*
- *if the securities are in the same class as quoted securities, the holder will be taken to have agreed in writing that the restricted securities are to be kept on the entity's issuer sponsored sub register and are to have a holding lock applied for the duration of the escrow period applicable to those securities;*
- *the Company will refuse to acknowledge any disposal (including, without limitation, to register any transfer) of restricted securities during the escrow period applicable to those securities except as permitted by the Listing Rules or ASX.*
- *a holder of restricted securities will not be entitled to participate in any return of capital on those securities during the escrow period applicable to those securities except as permitted by the Listing Rules or ASX; and*
- *if a holder of restricted securities breaches a restriction deed or a provision of the Company's Constitution restricting a disposal of those securities, the holder will not be entitled to any dividend or distribution, or to exercise any voting rights, in respect of those securities for so long as the breach continues."*

The Company will continue to comply with the provisions of Listing Rule 15.12 in force immediately prior to 1 December 2019 in relation to the restricted securities that were issued in the Company prior to 1 December 2019. The proposed amendments to the Constitution will apply to any restricted securities issued on or after 1 December 2019.

This Resolution is a special resolution. Accordingly, at least 75% of votes cast by Shareholders entitled to vote and voting on this Resolution must be in favour of this Resolution for it to be passed.

Directors' Recommendation

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

GLOSSARY

\$ means Australian Dollars.

AEDT means Australian Eastern Daylight Time as observed in Sydney, Australia.

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

Associate has the meaning given to that term in sections 10 and 11 and sections 13 to 17 of the Corporations Act.

ASX means ASX Limited ACN 008 624 691.

ASX Listing Rules means the Listing Rules of the ASX.

Board means the current board of directors of the Company.

Closely Related Party has the meaning as defined in section 9 of the Corporations Act.

Company means Virtus Health Limited (ACN 129 643 492)

Constitution means the Company's Constitution.

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

Directors mean the current directors of the Company.

Entitlement Time means 7.00 pm (AEDT) on 17 November 2020.

Explanatory Notes means the Explanatory Notes accompanying the Notice.

Key Management Personnel or **KMP** has the meaning as defined in section 9 of the Corporations Act.

Notice or **Notice of Meeting** or **Notice of Annual General Meeting** means this notice of annual general meeting and the explanatory notes accompanying the Notice and the Proxy Form.

Options means options issued under the Plan.

Plan means Virtus Health Limited Executive Option and Specialist Option Plan.

Proxy Deadline means Tuesday 17 November 2020 at 11.00am (AEDT).

Proxy Form means the proxy form accompanying the Notice.

Related Body Corporate has the meaning set out in section 50 of the Corporations Act.

Remuneration Report means the remuneration report set out in the Directors' Report section of the Company's annual financial report for the year ended 30 June 2020.

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

Performance Rights means performance rights issued under the Plan.

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

Shareholder means a holder of a Share.

