

**NOTICE OF  
EXTRAORDINARY  
GENERAL  
MEETING**



**PENGANA**  
CAPITAL

**PENGANA CAPITAL  
GROUP LIMITED**

ABN 43 059 300 426

**31 JAN  
2019**

**NOTICE OF EXTRAORDINARY  
GENERAL MEETING**

NOTICE IS GIVEN that an Extraordinary General Meeting (**Meeting**) of Shareholders of Pengana Capital Group Limited ACN 059 300 426 (**Pengana or Company**) will be held on Thursday 31 January 2019 at 3:00pm (Sydney time) at Computershare, Level 4, 60 Carrington Street, Sydney, NSW 2000.

Shareholders unable to attend the Meeting are invited to vote by proxy on the resolutions to be considered at the Meeting.

Explanatory Notes and instructions on how to vote (including how to vote by proxy) are set out in this Notice.



## SPECIAL BUSINESS

### 1. Approval to issue Alignment Shares

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

"That, subject to the passing of Resolutions 2 and 3, for the purposes of Listing Rule 7.1 and for all other purposes, the Company is authorised to issue and allot to Pengana Investment Management Limited ABN 69 063 081 612 (**PIML**) fully paid preference shares in the capital of the Company (**Alignment Shares**) on the terms and conditions and in the manner set out in the Explanatory Notes."

Voting Exclusion:

The Company will disregard any votes cast in favour of Resolution 1 by or on behalf of:

- any person who is expected to participate in, or who will obtain a material benefit as a result of, the proposed issue (except a benefit solely in the capacity of a Shareholder) if Resolution 1 is passed; and
- any associates of those persons.

However, the Company need not disregard a vote if:

- it is cast by a person as 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.

### 2. Approval to issue Alignment Shares as preference shares

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

"That, subject to the passing of Resolutions 1 and 3, for the purposes of section 254A of the Corporations Act 2001 (Cth) (**Corporations Act**) and for all other purposes, the Company is authorised to issue and allot to PIML the Alignment Shares, on the terms and conditions and in the manner set out in the Explanatory Notes."

### 3. Approval of financial assistance to acquire Alignment Shares

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

"That, subject to the passing of Resolutions 1 and 2, for the purposes of sections 260A(1) and 260B(1) of the Corporations Act and for all other purposes, approval is given for any financial assistance to be given by the Company to PIML in connection with the acquisition by PIML of the Alignment Shares."

Voting Exclusion:

The Company will disregard any votes cast in favour of Resolution 3 by the person acquiring the Alignment Shares and by their associates. 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.

By order of the Board of Directors



Paula Ferrao  
Company Secretary

28 December 2018



## VOTING INFORMATION

### Voting entitlements

Persons holding Shares in the Company at 7:00pm (Sydney time) on Tuesday 29 January 2019 shall, for the purposes of ascertaining entitlements to attend and vote at the Meeting, be taken to be Shareholders of the Company.

Shareholders entitled to vote at the Meeting can do so by attending the Meeting and voting in person or by attorney or, in the case of corporate members, by corporate representative OR by appointing a proxy to attend the Meeting and vote on their behalf.

### Proxies

A Shareholder who is entitled to attend and vote at the Meeting may appoint a proxy to attend and vote at the Meeting on the Shareholder's behalf. A proxy may be an individual or body corporate and is not required to be a Shareholder of the Company. A Shareholder who is entitled to cast two or more votes at the Meeting may appoint two proxies and may specify the percentage or number of votes each proxy is appointed to exercise.

Where a Shareholder appoints two proxies but does not specify the percentage or number of votes each proxy may exercise, each proxy may exercise half of the appointing Shareholder's votes. Fractions of votes will be disregarded.

Corporate members must provide the Company with satisfactory evidence of the appointment of any corporate representative, prior to the commencement of the Meeting. A proxy can be either an individual or a body corporate.

Should you appoint a body corporate as your proxy, that body corporate will need to ensure that it:

- appoints an individual as its corporate representative to exercise its powers at meetings, in accordance with section 250D of the Corporations Act; and
- provides the Company with satisfactory evidence of the appointment of its corporate representative prior to commencement of the Meeting.

A Proxy Form and a replied paid envelope are enclosed with this Notice. A Shareholder may direct a proxy on how to vote on the proposed resolutions by following the instructions on the Proxy Form. The facility for online proxy voting has been provided at [www.investorvote.com.au](http://www.investorvote.com.au).

To be valid, online proxy voting or completed Proxy Forms must be submitted by no later 3:00pm (Sydney time) on Tuesday, 29 January 2019. Completed Proxy Forms can be lodged:

- Online: at [www.investorvote.com.au](http://www.investorvote.com.au)
- By mail: GPO Box 242, Melbourne VIC 3001
- By facsimile: 1800 783 447
- By hand: c/- Pengana Capital Group Limited, Level 12, 167 Macquarie Street, Sydney

### Undirected Proxies

If you choose to appoint a proxy, you are encouraged to direct your proxy how to vote on each Resolution by marking either "For", "Against" or "Abstain" against each item of business on the Proxy Form.

It is important that you direct your proxy how to vote on each item of business. If, however, you appoint the Chairman as your proxy, he will vote undirected proxies on, and in favour of, all of the proposed Resolutions. If you do not want the Chairman to cast your vote in favour of a Resolution, you must direct him to vote against the relevant Resolution or to abstain from voting on the relevant Resolution.



## EXPLANATORY NOTES

These Explanatory Notes have been prepared to provide Shareholders with sufficient information to assess the merits of the Resolutions and the business to be conducted at the Meeting. You should read the Explanatory Notes in full before making any decisions in relation to the Resolutions.

## SPECIAL BUSINESS

### Introduction

The Company proposes to establish a new unit trust domiciled in Australia to be named the Pengana Private Equity Trust (**Fund**), the responsible entity of which is to be Pengana Investment Management Limited ABN 69 063 081 612 (**PIML**).

PIML is the responsible entity of five retail registered managed investment schemes and is also the manager of the existing ASX listed investment company Pengana International Equities Limited (**ASX: PIA**). PIML proposes to engage Pengana Capital Ltd ACN 103 800 568 (**PCL**) to be the manager of the Fund. PCL is the responsible entity of eight retail registered managed investment schemes. PCL proposes to appoint Grosvenor Capital Management, L.P (**Investment Manager**) to investment manage the investments of the Fund.

PIML intends to conduct an initial public offering of ordinary fully paid units of the Fund (**Units**) to raise up to an indicative A\$1 billion (**Offer Proceeds**) under a product disclosure statement (**PDS**) to be prepared in accordance with Part 7.9 of the Corporations Act (**Offer**), and to apply for admission to the official list of ASX and to seek quotation of the Units on ASX (**Listing**). PIML intends to make a PDS for the Units available when the Units are released or otherwise made available, which is expected in or around February 2019. A person should consider the PDS in deciding whether to acquire the Units.

The Fund will seek to generate attractive private equity-like returns through a focused and highly selective approach to private equity, private credit and other opportunistic multi-asset class investments. In executing the strategy and seeking to achieve the Fund's investment objectives, the Fund will construct a customised portfolio consisting of primaries, co-investments, secondaries and direct investments. The Fund's objectives will not include exercising control over or managing any entity, or the business of any entity, in which it invests.

The Fund will primarily make investments by acquiring limited partnership interests in foreign private investment funds, such as limited partnerships formed under the state of Delaware in the United States of America.

### Proposed issue of Alignment Shares

The Company has entered into a subscription agreement (**Subscription Agreement**) with PIML under which, subject to the conditions precedent described below, PIML has agreed to subscribe for, and the Company has agreed to issue, fully paid preference shares in the capital of the Company (**Alignment Shares**) to PIML. The Alignment Shares will be registered in the name of the custodian of the Fund, namely BNP Paribas Securities Services (**Custodian**), and the Custodian will hold the shares on trust as an asset of the Fund. The subscription for, and issue and allotment of, the Alignment Shares under the Subscription Agreement is conditional upon:

- the Company obtaining Shareholder approval for the resolutions contained in this Notice relating to the issue of the Alignment Shares (being Resolutions 1, 2 and 3); and
- completion of the Offer; and
- ASX granting approval for the Fund to be admitted to the official list of the ASX and for the Units to be quoted on the ASX.

The number of Alignment Shares the Company will issue to PIML will depend on the amount raised by PIML under the Offer, and is to be an amount equal to 5% of the Offer Proceeds divided by the Volume Weighted Average Market Price of the Company's Shares over the five trading days prior to the allotment date for the Units to be issued under the Offer (**5-day VWAP**).

Please see **table 1** below which illustrates the number of Alignment Shares that may be issued given an indicative range of Offer Proceeds raised, applying various indicative Volume Weighted Average Market Prices. In consideration for the issue of the Alignment Shares, PIML will pay the Company an aggregate nominal amount of A\$1.00.



The numbers set out in **table 1** (and in particular, the number of Alignment Shares that may be issued) are indicative only. The number of Alignment Shares that the Company will ultimately issue will be determined on the allotment date for the Units to be issued under the Offer.

Table 1: Indicative number of Alignment Shares to be issued by the Company

		<b>A\$250 million</b>	<b>A\$1 billion</b>
<b>5% of Offer Proceeds</b>		A\$12.5 million	A\$50 million
<b>Volume Weighted</b>	<b>A\$2.22<sup>1</sup></b>	5,623,285 Alignment Shares	22,493,140 Alignment Shares
<b>Average Market Price</b>	<b>A\$2.30<sup>2</sup></b>	5,434,783 Alignment Shares	21,739,130 Alignment Shares
	<b>A\$3.87<sup>3</sup></b>	3,228,890 Alignment Shares	12,915,558 Alignment Shares

### Proposed in-specie distribution of Alignment Shares

PIML will at all times be the sole holder of the Alignment Shares (through the Custodian) and will hold the Alignment Shares in its capacity as trustee of the Fund for the benefit of unitholders of the Fund. The Alignment Shares will not be transferable and will not be quoted on any stock exchange.

PIML intends, on or around the date two years after the issue of the Alignment Shares to PIML, to distribute the Alignment Shares in specie to each unitholder of the Fund on a pro rata basis. Immediately on an Alignment Share ceasing to be registered in the name of the Custodian, that Alignment Share will automatically convert into fully paid ordinary shares in the Company (**Shares**). No Alignment Shares will be retained by PIML.

Under the terms of the Fund's constitution, each unitholder of the Fund, by subscribing for (or otherwise acquiring) Units will be deemed to have consented for the purposes of section 231 of the Corporations Act to become a shareholder of any company whose shares are distributed by the Fund to unitholders. This deemed consent would include consenting to become a Shareholder of the Company on acquiring Alignment Shares distributed by PIML.

1. This is the lowest daily volume weighted average market price of Pengana's Shares in the 12 months prior to 20 December 2018, which was recorded on 11 December 2018
2. This is the volume weighted average market price of Pengana's Shares on 20 December 2018
3. This is the highest daily volume weighted average market price of Pengana's Shares in the 12 months prior to 20 December 2018, which was recorded on 1 February 2018



The terms of the Alignment Shares are set out in **Annexure A** to these Explanatory Notes. The Company has applied to ASX for a in principle waiver and confirmation in relation to the Alignment Shares:

- confirmation that the terms of the Alignment Shares are appropriate and equitable for the purposes of Listing Rule 6.1; and
- waiver from the requirements of Listing Rule 6.5 in relation to the dividend rights attaching to the Alignment Shares.

This waiver and confirmation if granted, will likely be granted conditional on the following:

- Shareholders approving the issue of the Alignment Shares;
- the Company not issuing or having on issue more Alignment Shares (and other Convertible Securities) than Shares;
- the Company announcing upon conversion of any Alignment Shares into Shares and providing details of the number of Alignment Shares converted and the number remaining on issue (if any);
- the Company undertaking to include in each annual report for the periods in which the Alignment Shares remain on issue or have been converted:
  - a summary of the terms of the Alignment Shares; and
  - whether any of the Alignment Shares have been converted during that period and the number remaining on issue (if any); and
- the full terms and conditions of the Alignment Shares being disclosed in the PDS issued in connection with the Offer.

### **Impact of the issue on Pengana**

As at the date of this Notice, the Company has 103,277,160 Shares on issue. Upon the distribution and automatic conversion of the Alignment Shares, having regard to the indicative numbers of Alignment Shares set out in **table 1** above, the Company will have a significant number of additional Shares on issue.

The Company considers the issue of Alignment Shares to be in the best interests of the Company. It believes the issue will, initially, incentivise investors to subscribe for Units in the Fund because of the favourable terms of the issue of the Alignment Shares, and the opportunity for investors to own Shares in the Company in the future. This incentivisation is in the interests of the Company because the successful launch of the Fund will be value accretive for the Company. It will also align investors to Pengana more generally which could motivate them to invest in other Pengana products.

Based on the proposed fund infrastructure, investments made in the Fund will be value accretive to the Company because management costs (including management and performance fees) will be charged to unitholders and be payable by the Fund to PIML (a portion of which PIML will pay to the Investment Manager under the investment management agreement). The Company is of the view the proposed issue of Alignment Shares to the Fund will be accretive in value to the Company, including to its Shareholders, as a result of the management and performance fees generated by the Fund.

Ultimately, the subsequent distribution of the shares to unitholders of the Fund will also assist the Company in achieving its objective of expanding its capital base.

None of PCL, PIML or the Investment Manager will derive any management or performance fee in respect of the Fund relating to the value of the Alignment Shares in the Company held by the Fund.

### **Inter-conditionality**

Each of Resolutions 1, 2 and 3 are conditional upon the passing of each other of Resolutions 1, 2 and 3, so that each will not have effect unless and until the others are passed.



## RESOLUTION 1: APPROVAL TO ISSUE ALIGNMENT SHARES

Resolution 1 seeks Shareholder approval to issue the Alignment Shares to PIML under Listing Rule 7.1. Resolution 1 is conditional on the passing of Resolutions 2 and 3.

Listing Rule 7.1 provides that, subject to certain exceptions, a listed company must not issue Equity Securities where the number of Equity Securities proposed to be issued represents more than 15% of the company's shares then on issue (**15% Capacity**) without shareholder approval.

Equity Securities issued with shareholder approval under Listing Rule 7.1 do not count towards the 15% Capacity. Further under Exception 4 in Listing Rule 7.2, an issue of Equity Securities on the conversion of Convertible Securities does not count towards the 15% Capacity provided the Company complied with the Listing Rules when it issued the Convertible Securities (or issued the Convertible Securities before it was listed). Convertible preference shares, such as the Alignment Shares, are both Equity Securities and Convertible Securities under the Listing Rules.

Therefore the Company is seeking Shareholder approval in accordance with Listing Rule 7.1 to issue the Alignment Shares, so that the issue of those Alignment Shares and any Equity Securities issued upon conversion of those Alignment Shares do not count towards the Company's 15% Capacity.

The information required to be given to Shareholders for the purposes of approval of the proposed issue of the Alignment Shares under Listing Rule 7.3 is set out below:

### Information required under Listing Rule 7.3

Maximum number of securities to be issued or formula for calculating the number of securities to be issued	$A = \left( \frac{5\% \times B}{C} \right)$ <p>Where:  <b>A</b> = Maximum number of Alignment Shares to be issued  <b>B</b> = Amount raised under the Offer  <b>C</b> = 5-day VWAP</p>
Date by which the entity will issue securities	On the allotment date under the Offer, which is expected to be in or around mid-April 2019, and in any event no later than three months after the Meeting
Price at which the securities are to be issued	An aggregate price of A\$1.00 for all Alignment Shares
Names of the persons to whom the Company will issue the securities	Pengana Investment Management Limited ABN 69 063 081 612 <sup>1</sup>
Terms of the securities	Fully paid preference shares, the terms of which are set out in <b>Annexure A</b> to these Explanatory Notes
Intended use of funds raised	Not applicable. The consideration for the Alignment Shares is the nominal amount of A\$1.00
Voting exclusion statement	A voting exclusion statement in relation to Resolution 1 is included in the Notice

**The Directors recommend that Shareholders vote in favour of the Resolution. The Chairman intends to vote undirected proxies in favour of the Resolution.**

## RESOLUTION 2: APPROVAL TO ISSUE ALIGNMENT SHARES AS PREFERENCE SHARES

Resolution 2 seeks Shareholder approval to issue preference shares (being the Alignment Shares) to PIML under section 254A(2) of the Corporations Act. Resolution 2 is conditional on the passing of Resolutions 1 and 3.

Section 254A(2) of the Corporations Act provides that a company can only issue preference shares if the rights attached to them are set out in the company's constitution or have otherwise been approved by special resolution of the company.

Resolution 2 is a special resolution and can only be passed if at least 75% of the total votes cast by Shareholders entitled to vote on the resolution (whether by direct voting or in person, or by proxy, attorney or representative) are voted in favour of this resolution.

1. The Alignment Shares will be registered in the name of the Custodian, and the Custodian will hold the shares on trust as an asset of the Fund.



The Alignment Shares are preference shares, the rights attaching to which are not set out in the Company's constitution. Accordingly, Shareholder approval is sought under section 254A(2) of the Corporations Act to issue the Alignment Shares as preference shares to PIML.

PIML will at all times be the sole holder of the Alignment Shares (through the Custodian) and will hold the Alignment Shares in its capacity as trustee of the Fund for the benefit of unitholders of the Fund.

The terms of the Alignment Shares are set out in **Annexure A** to these Explanatory Notes. For reference, the rights to attach to the Alignment Shares are summarised below:

- the holder of the Alignment Shares (being PIML, through the Custodian) will have the same rights as Shareholders in relation to receiving notices, reports and audited accounts, and to attend general meetings of the Company.
- the holder of the Alignment Shares is only entitled to vote in the following circumstances:
  - during a period in which a dividend or part of a dividend in respect of Alignment Shares are in arrears;
  - on a proposal to reduce the Company's share capital;
  - on a resolution to approve the terms of a buy-back agreement;
  - on a proposal that affects the rights attached to an Alignment Share;
  - on a proposal to wind up the Company;
  - on a proposal for the disposal of the whole of the Company's property, business and undertaking;
  - during the winding up of the Company; and
  - in any other circumstances in which the Listing Rules requires holders of Alignment Shares to be entitled to vote.
- if the Company pays dividends to Shareholders, the holder of the Alignment Shares is also entitled to dividends in the same amount as it would have received had the Alignment Shares been converted into Shares on the record date for the applicable dividend. Alignment Shares rank for payment of any dividend equally to Shares and behind any other classes of shares that by their terms rank in priority to Alignment Shares.
- on liquidation or in a winding-up of the Company, Alignment Shares rank for payment in priority to all holders of other classes of shares in the capital of the Company, equal to the aggregate of the amount paid upon the Alignment Shares and the amount of all dividends declared but unpaid in respect of the Alignment Shares. The holder of the Alignment Shares will otherwise not have the right to participate in any surplus assets or profits of the Company on the liquidation or winding up of the Company in respect of the Alignment Shares.
- subject to the Corporations Act and the Listing Rules, the holder of the Alignment Shares must use all reasonable endeavours to effect an in specie distribution of the Alignment Shares to unitholders of the Fund on or about the date that is two years after the issue of the Alignment Shares. The distribution date is to be determined by the holder of the Alignment Shares.
- immediately on an Alignment Share ceasing to be registered in the name of the Custodian of the Fund, that Alignment Share converts into one Share (subject to any adjustment as described below). Upon conversion, Alignment Shares will have the same rights and liabilities as, and rank equally with, other fully paid ordinary Shares.
- upon a subdivision or consolidation of Shares, the number of Shares into which each Alignment Share converts will be increased or decreased to reflect the effect of that subdivision or consolidation.
- if there is an unconditional takeover of the Company, acceptance of which is recommended by the Board, where the bidder (together with its associates) has acquired a relevant interest in more than 50% of the Shares, or a recommended scheme of arrangement for 100% of the Shares which has become effective in accordance with its terms, or a person or entity becomes a legal or beneficial owner of, or becomes entitled to, acquires, holds or has an equitable interest in, more than 50% of the issued Shares, the holder of the Alignment Shares must use all reasonable endeavours to procure that the Alignment Shares are distributed to unitholders of the Fund and converted into Shares (notwithstanding this may occur prior to the scheduled distribution and conversion of the Alignment Shares).
- the Alignment Shares are non-transferable (other than as may be required in connection with their in-specie distribution), non-redeemable and will not be quoted on any stock exchange.

**The Directors recommend that Shareholders vote in favour of the Resolution. The Chairman intends to vote undirected proxies in favour of the Resolution.**



### **RESOLUTION 3: APPROVAL OF FINANCIAL ASSISTANCE TO ACQUIRE ALIGNMENT SHARES**

Resolution 3 seeks Shareholder approval under sections 260A(1) and 260B(1) of the Corporations Act for the provision of financial assistance proposed to be given by the Company in connection with the acquisition by PIML of the Alignment Shares. Resolution 3 is conditional on the passing of Resolutions 1 and 2.

Resolution 3 is a special resolution and can only be passed if at least 75% of the total votes cast by Shareholders entitled to vote on the resolution (whether by direct voting or in person, or by proxy, attorney or representative) are voted in favour of this resolution.

#### **Particulars of financial assistance**

On 10 December 2018, the Company entered into a Subscription Agreement with PIML under which, subject to Shareholder approval, the Company will issue the Alignment Shares to PIML on completion of the Offer.

Due to the nature of the Alignment Shares (described further above), namely that they have dividend rights equivalent to those attaching to ordinary shares and will convert into ordinary shares, the Company considers that the Alignment Shares will be valued at parity with the ordinary shares trading on the ASX.

The closing price of the Company's ordinary Shares on ASX on 20 December 2018 was A\$2.30. However, it is proposed that the Alignment Shares be issued in consideration for the payment by PIML to the Company of the nominal aggregate amount of A\$1.00.

Accordingly, the issue of the Alignment Shares for nominal consideration (which is a significant discount to their perceived value) will have the effect of financially assisting PIML in acquiring its own shares for the purposes of section 260A of the Corporations Act (**Financial Assistance**).

#### **Restrictions on companies providing financial assistance**

Under section 260A(1) of the Corporations Act, a company may financially assist a person to acquire shares (or units of shares) in the company or a holding company of the company only if:

- a. giving the assistance does not materially prejudice:
  - i. the interests of the company or its shareholders; or
  - ii. the company's ability to pay its creditors; or
- b. the assistance is approved by shareholders under section 260B of the Corporations Act (and that section also requires advance notice to ASIC); or
- c. the assistance is exempted under section 260C of the Corporations Act.

A company may be regarded as providing financial assistance if it furnishes something which is needed in order that a transaction be carried out or something in the nature of aid or help for that transaction. The term 'financial assistance' has no technical meaning and requires an examination of the commercial realities of the relevant transactions.

None of the exemptions in section 260C of the Corporations Act apply to the current circumstances. Further, the Board does not consider that the giving of the Financial Assistance in connection with the issue of the Alignment Shares on the terms and in the manner described in these Explanatory Notes will materially prejudice the interests of the Company or its Shareholders, or its ability to pay its creditors because (among other things):

- the Pengana Capital Group does not incur any additional obligations or liabilities, nor do any existing obligations or liabilities owed to its creditors change, as a result of the issue of Alignment Shares;
- as at the date of this Notice, the Company does not have any existing debt facilities, has not guaranteed repayment of the debts of any of its subsidiaries and has sufficient liquid assets (in the form of cash and cash equivalents) to pay its debts as and when they become due and payable; and
- the Alignment Shares will only be issued if the Offer proceeds, in which circumstance the Company believes the issue will be value accretive for the Company (and consequently its Shareholders).

However, as the Alignment Shares will be issued for nominal consideration and the Company will in any event require Shareholder approval under Resolutions 1 and 2, the Board considers it appropriate as a matter of good, transparent corporate governance to seek the approval of Shareholders under Resolution 3 pursuant to section 260B(1) of the Corporations Act to authorise the Financial Assistance to be given by the Company to PIML.

Accordingly, it is proposed that the Financial Assistance be approved by special resolution of Shareholders.



## Shareholder approval of financial assistance

Under section 260B(1) of the Corporations Act, shareholder approval for the giving of financial assistance by a company to acquire shares (or units of shares) in the company must be given by:

- a. a special resolution passed at a general meeting of the company, with no votes being cast in favour of the resolution by the person acquiring the shares (or units of shares) or by their associates; or
- b. a resolution agreed to, at a general meeting, by all ordinary shareholders.

## Purpose

The purpose of the Explanatory Notes on this Resolution is to explain in further detail the proposed Resolution which must be passed under section 260B(1) of the Corporations Act to enable the Company to grant the Financial Assistance described in these Explanatory Notes.

## Effect of the Financial Assistance

The giving of the Financial Assistance by the Company is unlikely to have any adverse effect on the Company on the basis the proposed issue of Alignment Shares to the Fund (albeit at nominal consideration) will be net accretive in value to the Company, including to its Shareholders, as the Company is issuing shares equal in value to a subset of the total value created to the Company by the launch of the Fund (as a result of the management and performance fees generated relative to the number of Alignment Shares issued to the Fund).

The advantages and disadvantages of the Company providing the proposed Financial Assistance are described in further detail below.

## Advantages of the Financial Assistance

The advantages to the Company of providing the proposed Financial Assistance are that:

- the issue of Alignment Shares will initially incentivise investors to subscribe for Units in the Fund, which will be value accretive for the Company; and
- the subsequent distribution of the Alignment Shares to unitholders of the Fund will also assist the Company in achieving its objective of expanding its capital base.

The Board believes that the issue of the Alignment Shares contemplated in these Explanatory Notes are in the best interests of the Company.

## Disadvantages of the Financial Assistance

The Board does not believe that there are any disadvantages to the Company in giving the Financial Assistance.

## If the Financial Assistance is not approved

If Resolution 3 is not approved by Shareholders, the Company will not be able to issue the Alignment Shares to PIML as contemplated in these Explanatory Notes, and the Offer cannot proceed. As a result, the Company will not be able to achieve the advantages described above.

## Prior Notice to ASIC

A copy of this Notice, including the Explanatory Notes, was lodged with ASIC before being despatched to Shareholders, as required by section 260B(5) of the Corporations Act.

If Resolution 3 is passed:

- a. the Company will lodge with ASIC a notice in the prescribed form stating that the Financial Assistance has been approved at least 14 days before issuing the Alignment Shares, as required by section 260B(6) of the Corporations Act; and
- b. a copy of Resolution 3 will be lodged with ASIC within 14 days after being passed, as required by section 260B(7) of the Corporations Act.



## Disclosure

In accordance with section 260B(4) of the Corporations Act, the Directors of the Company consider that the Explanatory Notes for this Resolution contain all information known to the Company that would be material to the decision of Shareholders on how to vote on Resolution 3, other than information which it would be unreasonable to require the Company to include because it had previously disclosed such information to Shareholders.

**The Directors recommend that Shareholders vote in favour of the Resolution. The Chairman intends to vote undirected proxies in favour of the Resolution.**

## GLOSSARY

**15% Capacity** has the meaning given in the Explanatory Notes.

**5-day VWAP** means the Volume Weighted Average Market Price of the Company's Shares over the five trading days prior to the allotment date for the Offer.

**Alignment Shares** means the fully paid preference shares to be issued by the Company to PIML on the terms and in the manner set out in the Explanatory Notes.

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

**ASX** means ASX Limited ABN 98 008 624 691 or the market it operates, as the context requires.

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

**Company** or **Pengana** means Pengana Capital Group Limited ACN 059 300 426.

**Convertible Securities** has the meaning given to that term in the Listing Rules. Corporations Act means Corporations Act 2001 (Cth).

**Custodian** means BNP Paribas Securities Services.

**Director** means a director of the Company.

**EGM** means extraordinary general meeting of the Company.

**Equity Securities** has the meaning given to that term in the Listing Rules.

**Explanatory Notes** means the explanatory notes which form part of this Notice. Financial Assistance has the meaning given to that term in the Explanatory Notes.

**Fund** means the yet to be established unit trust to be domiciled in Australia and to be named the Pengana Private Equity Trust.

**Investment Manager** means Grosvenor Capital Management, L.P.

**Key management personnel** or **KMP** means 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 non-executive) of the Company.

**Listing** means the admission of the Fund to the official list of, and the quotation of the Units on, ASX.

**Listing Rules** means the official Listing Rules of the ASX, as amended or waived from time to time.

**Meeting** means the extraordinary general meeting of the Company the subject of the Notice to be held on Thursday 31 January 2019.

**Notice** means this notice of extraordinary general meeting.



**Offer** means PIML's proposed initial public offering of Units to raise the Offer Proceeds under a PDS to be prepared in accordance with Part 7.9 of the Corporations Act.

**Offer Proceeds** means the amount to be raised by PIML under the Offer, being up to an indicative A\$1 billion.

**Ordinary Resolution** means a resolution passed by more than 50% of the Shareholders eligible to vote on the relevant resolution and present at the Meeting, either in person or by proxy.

**PCL** means Pengana Capital Ltd ACN 103 800 568.

**PDS** means a product disclosure statement.

**Pengana Capital Group** means the Company and its controlled entities.

**PIML** means Pengana Investment Management Limited ACN 063 081 612.

**Proxy Form** means the proxy form that accompanies the Explanatory Notes or is available from the Company.

**Resolution** means a resolution to be put to Shareholders at the Meeting as set out in the Notice.

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

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

**Special Resolution** means a resolution:

- of which notice has been given as set out in section 249L(1)(c) of the Corporations Act; and
- that has been passed by at least 75% of the Shareholders eligible to vote on the relevant resolution and present at the Meeting, either in person or by proxy.

**Subscription Agreement** means the subscription agreement entered into between the Company and PIML on 10 December 2018.

**Unit** means ordinary fully paid units of the Fund.

**Volume Weighted Average Market Price** has the meaning given in the Listing Rules.



## ANNEXURE A: ALIGNMENT SHARE TERMS

### 1. ISSUE OF ALIGNMENT SHARES

#### Terms of issue

- 1.1 This document sets out the terms of the non-transferable, non-redeemable converting preference shares (**Alignment Shares**) to be issued by Pengana Capital Group Limited ACN 059 300 426 (**Company**) to the custodian of the Pengana Private Equity Trust (**Holder**) (**Alignment Share Terms**).

#### Separate class

- 1.2 The Alignment Shares are a separate class of shares in the Company.

#### Listing

- 1.3 The Alignment Shares will not be quoted on any stock exchange.

#### Issue price

- 1.4 The Alignment Shares will be issued as fully paid at an aggregate issue price of A\$1.00.

### 2. RIGHTS AND RESTRICTIONS

#### Notice, reports, audited accounts and meeting

- 2.1 Each Alignment Share gives the Holder the same rights as those conferred by the Company's constitution on the holder of a Share to receive notices, reports and audited accounts and to attend general meetings of the Company.

#### Voting

- 2.2 An Alignment Share does not give the Holder any right to vote at any general meeting of the Company except:
- 2.2.1 during the period in which a dividend or part of a dividend in respect of the Alignment Share is in arrears;
  - 2.2.2 on a proposal to reduce the Company's share capital;
  - 2.2.3 on a resolution to approve the terms of a buy-back agreement;
  - 2.2.4 on a proposal to affects rights attached to an Alignment Share;
  - 2.2.5 on a proposal to wind up the Company;
  - 2.2.6 on a proposal for the disposal of the whole of the Company's property, business and undertaking;
  - 2.2.7 during the winding up of the Company; and
  - 2.2.8 in any other circumstances in which the ASX Listing Rules requires holders of Alignment Shares to be entitled to vote.
- 2.3 In the circumstances contemplated in clause 2.2, the Holder will be entitled:
- 2.3.1 on a show of hands, to one vote; and
  - 2.3.2 on a poll, to one vote for each Alignment Share held by the Holder, on each applicable resolution.

#### Dividends and distributions

- 2.4 On each occasion on which a dividend is paid by the Company to the holders of Shares, a dividend must also be paid to the Holder so that the Holder receives the same amount as it would have received had its Alignment Shares been converted into Shares on the record date of the applicable dividend.
- 2.5 Each dividend on an Alignment Share is to rank for payment equally with the rights in respect of dividends of the holders of Shares and behind any other classes of shares that by their terms rank in priority to Alignment Shares.



### **Right to participate in capital and profits on winding up**

- 2.6 The Holder of Alignment Shares has the right, on liquidation or a winding up of the Company, in respect of each Alignment Share held by it, to payment of an amount in priority to all holders of other classes of shares in the capital of the Company, equal to the aggregate of the following:
- 2.6.1 the amount paid up on the Alignment Share; and
  - 2.6.2 the amount of all dividends declared but unpaid in respect of the Alignment Share at the date of commencement of the liquidation or winding up.
- 2.7 The Holder of the Alignment Shares will otherwise not have the right to participate in any surplus assets or profits of the Company on the liquidation or winding up of the Company in respect of those Alignment Shares.

### **Conversion**

- 2.8 Each Alignment Share automatically converts into a Share in accordance with clause 3.

### **Redemption**

- 2.9 An Alignment Share is not redeemable.

### **Transferability**

- 2.10 An Alignment Share is not transferable (other than as may be required in connection with clause 3.1).

## **3. CONVERSION**

### **In-specie distribution**

- 3.1 Subject to the Corporations Act and the Listing Rules, the Holder may effect an in specie distribution of the Alignment Shares to Unitholders on or about the date that is two years after the Issue Date on a date to be determined by the Holder.

### **Automatic conversion**

- 3.2 On the Distribution Date, immediately on an Alignment Share ceasing to be registered in the name of the custodian of the Holder, that Alignment Share will automatically, and without any further act required by the Company or the Holder, convert into Shares on a one for one basis (subject to any adjustment in accordance with clause 3.3).

### **Subdivision or consolidation**

- 3.3 If the Shares are subdivided or consolidated the number of Shares into which each Alignment Share converts will be increased or decreased to reflect the effect of that subdivision or consolidation.

### **Status on conversion**

- 3.4 The Shares resulting from Conversion of Alignment Shares:
- 3.4.1 have the same rights as all other fully paid Shares; and
  - 3.4.2 rank equally with all other fully paid Shares on issue.
- 3.5 The Conversion of Alignment Shares into Shares does not constitute cancellation, redemption or termination of an Alignment Share or an issue, allotment or creation of a new Share, but has the effect of varying the status of, and the rights attaching to, the applicable Alignment Shares so that they become Shares.

### **Registering Conversion**

- 3.6 The Company must use all reasonable endeavours to procure the quotation on ASX of the Shares created by and issued pursuant to Conversion (including, if applicable, by deliverable a completed notice to ASX in the form of Appendix 3B to the Listing Rules in relation to the Company).



#### 4. AMENDMENT

- 4.1 An amendment to these Alignment Share Terms may only be made if it has been approved by the Holder unless the Company is of the genuine and reasonable opinion that the amendment is:
- 4.1.1 of a formal, technical or minor nature;
  - 4.1.2 made to cure any ambiguity or correct any manifest error; or
  - 4.1.3 necessary to comply with the provisions of any law or the Listing Rules.

#### 5. TAKEOVERS AND SCHEMES OF ARRANGEMENT

- 5.1 If:
- 5.1.1 (i) a takeover bid is made for Shares, acceptance of which is recommended by the Directors; (ii) the bid has become unconditional; and (iii) a single person (or a group of persons acting in concert) has acquired a relevant interest in more than 50% of the Shares (calculated as if Alignment Shares had converted into Shares); or
  - 5.1.2 the Directors recommend a scheme of arrangement in respect of the Shares which will result in a single person (or a group of persons acting in concert) acquiring 100% of the Shares, and which a court of competent jurisdiction has made orders under section 411(1) of the Corporations Act directing the Company to convene a meeting of shareholders of the Company to consider the scheme; or
  - 5.1.3 a person or entity (other than a person or entity who, together with their associates, has a relevant interest in more than 20% of the Shares as at the Issue Date) has otherwise acquired a relevant interest in more than 50% of the Shares (calculated as if Alignment Shares had converted into Shares),

the Holder will use all reasonable endeavours to procure that all of the Alignment Shares are Converted into Shares in accordance with the mechanism contemplated in clauses 3.1 and 3.2 as soon as possible, notwithstanding that it does not coincide with a date that is on or about the date that is two years after the Issue Date.

#### DEFINITIONS

- 6.1 In this document the following definitions apply:

**Alignment Share Terms** means these terms of issue.

**Conversion** means conversion in accordance with clause 3.2.

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

**Directors** means some or all of the directors of the Company acting as a board.

**Distribution Date** means the date on which a particular Alignment Share is transferred from the Fund under clause 3.1.

**Fund** means the Pengana Private Equity Trust.

**Issue Date** means the date on which the Alignment Shares are issued by the Company to the Holder.

**Listing Rules** means the official listing rules of ASX.

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

**Unit Register** means the register of unitholders of the Fund.

**Unitholders** means a holder of ordinary fully paid units in the Fund.





**PENGANA CAPITAL GROUP LIMITED**  
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MR SAM SAMPLE  
FLAT 123  
123 SAMPLE STREET  
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SAMPLE ESTATE  
SAMPLEVILLE VIC 3030

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## Proxy Form

XX



### Vote and view the annual report online

- Go to [www.investorvote.com.au](http://www.investorvote.com.au) or scan the QR Code with your mobile device.
- Follow the instructions on the secure website to vote.

### Your access information that you will need to vote:

**Control Number: 9999999**

**SRN/HIN: I9999999999 PIN: 99999**

PLEASE NOTE: For security reasons it is important that you keep your SRN/HIN confidential.



 **For your vote to be effective it must be received by 3.00pm (Sydney time) on Tuesday, 29 January 2019**

## How to Vote on Items of Business

All your securities will be voted in accordance with your directions.

### Appointment of Proxy

**Voting 100% of your holding:** Direct your proxy how to vote by marking one of the boxes opposite each item of business. If you do not mark a box your proxy may vote or abstain as they choose (to the extent permitted by law). If you mark more than one box on an item your vote will be invalid on that item.

**Voting a portion of your holding:** Indicate a portion of your voting rights by inserting the percentage or number of securities you wish to vote in the For, Against or Abstain box or boxes. The sum of the votes cast must not exceed your voting entitlement or 100%.

**Appointing a second proxy:** You are entitled to appoint up to two proxies to attend the meeting and vote on a poll. If you appoint two proxies you must specify the percentage of votes or number of securities for each proxy, otherwise each proxy may exercise half of the votes. When appointing a second proxy write both names and the percentage of votes or number of securities for each in Step 1 overleaf.

**A proxy need not be a securityholder of the Company.**

## Signing Instructions for Postal Forms

**Individual:** Where the holding is in one name, the securityholder must sign.

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

**Power of Attorney:** If you have not already lodged the Power of Attorney with the registry, please attach a certified photocopy of the Power of Attorney to this form when you return it.

**Companies:** Where the company has a Sole Director who is also the Sole Company Secretary, this form must be signed by that person. If the company (pursuant to section 204A of the Corporations Act 2001) does not have a Company Secretary, a Sole Director can also sign alone. Otherwise this form must be signed by a Director jointly with either another Director or a Company Secretary. Please sign in the appropriate place to indicate the office held. Delete titles as applicable.

## Attending the Meeting

Bring this form to assist registration. If a representative of a corporate securityholder or proxy is to attend the meeting you will need to provide the appropriate "Certificate of Appointment of Corporate Representative" prior to admission. A form of the certificate may be obtained from Computershare or online at [www.investorcentre.com](http://www.investorcentre.com) under the help tab, "Printable Forms".

**Comments & Questions:** If you have any comments or questions for the company, please write them on a separate sheet of paper and return with this form.

**GO ONLINE TO VOTE,  
or turn over to complete the form →**



MR SAM SAMPLE  
FLAT 123  
123 SAMPLE STREET  
THE SAMPLE HILL  
SAMPLE ESTATE  
SAMPLEVILLE VIC 3030

☐

**Change of address.** If incorrect, mark this box and make the correction in the space to the left. Securityholders sponsored by a broker (reference number commences with 'X') should advise your broker of any changes.



I 9999999999

I ND

## Proxy Form

Please mark ☒ to indicate your directions

### STEP 1 Appoint a Proxy to Vote on Your Behalf

XX

I/We being a member/s of Pengana Capital Group Limited hereby appoint

☐ the Chairman  
of the Meeting **OR**

**PLEASE NOTE:** Leave this box blank if you have selected the Chairman of the Meeting. Do not insert your own name(s).

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chairman of the Meeting, as my/our proxy to act generally at the Meeting on my/our behalf and to vote in accordance with the following directions (or if no directions have been given, and to the extent permitted by law, as the proxy sees fit) at the Extraordinary General Meeting of Pengana Capital Group Limited to be held at Computershare, Level 4, 60 Carrington Street, Sydney, NSW 2000 on Thursday, 31 January 2019 at 3:00pm (Sydney time) and at any adjournment or postponement of that Meeting.

### STEP 2 Items of Business

**PLEASE NOTE:** If you mark the **Abstain** box for an item, you are directing your proxy not to vote on your behalf on a show of hands or a poll and your votes will not be counted in computing the required majority.

	For	Against	Abstain
1 Approval to issue Alignment Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 Approval to issue Alignment Shares as preference shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Approval of financial assistance to acquire Alignment Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Chairman of the Meeting intends to vote undirected proxies in favour of each item of business. In exceptional circumstances, the Chairman of the Meeting may change his/her voting intention on any resolution, in which case an ASX announcement will be made.

### SIGN Signature of Securityholder(s) *This section must be completed.*

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director/Company Secretary

Contact  
Name

\_\_\_\_\_

Contact  
Daytime  
Telephone

\_\_\_\_\_ / /

Date

PCG

999999A

Computershare