

# Notice of extraordinary general meeting and explanatory statement

## Comms Group Limited ACN 619 196 539

Date: Friday, 25 March 2022

Time: 11.00am (Sydney time)

Location: This meeting will be conducted as a virtual meeting, accessible online

### IMPORTANT INFORMATION

The Meeting will be held virtually. Shareholders will be able to participate in the Meeting by:

- 1 voting prior to the Meeting by lodging the Proxy Form attached to the Notice of Meeting in Section 6 by no later than 11.00am (Sydney time) on Wednesday, 23 March 2022;
- 2 submitting questions in advance of the Meeting by emailing the questions to Company Secretary by no later than 5.00pm (Sydney time) on Wednesday, 23 March 2022 at [companysecretary@commschoice.com](mailto:companysecretary@commschoice.com);
- 3 attending the virtual meeting by going to <https://web.lumiagm.com/301-745-729> and entering your details when prompted; and
- 4 asking questions during the virtual Meeting (details of which will be provided to Shareholders in a separate correspondence).

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR ATTENTION. YOU SHOULD READ THE DOCUMENT IN ITS ENTIRETY BEFORE YOU DECIDE WHETHER OR NOT TO VOTE IN FAVOUR OF THE RESOLUTIONS. IF YOU ARE IN DOUBT AS TO WHAT YOU SHOULD DO, YOU SHOULD CONSULT YOUR LEGAL, FINANCIAL OR OTHER PROFESSIONAL ADVISER.

## Notice of Extraordinary General Meeting

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Notice is given that a General Meeting of Shareholders of the Company will be held at 11.00am (Sydney time) on Friday, 25 March 2022 as a virtual meeting.

The business to be considered at the Meeting is set out below. Information on the Resolutions to which the business relates is contained in the Explanatory Statement.

This Notice of Meeting should be read in conjunction with the Explanatory Statement. This Notice of Meeting and Explanatory Statement is not investment advice. You should seek your own financial and professional advice before making any decision on how to vote at the Meeting.

Terms used in this Notice of Meeting will, unless the context otherwise requires, have the same meaning given to them in the Glossary contained in Section 5 of the Explanatory Statement.

### **SPECIAL BUSINESS**

#### **RESOLUTION 1 – APPROVAL OF FINANCIAL ASSISTANCE**

To consider and, if thought fit, to pass the following as a **special resolution**:

*"That, pursuant to and in accordance with section 260B(2) of the Corporations Act 2001 (Cth) and for all other purposes, approval is given for financial assistance to be provided from time to time (including upon any subsequent refinancing, variation or replacement of any facility, the entering into additional facilities or the provision of further security in connection with any facility) by on Group Holdings Pty Ltd ACN 622 185 808 and its subsidiaries (being onPlatinum ICT Pty Ltd ACN 161 584 112 and Tango Technology Pty Limited ACN 151 176 297) to the Company in connection with the acquisition of all of the issued shares of that entity by the Company that occurred on 11 February 2022, as described in the Explanatory Statement accompanying the Notice of Meeting."*

#### **RESOLUTION 2 – RATIFICATION OF PRIOR ISSUE OF SHARES**

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

*"That, for the purposes of ASX Listing Rule 7.4 and for all other purposes, Shareholders ratify the issue of 18,990,828 Shares to the vendors of on Group Holdings Pty Ltd ACN 622 185 808 that occurred on 11 February 2022 on the terms and conditions set out in the Explanatory Statement accompanying this Notice of Meeting."*

### **Majorities required for the Resolutions to be passed**

Resolution 1 will be passed if 75% or more of the votes cast (either in person, proxy, attorney or by corporate representative) on Resolution 1 are in favour of Resolution 1.

Resolution 2 will be passed if more than 50% of the votes cast (either in person, proxy, attorney or by corporate representative) on Resolution 2 are in favour of Resolution 2.

### **Entitlement to vote**

The Company has determined, in accordance with section 1074E(2)(g)(i) of the Corporations Act and regulation 7.11.37 of the Corporations Regulations, that the Shareholders entitled to attend and vote at the Meeting shall be those persons who are recorded on the register of members at 7.00pm (Sydney time) on Wednesday, 23 March 2022. Accordingly, transfers registered after that time will be disregarded in determining entitlements to vote at the Meeting.

### **Voting exclusion**

The Company will disregard any votes cast in favour of Resolution 2 by or on behalf of a person who participated in the issue or any Associate of those persons. However, this does not apply to a vote cast in favour of Resolution 2 by:

- (a) a person as proxy or attorney for a person who is entitled to vote on Resolution 2, in accordance with directions given to the proxy or attorney to vote on the resolution in that way;

- (b) the chair of the meeting as proxy or attorney for a person who is entitled to vote on Resolution 2, in accordance with a direction given to the chair to vote on the resolution as the chair decides; or
- (c) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
  - (i) the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an Associate of a person excluded from voting, on Resolution 2; and
  - (ii) the holder votes on Resolution 2 in accordance with directions given by the beneficiary to the holder to vote in that way.

## **Voting**

There will be no ability to attend the Meeting in person. You may attend and participate in the Meeting (including voting on the Resolutions) via the online virtual platform, in respect of which further details are set out below.

To vote at the Meeting virtually, login to the Meeting at <https://web.lumiagm.com/301-745-729> at 11.00am (Sydney time) on Friday, 25 March 2022.

Attending the Meeting online enables Shareholders to view the Meeting live, ask questions and cast votes on the Resolutions at the appropriate times while the Meeting is in progress. The votes on the Resolutions will be cast through a poll.

To vote by proxy, a completed proxy form must be delivered to and received by the Share Registry on or before 11.00am (Sydney time) on Wednesday, 23 March 2022. The attached Proxy Form in Section 6 sets out the instructions for the return of that Proxy Form.

## **Proxies**

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

- each Shareholder entitled to vote at the Meeting has a right to appoint a proxy;
- the proxy need not be a Shareholder;
- a Shareholder who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If no proportional number is specified, each proxy may exercise half of the Shareholder's votes; and
- a Shareholder may specify the way in which the proxy is to vote on the Resolutions or may allow the proxy to vote at its discretion. If the way in which a proxy is to vote on the Resolutions are specified by a Shareholder, the proxy may not vote on that Resolutions except as specified by the Shareholder.

## **Voting of proxies**

A proxy may decide whether to vote on any motion, except where the proxy is required by law or under the constitution of the Company to vote, or abstain from voting, in their capacity as proxy. If a proxy is directed how to vote on an item of business, the proxy may vote on that item only in accordance with that direction. If a proxy is not directed how to vote on an item of business, a proxy may vote as he or she thinks fit.

The Proxy Form and the power of attorney or other authority (if any) under which it is signed (or a certified copy) must be received by the Share Registry, at least 48 hours before the time for holding the Meeting (i.e. by no later than 11.00am (Sydney time) on Wednesday, 23 March 2022:

- online: <https://www.votingonline.com.au/ccgegm2022>
- by mail: Boardroom Pty Limited, GPO Box 3993, Sydney NSW 2001 Australia;
- by fax: +61 2 9290 9655; or
- by hand: Boardroom Pty Limited, Level 12, 225 George Street, Sydney NSW 2000.

### **Voting by corporate representatives**

Corporate Shareholders or proxies wishing to vote by corporate representative should obtain an appointment of corporate representative form from the Share Registry and complete and sign the form in accordance with the corporate Shareholder's constitution or by a duly authorised attorney.

The corporate representative form and the power of attorney or other authority (if any) under which it is signed (or a certified copy thereof) must be received before the start or resumption of the meeting at which the representative is to vote, by post in the reply paid envelope provided.

### **Directors' recommendations**

The Directors of the Company unanimously recommend that the Shareholders vote in favour of the Resolutions to approve the giving of financial assistance, and to ratify the issue of 18,990,828 Shares in connection with the Company's acquisition of onPlatinum.

### **How the Chair will vote undirected proxies**

If you return your Proxy Form but do not nominate a proxy, the Chair will be your proxy and will vote on your behalf as you direct on the Proxy Form. If your nominated representative does not attend the meeting then your proxy will revert to the Chair and he will vote on your behalf as you direct on the Proxy Form.

If a proxy is not directed how to vote on an item of business or Resolution, the proxy (including, if applicable, the Chair) may vote, or abstain from voting, as they think fit.

If you appoint the Chair as your proxy (or if the Chair is appointed by default) and you do not direct the Chair how to vote on the Resolutions, the Chair will vote your proxy in favour of that item of business.

By order of the Board



**Andrew Metcalfe**  
**Company Secretary**  
**Comms Group Limited**

## **Important Notices**

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### **General**

This Notice of Meeting (including the Explanatory Statement) is dated Friday, 18 February 2022.

This document is important. The Explanatory Statement provides additional information on matters to be considered at the Meeting and forms part of the Notice of Meeting. You should read this document in its entirety before making a decision on how to vote on the Resolutions to be considered at the Meeting.

A Proxy Form for the Meeting is also attached to this Notice of Meeting in Section 6. If you are in doubt as to what you should do, you should consult your legal, financial or other professional adviser.

### **Interpretation**

Capitalised terms used in the Notice of Meeting are defined in the Glossary in Section 5, or where the relevant term is first used.

Any documents reproduced in this Notice of Meeting may have their own defined terms, which are sometimes different from those in the Glossary.

All numbers are rounded unless otherwise indicated. A reference to \$ and cents is to Australian currency, unless otherwise stated. All times referred to in this Notice of Meeting are references to the time in Sydney, Australia, unless otherwise stated.

A reference to a Section is to a section in the Notice of Meeting, unless otherwise stated.

### **Responsibility for information**

Except as outlined below, the information contained in this Notice of Meeting has been prepared by the Company and is its responsibility. Except as outlined below, neither the Company nor any of its subsidiaries, directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of such information.

The Company is responsible for this document but accepts no responsibility for any errors, omissions or misstatements in the Notice of Meeting that are attributable to errors, omissions or misstatements in publicly available information or third party sources or otherwise. Subject to the Corporations Act, the Company makes no representation or warranty, express or implied, as to the accuracy or completeness of such information.

### **ASIC and ASX**

Neither ASIC, ASX nor any of their respective officers take any responsibility for the contents of this Notice of Meeting.

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## Key dates

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<b>Date of this Notice of Meeting</b>	Friday, 18 February 2022
<b>Deadline for receipt of Proxy Forms</b>	11.00am (Sydney time) on Wednesday, 23 March 2022
<b>Record date for determining eligibility to vote at the Meeting</b>	7.00pm (Sydney time) on Wednesday, 23 March 2022
<b>Time and date of the Meeting</b>	11.00am (Sydney time) on Friday, 25 March 2022

The above dates are subject to change and are indicative only. The Company reserves the right to vary the dates and times.

## Explanatory Statement

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This Explanatory Statement should be read in conjunction with this Notice of Meeting. Terms used in this Explanatory Statement will, unless the context otherwise requires, have the same meaning given to them in the Glossary at the end of this document.

### 1 What to do now and how to vote

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#### 1.1 What to do now

##### (a) Carefully read this document

Shareholders are being asked to consider, and if thought fit approve, the Resolutions set out in the Notice of Meeting that are necessary under the Corporations Act and ASX Listing Rules.

This document sets out information in connection with a special resolution (i.e. Resolution 1) proposed to be passed by the Shareholders of the Company pursuant to section 260B(2) of the Corporations Act to approve the giving by on Group Holdings Pty Ltd ACN 622 185 808 (**Target**) and its wholly owned Australian subsidiaries (being onPlatinum ICT Pty Ltd ACN 161 584 112 and Tango Technology Pty Limited ACN 151 176 297) (each an **Target Entity** and together the **Target Entities**) of financial assistance within the meaning of section 260A of the Corporations Act to the Company and in connection with resolutions of the Target Entities to approve the financial assistance in connection with the Acquisition.

This document also sets out information in connection with an ordinary resolution (i.e. Resolution 2) proposed to be passed by the Shareholders of the Company pursuant to ASX Listing Rule 7.4 for the ratification of 18,990,828 Shares issued on 11 February 2022 to the Vendors of the Target on the same terms and conditions as the Company's existing Shares.

You should read this document carefully, and in its entirety, before making a decision as to how to vote at the Meeting.

##### (b) Seek further information if required

If you have any queries about any matter contained in this document please contact the Company for more information. Alternatively, seek independent professional advice on any aspects of which you are not certain.

#### 1.2 How to vote

##### (a) Vote in person

There will be no ability to attend the Meeting in person. You may attend and participate in the Meeting (including voting on the Resolutions) via the online virtual platform, in respect of which further details are set out below.

##### (b) Vote virtually

To vote at the Meeting virtually, login to the Meeting at <https://web.lumiagm.com/301-745-729> at 11.00am (Sydney time) on Friday, 25 March 2022.

Attending the Meeting online enables Shareholders to view the Meeting live, ask questions and cast votes on the Resolutions at the appropriate times whilst the Meeting is in progress. The votes on the Resolutions will be cast through a Poll.

##### (c) Vote by proxy

If you are not able to attend the Meeting, please complete and sign the Proxy Form enclosed with the Notice of Meeting as soon as possible.



To complete the Proxy Form, record your vote on the Proxy Form in relation to each of the Resolutions to be considered at the Meeting as follows:

- If you wish to approve the Resolution, place a cross (X) in the space provided under the word 'FOR' in respect of that Resolution.
- If you do not wish to approve the Resolution, place a cross (X), in the space provided under the word 'AGAINST' in respect of that Resolution.
- If you do not wish to vote in respect of the Resolution, place a cross (X) in the space provided under the word 'ABSTAIN' in respect of that Resolution.

The Proxy Form and the power of attorney or other authority (if any) under which it is signed (or a certified copy) must be received by the Share Registry, at least 48 hours before the time for holding the Meeting (i.e. by no later than 11.00am (Sydney time) on Wednesday, 23 March 2022):

- (i) online: <https://www.votingonline.com.au/ccgegm2022>
- (ii) by mail: Boardroom Pty Limited, GPO Box 3993, Sydney NSW 2001 Australia;
- (iii) by fax: +61 2 9290 9655; or
- (iv) by hand: Boardroom Pty Limited, Level 12, 225 George Street, Sydney NSW 2000.

Proxies given by corporate Shareholders must be executed in accordance with their constitutions or under the hand of a duly authorised attorney.

A proxy may decide whether to vote on any motion, except where the proxy is required by law or the Constitution to vote, or abstain from voting, in their capacity as proxy. If a proxy is directed how to vote on an item of business, the proxy may vote on that item only in accordance with that direction. If a proxy is not directed how to vote on an item of business, the proxy may vote as they think fit.

If a Shareholder appoints the chairperson of the Meeting as the Shareholder's proxy and does not specify how the chairperson is to vote on an item of business, the chairperson will vote, as proxy for that Shareholder, in favour of the item on a poll.

**(d) Vote by corporate representatives**

Corporate Shareholders, or proxies wishing to vote by corporate representative, should obtain an appointment of corporate representative form from the Share Registry and complete and sign the form in accordance with the corporate Shareholder's constitution or by a duly authorised attorney.

The corporate representative form and the power of attorney or other authority (if any) under which it is signed (or a certified copy thereof) must be received by the Company before the start or resumption of the Meeting at which the representative is to vote, in person or by post in the reply paid envelope provided.

**(e) Vote through broker or nominees**

If you hold your Shares through a broker or nominee holder, you should contact them as soon as possible to instruct them on how to vote on your behalf.

**(f) Scrutineer**

The Share Registry (being the Company's registrar) will act as scrutineer for any polls that may be required at the Meeting.

## 2 Summary

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### 2.1 The Acquisition

The Company entered into a share sale and purchase agreement dated 3 February 2022 (**SPA**) between the Company, each of the then shareholders in the Target (**Vendors**) and others, pursuant to which the Vendors agreed to sell and transfer all of the shares in the capital of on Group Holdings Pty Ltd ACN 622 185 808 (**Target**) to the Company (**Acquisition**). The Acquisition completed on 11 February 2022. Following completion, the Target became a wholly-owned subsidiary of the Company.

The total initial consideration is \$12 million, consisting of:

- (a) upfront payment of \$10 million, comprising:
  - (i) cash consideration of \$8 million (subject to adjustment for working capital and net debt); and
  - (ii) \$2 million in Shares issued at the 30-day VWAP of approximately 10.5 cents per Share, with 100% escrowed for a period of 12 months and 50% escrowed for a period of 18 months from the date of completion.
- (b) deferred payment to be paid on 1 July 2022, comprising:
  - (i) a further cash consideration of \$1 million; and
  - (ii) \$1 million in Shares, issued at the lower of the 30-day VWAP or the closing share price at the issue date.

In the event onPlatinum outperforms, the Vendors will be entitled to a performance payment of up to \$6 million based on a calculation of 24 times the audited EBITDA of the second quarter of financial year 2023, minus the initial \$12 million. If the performance payment is due, the consideration will be paid as follows:

- (c) 80% cash; and
- (d) 20% in Shares issued at the lower of the 30-day VWAP or the closing share price at the issue date with a floor price of 5 cents per Share.

### 2.2 The financing

In connection with the Acquisition, Commonwealth Bank of Australia ABN 48 123 123 124 (**Financier**) has advanced funds to the Company pursuant to a facility agreement between the Financier, the Company and others dated 3 February 2022 (**FA**). The funding provided under the FA was for the purposes of financing the Acquisition of the Target and its wholly owned Australian subsidiaries (being onPlatinum ICT Pty Ltd ACN 161 584 112 and Tango Technology Pty Limited ACN 151 176 297) (each a **Target Entity** and together the **Target Entities**).

A condition of the FA is that each of the Target Entities must provide security over all of its assets and undertaking in the form of an accession letter (**Accession Letter**) and general security agreement (**Security**) within 60 days of the completion of the Acquisition.

In giving the Accession Letter and Security as part of the FA, the Target Entities will provide financial assistance in respect of the Acquisition, and as such it has been decided to seek Shareholder approval of the Company (being the ultimate Australian holding company of each of the Target Entities after the Acquisition) prior to the giving of such Accession Letter or Security.

As such, these actions would constitute the giving of financial assistance in connection with the Acquisition, within the meaning of Part 2J.3 of the Corporations Act.

Pursuant to section 260B of the Corporations Act, since the Company is a Listed Australian Holding Company, the financial assistance outlined in the Explanatory Statement must also be approved by a special resolution at a general meeting of the Company in accordance with section 260B(2) of the Corporations Act, the subject of the Resolution.

### **3 Resolution 1 – Approval of financial assistance**

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#### **3.1 Restrictions on companies giving 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 (as to which see section 3.2 below); or
- (c) the assistance is exempted under section 260C of the Corporations Act.

Financial assistance is defined very broadly and may include giving security over a company's assets and giving a guarantee and indemnity in respect of another person's liability.

Under section 260A(2) of the Corporations Act, the financial assistance may be given before or after the acquisition of shares.

#### **3.2 Shareholder approval of financial assistance**

For a company to financially assist a person to acquire shares (or units of shares) in itself or a company of which it is a subsidiary, section 260B(1) of the Corporations Act states that the financial assistance must be approved by its shareholders 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.

If the company will be a subsidiary of a listed domestic corporation immediately after the acquisition, then section 260B(2) requires that the financial assistance must also be approved by a special resolution passed at a general meeting of that listed domestic corporation.

Following the Acquisition, the Target Entities became subsidiaries of the Company. Accordingly, the financial assistance for the Target Entities must also be approved by a special resolution passed at a general meeting of the Company's Shareholders. This is the purpose of Resolution 1.

#### **3.3 Accession letter and general security agreement**

As specified in the FA, it is a condition that the Target Entities provide security over all of their assets and undertaking in the form of an accession letter and general security agreement within 60 days of the completion of the Acquisition.

It is proposed that, pursuant to the terms of the FA, the Target Entities, in order to comply with the above requirement, will accede as a guarantor to the FA pursuant to an obligor accession letter.

In addition, it is proposed that the Target Entities will grant security over all of its assets and undertakings to the Financier as Security for the obligations of all borrowers and guarantors under the FA. The Security will take the form of a general security agreement over all assets of the Target Entities and/or such other form as may be agreed with the relevant financiers.

Upon execution of the Accession Letter and general security deed, the Target Entities would (among other things) be bound by the guarantees, indemnities and undertakings and give the representations and warranties referred to in Section 3.4.

#### **3.4 Key obligations under the FA**

Under the FA, the Target Entities guarantee and indemnify the Financier as such:

**(a) Guarantee**

Each Guarantor irrevocably and unconditionally jointly and severally:

- (i) guarantees to the Financier punctual performance by each Obligor of all that Obligor's obligations under the Finance Documents;
- (ii) undertakes with the Financier that whenever an Obligor does not pay any amount when due under or in connection with any Finance Document (or anything which would have been due if the Finance Document or the amount was enforceable, valid and not illegal), that Guarantor shall immediately on demand pay that amount as if it was the principal obligor; and
- (iii) agrees with the Financier that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Financier immediately on demand against any cost, expense, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Finance Document on the date when it would have been due. The amount of the cost, expense, loss or liability shall be equal to the amount which the Financier would otherwise have been entitled to recover.

Each of paragraphs (i), (ii) and (iii) is a separate obligation. None is limited by reference to the other.

**(b) Continuing guarantee**

The Guarantee is a continuing obligation and will extend to the ultimate balance of sums payable by any Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

**(c) Reinstatement**

If any payment to or any discharge, release or arrangement given or entered into by the Financier (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced for any reason (including as a result of insolvency, breach of fiduciary or statutory duties or any similar event) in whole or in part, then the liability of each Guarantor under the Guarantee will continue or be reinstated as if the discharge, release or arrangement had not occurred and any relevant security shall be reinstated.

**(d) Immediate recourse**

Each Guarantor waives any right it may have of first requiring the Financier (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Guarantor under the Guarantee.

**(e) Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, the Financier (or any trustee or agent on its behalf) may:

- (i) refrain from applying or enforcing any other moneys, security or rights held or received or recovered (by set off or otherwise) by the Financier (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and
- (ii) without limiting paragraph (i), refrain from applying any moneys received or recovered (by set off or otherwise) from any Guarantor or on account of any Guarantor's liability under the Guarantee in discharge of that liability and claim or prove against anyone in respect of the full amount owing by the Obligors.

**(f) Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Obligor under or in connection with the Finance Documents have been irrevocably paid in full and unless the Financier otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under the Guarantee:

- (i) to be indemnified by an Obligor;
- (ii) to claim any contribution from any other guarantor of or provider of security for any Obligor's obligations under the Finance Documents;
- (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Financier under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Financier;
- (iv) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a Guarantee;
- (v) to exercise any right of set-off against any Obligor;
- (vi) to claim or prove as a creditor of any Obligor in competition with the Financier; and/or
- (vii) in any form of administration of an Obligor (including liquidation, winding up, bankruptcy, voluntary administration, dissolution or receivership or any analogous process) prove for or claim, or exercise any vote or other rights in respect of, any indebtedness of any nature owed to it by the Obligor.

If a Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Financier by the Obligor under or in connection with the Finance Documents to be repaid in full on trust for the Financier and shall promptly pay or transfer the same to the Financier or as the Financier may direct,

(together, the **Guarantee**).

### 3.5 Reason for financial assistance

The reason for the giving of the financial assistance described above is to enable the Company to comply with its obligations under the FA to procure that the Target Entities provides the Security and accedes as a guarantor to the FA pursuant to an Accession Letter. The Company was required to agree to this obligation in order to obtain the financial accommodation provided under the FA on the terms (including as to facility limit and pricing) to fund the Acquisition.

If such obligations are not complied with, a review event will occur (where applicable after the expiry of relevant cure periods) under the FA and the financial accommodation under the FA may be required to be immediately repaid, returned and/or terminated. If this repayment or return does not occur, the Financier would be able to enforce the security it holds over the assets of the Company and its subsidiaries.

### 3.6 Effects of the financial assistance

The effect of the financial assistance on the Company is that the Target Entities will have guaranteed all amounts payable under the FA and granted security for such obligations over its assets and undertaking. The operations of Target Entities will be restricted by the representations and undertakings given by it under the FA.

### 3.7 Passing Resolution 1

Resolution 1 is set out in the Notice of Meeting that accompanies this Explanatory Statement.

Resolution 1 will be passed if it is passed as a special resolution of the Company (if at least 75% of votes cast by Shareholders entitled to vote on the resolution vote in favour of Resolution 1).

### 3.8 **Directors' recommendation**

The Directors of the Company unanimously recommend that the Shareholders vote in favour of Resolution 1 to approve the giving of financial assistance.

### 3.9 **Notice to ASIC**

In accordance with section 260B(5) of the Corporations Act, copies of this Notice of Meeting and this Explanatory Statement as sent to Shareholders were lodged with ASIC before they were sent to Shareholders.

### 3.10 **Other relevant information**

The Directors consider that the Explanatory Statement contains all information known to the Company that would be material to Shareholders in deciding how to vote on the proposed resolution other than the information which it would be unreasonable to require the Company to include because it has been previously disclosed to Shareholders.

## 4 **Resolution 2 – Ratification of prior issue of Shares**

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### 4.1 **ASX Listing Rule 7.1 and 7.4**

Resolution 2 seeks Shareholder ratification pursuant to ASX Listing Rule 7.4 for the issue of 18,990,828 Shares to the Vendors of the Target on 11 February 2022 (**Ratification**).

ASX Listing Rule 7.1 provides that a company must not, subject to specified exceptions, issue or agree to issue more equity securities during any 12-month period than that amount which represents 15% of the number of fully paid ordinary securities on issue at the commencement of that 12-month period.

At the Company's Annual General Meeting in November 2021, the Shareholders approved a resolution under ASX Listing Rule 7.1A to extend the Company's placement capacity by an additional 10% to a total of 25%.

Listing Rule 7.4 permits Shareholders of the Company to ratify the issue of equity securities, provided it does not breach Listing Rule 7.1 or Listing Rule 7.1A.

By ratifying this issue under Resolution 2, the Company will retain the flexibility to issue equity securities to the 25% annual placement capacity set out in ASX Listing Rules 7.1 and 7.1A without the requirement to obtain prior Shareholder approval.

If Resolution 2 is not approved, and the issue of 18,990,828 Shares to the Vendors of the Target on 11 February 2022 is not ratified, this will reduce the Company's capacity to issue equity securities without Shareholder approval during the 12-month period following the issue of those Shares.

### 4.2 **Technical information**

Pursuant to and in accordance with ASX Listing Rule 7.5, the following information is provided in relation to the Ratification:

- (a) 18,990,828 Shares were issued on 11 February 2022 to the Vendors of the Target on 11 February 2022. These shares were issued with the same rights as the Company's existing Shares;
- (b) The issue price was \$0.105314 per Share; and
- (c) The purpose of the issue was to provide the Vendors of the Target with part of the agreed consideration to acquire all of the issued share capital in the Target and to satisfy the Company's obligations under the SPA.

A voting exclusion statement is included in the Notice.

#### 4.3 **Passing Resolution 2**

Resolution 2 is set out in the Notice of Meeting that accompanies this Explanatory Statement.

Resolution 2 will be passed if it is passed as an ordinary resolution of the Company (if more than 50% of votes cast by Shareholders entitled to vote on the resolution vote in favour of Resolution 2).

#### 4.4 **Directors' recommendation**

The Directors of the Company unanimously recommend that the Shareholders vote in favour of Resolution 2 to approve the ratification of 18,990,828 Shares issued to the Vendors of the Target on 11 February 2022.

### 5 **Glossary**

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**30-day VWAP** means volume weighted average price of Shares over a period of 30 consecutive trading days on ASX and Chi-X.

**Acquisition** means acquisition by the Company of all of the shares in the Target on 11 February 2022 under the SPA.

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

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

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

**Board** means the board of directors of the Company at the date of this Notice of Meeting.

**Company** means Comms Group Limited ACN 619 196 539.

**Corporations Act** means the *Corporations Act 2001* (Cth), as amended from time to time.

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

**Directors** means the directors of the Company at the date of this Notice of Meeting.

**EBITDA** means earnings before interest, tax, depreciation and amortisation.

**Explanatory Statement** means the explanatory statement enclosed with the Notice of Meeting.

**FA** means the facility agreement between the Financier, the Company and others dated 3 February 2022.

**Finance Document** means a document relating to a facility under the FA.

**Financier** means Commonwealth Bank of Australia ABN 48 123 123 124.

**Guarantee** has the meaning given to it in Section 4.2.

**Guarantor** means each of:

- (a) Commschoice Pty Ltd ACN 133 368 797;
- (b) Comms Group Services Pty Ltd ACN 626 943 011;
- (c) Telegate Pty Limited ACN 147 243 865;
- (d) Telaustralia Pty Ltd ACN 617 172 120;
- (e) Next Telecom Pty Ltd ACN 074 728 724;
- (f) Binary Networks Pty Ltd ACN 132 135 543;

- (g) Binary Wholesale Pty Ltd ACN 614 301 610;
- (h) Syntel Pty Ltd ACN 164 311 175; and
- (i) any other entity that accedes as a guarantor to the FA pursuant to an obligor accession letter.

**Meeting** means the general meeting of the Shareholders of the Company to which this Notice of Meeting relates.

**Notice of Meeting** means this notice of general meeting and explanatory statement.

**Obligor** means the Company, Commschoice Operations Pty Ltd or Comms Group Operations Pty Ltd (each as a borrower under the FA) or a Guarantor.

**Proxy Form** means the proxy form that accompanies the Notice of Meeting.

**Resolutions** means the resolutions that are set out and explained in the Notice of Meeting.

**Security** means a guarantee and security over the assets of the Company and its subsidiaries in favour of the Financier.

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

**Share Registry** means Boardroom Pty Limited ABN 14 003 209 836.

**Shareholder** means a holder of one or more Shares.

**SPA** means the share sale and purchase agreement dated 3 February 2022 between the Company, the Vendors and others.

**Target** means On Group Holdings Pty Ltd ACN 622 185 808.

**Target Entities** means the Target and its wholly owned Australian subsidiaries, being onPlatinum ICT Pty Ltd ACN 161 584 112 and Tango Technology Pty Limited ACN 151 176 297) (each a **Target Entity**).

**Vendors** means the former shareholders of the Target who sold their shares in the Target to the Company under the SPA.



## 6 Proxy Form

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Proxy Form **attached**.

**All Correspondence to:**

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

📠 **By Fax:** +61 2 9290 9655

💻 **Online:** [www.boardroomlimited.com.au](http://www.boardroomlimited.com.au)

☎ **By Phone:** (within Australia) 1300 737 760  
(outside Australia) +61 2 9290 9600

## YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 11:00am (Sydney Time) on Wednesday, 23 March 2022.**

### 🖥 TO VOTE ONLINE

**STEP 1: VISIT** <https://www.votingonline.com.au/ccgegm2022>

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

### 📱 BY SMARTPHONE



Scan QR Code using smartphone  
QR Reader App

## TO VOTE BY COMPLETING THE PROXY FORM

### STEP 1 APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

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

#### Appointment of a Second Proxy

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

To appoint a second proxy you must:

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

### STEP 2 VOTING DIRECTIONS TO YOUR PROXY

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

#### Proxy which is a Body Corporate

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

### STEP 3 SIGN THE FORM

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

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

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

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

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

### STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **11:00am (Sydney Time) on Wednesday, 23 March 2022**. Any Proxy Form received after that time will not be valid for the scheduled meeting.

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

🖥 **Online** <https://www.votingonline.com.au/ccgegm2022>

📠 **By Fax** + 61 2 9290 9655

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

👤 **In Person** Boardroom Pty Limited  
Level 12, 225 George Street,  
Sydney NSW 2000 Australia

### Attending the Meeting

This will be held as a virtual meeting.

# Comms Group Limited

ACN 619 196 539

☐

## Your Address

This is your address as it appears on the company's share register. If this is incorrect, please mark the box with an "X" and make the correction in the space to the left. Securityholders sponsored by a broker should advise their broker of any changes.

**Please note, you cannot change ownership of your securities using this form.**

## PROXY FORM

### STEP 1 APPOINT A PROXY

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

☐

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

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

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the Extraordinary General Meeting of the Company to be held **virtually on Friday, 25 March 2022 at 11:00am (Sydney Time)** and at any adjournment of that meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

### STEP 2 VOTING DIRECTIONS

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

		For	Against	Abstain*
Resolution 1	Approval of Financial Assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Ratification of Prior Issue of Shares	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### STEP 3 SIGNATURE OF SECURITYHOLDERS

This form must be signed to enable your directions to be implemented.

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director / Company Secretary

Contact Name.....

Contact Daytime Telephone.....

Date / / 2022