



20 April 2023

**Fluence Corporation Limited – Annual General Meeting of Shareholders, 25 May 2023**

Dear Shareholder:

Notice is hereby given that the Annual General Meeting of Shareholders of Fluence Corporation Limited (the “Company”) will be held virtually via a webinar conferencing facility at 10:00am (AEST) on Thursday, 25 May 2023 (the “Meeting”). Notice is also given that the Company’s Annual Report for the year ended 31 December 2022 (the “Annual Report”) is available.

In accordance with the Corporations Act 2001 (Cth), the Company will not be dispatching physical copies of the Notice of Meeting. Instead, the Notice of Meeting, accompanying explanatory statement and Annual Report (Meeting Materials) are being made available to shareholders electronically. This means that:

- You can access the Meeting Materials online at the Company’s website <https://www.fluencecorp.com/> or at the Company’s share registry’s website <https://www.votingonline.com.au/flcagm2023> by logging in and selecting Company Announcements from the main menu;
- A complete copy of the Meeting Materials has been posted to the Company’s ASX Market announcements page at [www.asx.com.au](http://www.asx.com.au) under the Company’s ASX code “FLC”; and
- If you have provided an email address and have elected to receive electronic communications from the Company, you will receive an email to your nominated email address with a link to an electronic copy of the Meeting Materials and the voting instruction form.

Shareholders can still elect to receive some or all of their communications in physical or electronic form or elect not to receive certain documents such as annual reports. To review your communications preferences or sign up to receive your shareholder communications via email, please update your details at [www.investorserve.com.au](http://www.investorserve.com.au). If you have not yet registered, you will need your shareholder information including SRN/HIN details.

If you are unable to access the Meeting Materials online, please contact our share registry BoardRoom Pty Limited on [enquiries@boardroomlimited.com.au](mailto:enquiries@boardroomlimited.com.au) to obtain a copy.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Melanie Leydin".

Melanie Leydin  
Company Secretary  
Fluence Corporation Limited

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**Fluence Corporation Limited**

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**FLUENCE CORPORATION LIMITED**

**ABN 52 127 734 196**

# **Notice of Annual General Meeting**

**Explanatory Statement and Voting Form**

## **Date of Meeting**

Thursday, 25 May 2023 (AEST)  
(Wednesday, 24 May 2023 (US EDT))

## **Time of Meeting**

10.00am (AEST)  
(8.00pm (US EDT))

## **Place of Meeting**

via internet webinar conferencing facility

Should you wish to discuss the matters in this Notice of Annual General Meeting, please do not hesitate to contact Melanie Leydin, Company Secretary at [company.secretary@fluencecorp.com](mailto:company.secretary@fluencecorp.com) or +61 03 9692 7222.

*This Notice of Annual General Meeting and Explanatory Statement should be read in its entirety.  
If shareholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor,  
or other professional advisor without delay.*

## FLUENCE CORPORATION LIMITED

ACN 127 734 196

Registered office: LEVEL 4, 96 – 100 ALBERT ROAD, SOUTH MELBOURNE, VIC 3205

### NOTICE OF ANNUAL GENERAL MEETING

Notice is hereby given that the Annual General Meeting (**AGM** or **the Meeting**) of shareholders of Fluence Corporation Limited (**Company** or **FLC**) will be held virtually via webinar conferencing facility on Thursday, 25 May 2023 at 10:00am (AEST) (Australia) and for USA east coast-based investors, Wednesday, 24 May 2023 at 8.00pm (EDT).

Questions may be submitted prior to the meeting by email to [company.secretary@fluencecorp.com](mailto:company.secretary@fluencecorp.com). The Company will, at its discretion, address questions received before or after the Meeting. The Company will not respond to inappropriate or offensive questions.

Shareholders will be able to submit written questions online during the webcast. Shareholders wishing to attend the webcast must register at the following address:

[https://us06web.zoom.us/webinar/register/WN\\_r0sY5xBaQ0qd-tEkK-0fsw](https://us06web.zoom.us/webinar/register/WN_r0sY5xBaQ0qd-tEkK-0fsw)

using their full name, company (if applicable), city and other shareholding details. Please note that registered participants will receive their dial in number upon registration.

Any shareholders who wish to attend the AGM online should therefore monitor the Company's website and its ASX announcements for any updates about the AGM. If it becomes necessary or appropriate to make alternative arrangements for the holding or conducting of the Meeting, the Company will make further information available through the ASX website at [asx.com.au](http://asx.com.au) (ASX: FLC) and on its website at <https://www.fluencecorp.com/investor-news/>.

# AGENDA

The Explanatory Statement (the **Statement**) and Voting Form which accompany and form part of this Notice of Annual General Meeting (this **Notice**), include defined terms and describe in more detail the matters to be considered. Please consider this Notice, the Statement, and the Voting Form in their entirety.

## ORDINARY BUSINESS

### Receipt and Consideration of Financial Statements & Reports

To receive and consider the Financial Report of the Company, together with the Directors' Report (including the Remuneration Report) and Auditor's Report as set out in the Company's Annual Report for the year ended 31 December 2022.

*Note: Except as set out in Resolution 1, there is no requirement for shareholders to approve these reports. Accordingly, no resolution will be put to shareholders on this item of business.*

#### Resolution 1 Adoption of Remuneration Report

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

*"That for the purpose of section 250R(2) of the Corporations Act and for all other purposes, the Remuneration Report (included in the Directors' Report) for the financial year ended 31 December 2022 be adopted."*

A voting exclusion applies to this resolution as outlined in the Statement.

#### Resolution 2 Election of Douglas Brown as a Director and Chairman of the Company

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

*"That, Douglas Brown, who having been appointed as a Director and Chairman of the Company since the last AGM, retires in accordance with the Constitution of the Company and the ASX Listing Rules and, being eligible, offer himself for election, be elected as Director and Chairman."*

A voting exclusion does not apply to this resolution.

#### Resolution 3 Re-election of Ross Haghighat as a Director of the Company

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

*"That, Ross Haghighat, who retires by rotation in accordance with the Constitution of the Company, and being eligible, offer himself for re-election, be re-elected as a Director of the Company."*

A voting exclusion does not apply to this resolution.

#### Resolution 4 Approval to Grant Options to Douglas Brown (and/or his nominee)

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

*"That for the purposes of ASX Listing Rule 10.11, sections 200B and 200E of the Corporations Act and for all other purposes, approval be given to issue a total of 500,000 unlisted options, and the*

*issue of any shares in the Company pursuant to the exercise of such options, to Douglas Brown (and/or his nominee(s)) and on the terms and conditions described in the Explanatory Statement.”*

A voting exclusion applies to this resolution as outlined in the Statement.

#### **Resolution 5 Approval to Grant Options to Richard Irving (and/or his nominee)**

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

*“That for the purposes of ASX Listing Rule 10.11, sections 200B and 200E of the Corporations Act and for all other purposes, approval be given to issue a total of 500,000 unlisted options, and the issue of any shares in the Company pursuant to the exercise of such options, to Richard Irving (and/or his nominee(s)) on the terms and conditions described in the Explanatory Statement.”*

A voting exclusion applies to this resolution as outlined in the Statement.

#### **Resolution 6 Approval to Grant Options to Ross Haghightat (and/or his nominee)**

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

*“That for the purposes of ASX Listing Rule 10.11, sections 200B and 200E of the Corporations Act and for all other purposes, approval be given to issue a total of 500,000 unlisted options, and the issue of any shares in the Company pursuant to the exercise of such options, to Ross Haghightat (and/or his nominee(s)) on the terms and conditions described in the Explanatory Statement.”*

A voting exclusion applies to this resolution as outlined in the Statement.

#### **Resolution 7 Approval to Grant Options to Paul Donnelly (and/or his nominee)**

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

*“That for the purposes of ASX Listing Rule 10.11, sections 200B and 200E of the Corporations Act and for all other purposes, approval be given to issue a total of 500,000 unlisted options, and the issue of any shares in the Company pursuant to the exercise of such options, to Paul Donnelly (and/or his nominee(s)) on the terms and conditions described in the Explanatory Statement.”*

A voting exclusion applies to this resolution as outlined in the Statement.

#### **Resolution 8 Approval to Grant Options to Samantha Tough (and/or her nominee)**

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

*“That for the purposes of ASX Listing Rule 10.11, sections 200B and 200E of the Corporations Act and for all other purposes, approval be given to issue a total of 500,000 unlisted options, and the issue of any shares in the Company pursuant to the exercise of such options, to Samantha Tough (and/or her nominee(s)) on the terms and conditions described in the Explanatory Statement.”*

A voting exclusion applies to this resolution as outlined in the Statement.

#### **Resolution 9 Approval to renew the Company’s Employee Stock Option Plan**

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

*“That for the purposes of ASX Listing Rule 7.2 exception 13(b), and for all other purposes, approval is given to renew the Company’s 2020 Employee Stock Option Plan (ESOP) and to issue securities under the ESOP as described in the Explanatory Statement which accompanies and forms part of this Notice of Meeting.”*

A voting exclusion statement as set out below in this Notice applies to this resolution.

## **SPECIAL BUSINESS**

### **Resolution 10 Approval of 10% Placement Capacity**

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

*“That, pursuant to and in accordance with Listing Rule 7.1A and for all other purposes, shareholders approve the issue (at its discretion) Equity Securities up to 10% of the issued capital of the Company (at the time of the issue) calculated in accordance with the formula prescribed in Listing Rule 7.1A.2 and on the terms and conditions in the Explanatory Statement.”*

A voting exclusion does not apply to this resolution.

By the order of the Board



**Melanie Leydin**  
Company Secretary  
17 April 2023

## Notes

### 1. Entire Notice

The details of the resolutions contained in the Statement accompanying this Notice should be read together with, and form part of, this Notice.

### 2. Record Date

The Company has determined that for the purposes of the AGM, shares will be taken to be held by the persons who are registered as holding the shares at 7pm (AEST) on the date 48 hours before the date of the AGM. Only those persons will be entitled to vote at the AGM and transfers registered after that time will be disregarded in determining entitlements to attend and vote at the AGM.

### 3. Direct Voting

- a) A direct vote allows shareholders to vote on the items of business before the AGM. This means the shareholder does not then need to attend the AGM or appoint a proxy. To do this, shareholders should follow the "Direct Voting" instructions in the Voting Form accompanying this Notice. Please note that a shareholder who has cast a direct vote may still attend and vote at the AGM. However, by doing so, the shareholder will automatically cancel their direct vote unless the shareholder instructs the Company not to cancel their direct vote.
- b) To be effective, Voting Forms containing direct voting directions must be received by the Company's share registry Boardroom Pty Limited no later than 48 hours before the commencement of the AGM, this is no later than Tuesday, 23 May 2023 at 10:00am (AEST) (and for USA based investors, Monday, 22 May 2023 at 8.00pm (EDT)). Any direct voting directions received after that time will not be valid for the scheduled meeting.

### 4. Proxies

- (a) If a shareholder is unable to attend and vote at the AGM, and does not choose to use direct voting, they are entitled to appoint a proxy to attend the AGM and vote on their behalf.
- (b) Each shareholder has a right to appoint one or two proxies.
- (c) A proxy need not be a shareholder of the Company.
- (d) If a shareholder is a company, it must execute under its common seal or otherwise in accordance with its constitution or the Corporations Act.
- (e) Where a shareholder is entitled to cast two or more votes, the shareholder may appoint two proxies and may specify the proportion if number of votes each proxy is appointed to exercise.
- (f) If a shareholder appoints two proxies, and the appointment does not specify the proportion or number of the shareholder's votes, each proxy may exercise half of the votes.
- (g) A proxy must be signed by the shareholder or his or her attorney who has not received any notice of revocation of the authority.
- (h) To be effective, Voting Forms containing proxy appointments and directions must be received by the Company's share registry Boardroom Pty Limited no later than 48 hours before the commencement of the AGM, this is no later than Tuesday, 23 May 2023 at 10:00am (AEST) (and for USA based investors, Monday, 22 May 2023 at 8.00pm (EDT)). Any proxy appointments received after that time will not be valid for the scheduled meeting.

### 5. Corporate Representative

Any corporate shareholder who has appointed a person to act as its corporate representative at the Meeting should provide that person with a certificate or letter executed in accordance with the Corporations Act authorising him or her to act as that company's representative. Any votes will still be required to be lodged by proxy. The authority may be sent to the Company and/or registry in advance of the Meeting or handed in at the Meeting when registering as a corporate representative.

### 6. Chair's Voting Intentions

Subject to the restrictions set out in Note 7 below, the Chair of the meeting will vote undirected proxies in favour of all of the proposed resolutions.

The Chair will call a poll on all proposed resolutions.

### 7. Voting Exclusion Statements

See Statement.

### 8. Enquiries

Shareholders are invited to contact the Company Secretary, Melanie Leydin on +61 (03) 9692 7222 or [company.secretary@fluencecorp.com](mailto:company.secretary@fluencecorp.com) if they have any queries in respect of the matters set out in these documents.

# EXPLANATORY STATEMENT

## Purpose of Information

This Explanatory Statement (this **Statement**) is included in, and forms part of, the Notice. The purpose of this Statement is to provide Shareholders with information they may require in order to make an informed decision on the applicable resolution.

If you are in doubt as to how to vote, you should seek advice from your accountant, solicitor, tax advisor or other professional adviser prior to voting. It is important that you read this Statement in its entirety for a detailed explanation of the applicable resolution.

Defined terms used in this Notice have the meanings given to them in the Glossary at the end of this Notice.

## Receipt and Consideration of Accounts & Reports

A copy of the Company's Annual Report for the financial year ended 31 December 2022 (which incorporates the Company's financial report, reports of the Directors (including the Remuneration Report) and the auditors) may be obtained at <https://www.fluencecorp.com/investor-news/> or via the Company's announcement platform on ASX. You may obtain a copy free of charge in hard copy form by contacting the Company by phone at +61 (03) 9692 7245, and you may request that this occurs on a standing basis for future years.

Shareholders will have the opportunity to ask questions about, or make comments on, the 2022 Annual Report. The auditor will be invited to attend, to answer questions about the audit of the Company's 2022 Annual Financial Statements.

## Resolution 1 Adoption of Remuneration Report

### 1.1 Background

Section 250R(2) of the Corporations Act requires that a resolution to adopt the Remuneration Report must be put to the vote at the AGM. The vote on this resolution is advisory only and does not bind the Directors or the Company.

The Remuneration Report is set out in the Directors' Report in the Company's 2022 Annual Report. The Remuneration Report sets out the Company's remuneration arrangements for the Directors and senior management of the Company.

In accordance with Section 250SA of the Corporations Act, Shareholders will be provided with a reasonable opportunity to ask questions concerning, or make comments on, the Remuneration Report at the AGM.

In accordance with Division 9 of Part 2G.2 of the Corporations Act, if twenty-five percent (25%) or more of votes that are cast are voted against the adoption of the Remuneration Report at two consecutive AGMs, Shareholders will be required to vote at the second of those AGMs on a resolution (a "spill resolution") that another meeting be held within 90 days at which all of the Company's Directors (other than the Managing Director) must go up for re-election.

It is noted that at the Company's last AGM, the votes cast against the Remuneration Report represented less than twenty-five percent (25%) of the total votes cast on that resolution and accordingly, a spill resolution will not be required for the Meeting.

The Directors will consider the outcome of the vote and comments made by shareholders on the Remuneration Report at the Meeting when reviewing the Company's remuneration policies.



## 1.2 Directors' Recommendation

Noting that each Director has a personal interest in their own remuneration from the Company (as such interests are described in the Remuneration Report) and, as described in the voting exclusions on this resolution (set out in the Notice), that each Director (or any Closely Related Party of a Director) is excluded from voting their shares on this resolution, the Directors unanimously recommend that Shareholders vote in favour of to adopt the Remuneration Report.

## 1.3 Voting Exclusions

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

- (a) a person who is a member of the Key Management Personnel (as defined by the Corporations Act, (**KMP**)) whose remuneration details are included in the Remuneration Report for the year ended 31 December 2022 or a closely Related Party of such KMP (regardless of the capacity in which the vote is cast); and
- (b) as proxy by a person who is a member of the KMP on the date of the AGM or a Closely Related Party of such a member.

However, the Company need not disregard a vote on this Resolution 1 if:

- (c) it is cast as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form; or
- (d) it is cast by the Chairman for a person who is entitled to vote, and the Proxy Form does not specify the way the proxy is to vote on Resolution 1, provided that the Proxy Form includes an express authorisation for the Chairman to exercise the proxy even though Resolution 1 is connected directly or indirectly with the remuneration of the KMP.

## Resolution 2 Election of Douglas Brown as a Director and Chairman of the Company

### 2.1 Background

The Company's Constitution specifies that, the Company's Directors have the power at any time to appoint any person to be a Director either to fill a vacancy or as an addition to the existing Directors. That Director will hold office until the next general meeting of the Company when the newly appointed Director may be nominated for re-election.

Douglas Brown was appointed as an independent non-executive Director and Chairperson of the Board on 20 March 2023.

Douglas Brown is one of only a handful of globally recognized senior executives to have led two successful billion dollar exits in the water space.

He was founder, Chairman and CEO of AquaVenture Holdings, which he led to a listing on the New York Stock Exchange ("NYSE") in 2016 and then subsequently sold to Culligan Water for US\$1.1 billion in 2020 while he served as Chairman. Mr. Brown was also CEO of Seven Seas Water, an AquaVenture Holdings business. Previously he was CEO of NYSE-listed Ionics, Inc., which was acquired by GE Water for US\$1.3 billion in 2005. Prior to Ionics, Mr. Brown was CEO of Advent International, a global private equity firm. Mr. Brown's experience spans the US, Europe, South America, the Middle East, Caribbean, Africa and Southeast Asia.

### 2.2 Directors' Recommendation

The Board, (with Douglas Brown abstaining), recommends that Shareholders vote in favour of the election of Mr Brown as a Director and the Chairman of the Board of the Company. The Chairman of the meeting intends to vote undirected proxies in favour of Douglas Brown's election.

### **2.3 Voting Exclusions**

There is no voting exclusion on this resolution.

## **Resolution 3 Re-election of Ross Haghghat as a Director of the Company**

### **3.1 Background**

In accordance with ASX Listing Rule 14.4 and Rule 4.3 of the Company's Constitution, Directors must retire after the third AGM since they were last elected. Further, in accordance with the Company's Constitution, one-third of the Directors (excluding the Managing Director), or if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors, must retire at each AGM. The Directors to retire by rotation at the AGM are those Directors who have been longest in office since their last election. If two or more persons became Directors on the same day, those to retire must be determined by lot unless they otherwise agree among themselves.

Mr Haghghat was appointed as a Non-Executive Director of the Company on 18 December 2015 and was last re-elected by Shareholders at the AGM held in May 2021. By agreement, Mr Haghghat, being eligible, offers himself for re-election as a Director at this AGM.

Mr. Haghghat has over 30 years of experience in the technology sector as founder or co-founder of half a dozen companies with a combined shareholder value exceeding \$4.5B.

With over 20 years in operating and strategic roles and a decade in the investment arena, he has helped to create a number of global enterprises in the private and public space in the US, China, Australia and Europe. Mr. Haghghat was Non-Executive Director of Emefcy Group Limited from 2015.

He serves as Chairman for Triton Systems Group - a Global Investment and Product Venturing firm. He serves as a Director at Aduro Biotech a clinical stage biopharma (Nasdaq: ADRO) and is Chairman of FRX Polymers, a specialty chemicals firm with operations in the US, Europe, and China.

### **3.2 Directors' Recommendation**

The Board, (with Ross Haghghat abstaining), recommends that Shareholders vote in favour of the election of Mr Haghghat as a Director of the Company. The Chairman of the meeting intends to vote undirected proxies in favour of Ross Haghghat's re-election.

### **3.3 Voting Exclusions**

There is no voting exclusion on this resolution.

## **Resolutions 4 to 8 Approval to Grant Options to Directors of the Company**

### **4.1. Background**

Resolutions 4, 5, 6, 7 and 8 seek Shareholder approval to grant a total of 2,500,000 unlisted options (**Director Options**) to the Directors of the Company on the terms described below, as well as Shareholder approval for the issue of any corresponding shares on the vesting and the exercise of those Director Options. These Director Options are proposed to be issued to the following Directors (**Recipient Director**).

Table 1

Resolution	Director Option Recipients ("Recipient Director")	Position	Number of options ("Director Options")
4	Douglas Brown (and/or nominee)	Chairman	500,000
5	Richard Irving (and/or nominee)	Non-Executive Director	500,000
6	Ross Haghightat (and/or nominee)	Non-Executive Director	500,000
7	Paul Donnelly (and/or nominee)	Non-Executive Director	500,000
8	Samantha Tough (and/or nominee)	Non-Executive Director	500,000

As the Director Options will form part of Recipient Directors' remuneration, they will be granted for no cash payment and there will be no amount payable on vesting. As part of the Company's ongoing incentive strategy to retain talent and to encourage key decision makers, including senior executives and the Directors to continue with the Company's strategies on its financial performance and share price performance, it is proposed that unlisted options be granted to the Directors of the Company to align their interests with the interests of public Shareholders. The Director Options also provide a cash efficient mechanism to compensate Directors.

The Board believes that it is appropriate to use options to compensate the Recipient Directors as this is in line with current market practices and remunerates appropriately given the circumstances of the Company. The options provide an appropriate and meaningful form of remuneration that aligns with Shareholder interests. The Board believes that the achievement of the time vesting conditions attached to these Director Options will be to the benefit of all Shareholders as these will motivate the Recipient Directors to remain engaged with the Company's to carry on the role of implementing and executing the Company's strategies and overseeing operations. In particular, the Board considers that the value attributed to the Director Options (as described below) and their associated terms and conditions represent reasonable remuneration for the Recipient Directors as if the Company and the Recipient Directors were dealing at arm's length.

#### 4.2. Terms of Options

The Director Options will be granted for no cash consideration. Each Director Option will be converted to one fully paid ordinary share in the Company subject to the payment of the exercise price and the vesting conditions being satisfied. Prior to their exercise, the Director Options do not carry any right to receive dividend or to vote.

The proposed Director Options to be granted to each Director contain the same terms, which are summarised as follows.

##### 4.2.1 Number of Options to be Granted, Exercise Price, Vesting Conditions and Expiry Date

Table 2

Director Option Recipients ("Recipient Director")	Position	Grant Price	Number of options	Exercise Price	Vesting Conditions	Expiry Date
Douglas Brown (and/or nominee)	Chairman	Nil	500,000	\$0.20 being 10% premium to	The earlier of: • Vesting annually in equal instalments	

Richard Irving (and/or nominee)	Non-Executive Director	Nil	500,000	10-day VWAP prior to 23 March 2023.	over 3 years with first vesting on first anniversary of the grant date; or • Accelerate vesting for all options upon change of control event.	5 <sup>th</sup> anniversary of the grant date.
Ross Haghghat (and/or nominee)	Non-Executive Director	Nil	500,000			
Paul Donnelly (and/or nominee)	Non-Executive Director	Nil	500,000			
Samantha Tough (and/or nominee)	Non-Executive Director	Nil	500,000			

#### 4.2.2 No Voting Rights

The Director Options do not confer:

- the right to participate in any dividends paid by the Company;
- a right to notices of general meetings of the Company, except as required by law;
- a right to attend or speak at general meetings of the Company;
- a right to vote at any general meetings of the Company; or
- a right to participate in new issues of securities in the Company.

#### 4.2.3 Cessation of Employment/Engagement with the Company

When the Recipient Director ceased their employment and/or engagement with the Company, subject to the Board's discretion, the vested and unvested Director Options may lapse:

- Immediately after 5.00pm on the final date of employment/engagement;
- The expiry of the exercise date;
- The expiry of 60 days after that Recipient Director ceases to be employed or engaged by a member of the Company group by reason of dismissal, resignation or termination of employment, office or retirement;
- Upon a determination by the Board that the Recipient Director has acted fraudulently, dishonestly or in breach of his or her obligations as an officer of the Company; or
- Seven (7) years after the date of issue.

### 4.3. **Value of the Proposed Director Options**

The Company has prepared an indicative fair value of the Director Options as summarised below. The values are indicative only based on assumptions relevant at the date of the calculation (Date). Different assumptions may be relevant at grant date which may alter the value of the Director Options for financial reporting purposes. The total remuneration packages for each of the above Directors would be increased by the total per Director set out in the following table, based on the assumptions. The final valuation amount will not be able to be calculated until the Director Options are issued.

Indicative Fair Value per Option: \$0.109 (10.9 cents)

Table 3

Recipient Director	Number of Options	Indicative Fair Value
Douglas Brown	500,000	\$54,500

(and/or nominee)		
Richard Irving (and/or nominee)	500,000	\$54,500
Ross Haghghat (and/or nominee)	500,000	\$54,500
Paul Donnelly (and/or nominee)	500,000	\$54,500
Samantha Tough (and/or nominee)	500,000	\$54,500
<b>TOTAL:</b>	<b>2,500,000</b>	<b>\$272,500</b>

The Director Options were valued by the Company using the Hoadley Trading & Investment Tools Binomial Tree valuation model, utilising the Cox, Ross & Rubinstein Binomial Tree. The assumptions used in the valuation model were as follows:

	<b>Assumptions:</b>
Valuation date <sup>1</sup>	5 April 2023
Spot price (5-Apr-2023)	\$0.19
Exercise price	\$0.20
Vesting date	The earlier of: <ul style="list-style-type: none"> <li>• Vesting annually in equal instalments over 3 years with first vesting on first anniversary of the grant date; or</li> <li>• Accelerate vesting for all options upon change of control event.</li> </ul>
Expiry date	5 April 2028
Expected future volatility <sup>2</sup>	67.9%
Risk free rate	2.985%
Dividend yield	Nil
Vesting probability <sup>3</sup>	100%

<sup>1</sup> Based on the issue date being the valuation date.

<sup>2</sup> Based on assessment of historical volatility over relevant trading periods, however historical volatility may not be a reasonable proxy for expected future volatility.

<sup>3</sup> Based on management's assessed probability that vesting conditions will be satisfied.

#### 4.4. Directors' Remuneration Packages and Interests

As at the date of this Notice of Meeting, the current total cash remuneration packages of each of the Recipient Directors are:

Table 4

<b>Recipient Director</b>	<b>Position</b>	<b>Remuneration Package Details*</b>
Douglas Brown	Chairman	AU\$250,000 per annum, plus eligibility to be granted with options on terms decided by the Board, subject to necessary Shareholder approvals.
Richard Irving	Non-Executive Director	AU\$184,000 per annum, plus eligibility to be granted with options on terms decided by the Board, subject to necessary Shareholder approvals.
Paul Donnelly	Non-Executive Director	AU\$121,600 per annum, plus eligibility to be granted with options on terms decided by the Board, subject to necessary Shareholder approvals.

Ross Haghighat	Non-Executive Director	AU\$112,000 per annum, plus eligibility to be granted with options on terms decided by the Board, subject to necessary Shareholder approvals.
Samantha Tough	Non-Executive Director	AU\$108,000 per annum, plus eligibility to be granted with options on terms decided by the Board, subject to necessary Shareholder approvals.

*\*Note – Due to different roles and responsibilities, the fee received by each individual Non-Executive Director may differ. The Board with the assistance of the Remuneration and Nomination Committee reviews directors' remuneration on periodic basis. The next scheduled Non-Executive Director fees review will be in July 2023.*

The above Table 4 does not include value of the proposed Director Options, nor the value of previously issued Options.

As at 14 April 2023, the Directors have the following direct and indirect interests in Shares and Options in the Company:

Table 5

Recipient Directors (and/or associates)	Current Holdings as at the date of this Notice of Meeting	
	Shares	Options
Douglas Brown	13,000,000	12,500,000
Richard Irving	37,264,579	1,500,000
Paul Donnelly	500,000	2,000,000
Ross Haghighat	600,000	1,500,000
Samantha Tough	Nil	1,500,000

The exercise of the Director Options proposed to be granted under Resolutions 4-8 (assuming no other exercise of options or issue of securities other than those proposed for Directors under Resolutions 4-8), would result in holdings for each Director and a dilution of all other Shareholders' holdings in the Company based on the issued capital as at 14 April 2023 as follows:

Table 6

Director/Shareholder (and/or associate(s))	Total Current Shareholdings <sup>1</sup>		Shares issued if proposed options issued and exercised	Total Shareholdings if proposed options issued and exercised	
	Shares	%	# Shares	Shares	%
Douglas Brown	13,000,000	2.00%	500,000	13,500,000	2.07%
Richard Irving	37,264,579	5.73%	500,000	37,764,579	5.78%
Paul Donnelly	500,000	0.08%	500,000	1,000,000	0.15%
Ross Haghighat	600,000	0.09%	500,000	1,100,000	0.17%
Samantha Tough	Nil	-	500,000	500,000	0.08%
Other Shareholders	599,189,455	92.10%		586,489,455	89.81%
<b>TOTAL:</b>	<b>650,554,034</b>	<b>100.00%</b>	<b>2,500,000</b>	<b>653,054,034</b>	<b>100.00%</b>

#### 4.5. Corporations Act Requirements

##### 4.5.1 Reasonable Remuneration - Sections 208 & 211

The Board has formed the view that the issue of Director Options to the above Recipient Director (or their respective nominee(s)) do not require Shareholder approval under section 208 of the Corporations

<sup>1</sup> The current shareholdings were updated as at close of trading on 14 April 2023.

Act as the issues constitute “reasonable remuneration” in accordance with section 211 of the Corporations Act.

A “financial benefit” is defined in section 229 of the Corporations Act and includes granting an option to a related party.

Section 228 of the Corporations Act defines a “related party” for the purposes of Chapter 2E to include directors of the public company (section 228(2)(a)).

In reaching this view, the Board considers the proposed grant of Director Options aligns the interests of each of the Recipient Directors with the interests of Shareholders. The grant of Director Options to each of the Recipient Directors is a cost-effective form of remuneration when compared to the payment of cash consideration.

The Board believes that having regard to the Company's current cash position, and in order to compensate the Recipient Directors in line with current market practices, Director Options provide an appropriate and meaningful remuneration component to the Recipient Directors that is aligned with Shareholder interests. The proposed base levels of Director Options reflect the standardised contribution of each respective Director to the Company.

If Resolutions 4, 5, 6, 7, 8 are passed and the Director Options are issued, each of the Directors proposed to receive securities under these resolutions (including direct and indirect interests) will have a relevant interest as set out above.

#### 4.5.2 Retirement/Termination Benefit – Sections 200B & 200E

Sections 200B and 200E of the Corporations Act prohibit the Company from giving a benefit to a person who holds (or has held in the previous three years) a managerial or executive office with the Company or its subsidiaries, if that benefit is given in connection with that person's retirement from office and is in excess of that person's average annual base salary over the relevant period, unless the benefit is approved by Shareholders or an exemption applies.

Approval is therefore sought under section 200E of the Corporations Act to allow for the Board to reserve their discretion to allow a later lapsing date of the Recipient Director's unexercised options and the exercise of those options thereafter in the event that a Recipient Director ceases his/her employment or engagement with the Company.

If Shareholder approval is obtained, the value of the approved benefits will be disregarded when calculating the departing Recipient Director's termination benefits cap for the purpose of subsection 200F(2)(b) or subsection 200G(1)(c) of the Corporations Act. The approval will be effective from the date the resolution is passed until the expiry of a three-year period.

The value of any benefit relating to the Director Options given in connection with the departing Recipient Director ceasing to hold managerial or executive office cannot presently be ascertained. However, matters, events and circumstances that will, or are likely to, affect the calculation of that value are:

- the number of options held by that departing Recipient Director prior to the cessation of his/her employment;
- the date when, and the circumstances in which, the departing Recipient Director ceases employment;
- whether the vesting conditions are waived or (if not waived) met, and the number of Director Options that can be vested; and
- the market price of the Company's shares on ASX on the date the Director Options are vested and become exercisable.

#### **4.6. ASX Listing Rule 10.11**

As noted above, the Company is proposing to issue the Director Options to the Directors named above (the “**Director Option Issue**”).

Listing Rule 10.11 provides that unless one of the exceptions in Listing Rule 10.12 applies, a listed company must not issue or agree to issue equity securities to:

*10.11.1 a related party;*

*10.11.2 a person who is, or was at any time in the 6 months before the issue or agreement, a substantial(30%+) holder in the Company;*

*10.11.3 a person who is, or was at any time in the 6 months before the issue or agreement, a substantial (10%+) holder in the Company and who has nominated a director to the board of the Company pursuant to a relevant agreement which gives them a right or expectation to do so;*

*10.11.4 an associate of a person referred to in Listing Rules 10.11.1 to 10.11.3; or*

*10.11.5 a person whose relationship with the company or a person referred to in Listing Rules 10.11.1 to 10.11.4 is such that, in ASX’s opinion, the acquisition should be approved by its shareholders, unless it obtains the approval of its shareholders.*

The Issue falls within Listing Rules 10.11.1 above, as the proposed recipient(s) of the Director Options are Directors of the Company and are therefore related parties of the Company, and does not fall within any of the exceptions in Listing Rule 10.12. It therefore requires the approval of the Company’s shareholders under Listing Rule 10.11.

These resolutions therefore seeks the required shareholder approval to the Issue under and for the purposes of Listing Rule 10.11.

If approval(s) is/are given under ASX Listing Rule 10.11, approval(s) is/are not required under ASX Listing Rule 7.1.

#### **4.7. Disclosures for the purposes of ASX Listing Rule 10.13**

##### **4.7.1 Disclosures for the purposes of ASX Listing Rule 10.13**

The following disclosures are made for the purposes of ASX Listing Rule 10.13:

- (a) the names of the grantees are:
- Douglas Brown (or his nominee(s))
  - Richard Irving (or his nominee(s))
  - Ross Haghghat (or his nominee(s))
  - Samantha Jane Tough (or her nominee(s))
  - Paul Donnelly and/or his nominee(s) Tres Petitbijou Pty Limited acting for Donnelly Family Trust;
- (b) Recipient Directors fall within ASX Listing Rule 10.11.1, as they are each a Director of the Company and are therefore related parties of the Company;
- (c) The number and class of securities to be issued are set out in Table 1 above;
- (d) The material terms of the Director Options are set out above under part 4.2; the reasons why the Director Options are being proposed for issue are set out above under part 4.1; the value that the Company attributes to the Director Options and the valuation basis are set out above under part 4.3;
- (e) the Director Options will be issued no later than one month after the date of the Meeting;



- (f) the Director Options will be issued for nil consideration;
- (g) the purpose of the issue is to provide the Director Options as remuneration for the Recipient Directors. As such, there is no issue price for, and the Company will not receive cash from, the issue of the Director Options. Funds raised upon exercise of the Director Options will be applied to the working capital requirements of the Company at the time of exercise;
- (h) The details of the Recipient Directors' current remuneration package are set out in Table 4 above;
- (i) no loan will be made by the Company in relation to the grant of the Director Options.

#### **4.8. Effect of Passing or Not Passing Resolutions 4-8**

If Resolutions 4-8 are passed, the Company will be able to proceed with the issue of the Director Options and the Recipient Directors will receive the number of options set out above, with the increase in their remuneration and potential increase in their shareholding as described above.

If Resolutions 4-8 are not passed, the Company will not be able to proceed with the issue of the Director Options and the Recipient Directors will not receive the Director Options or have the potential shareholdings increase as described above.

#### **4.9. Directors' Recommendation**

The Board, (with Douglas Brown, Richard Irving, Ross Haghghat, Paul Donnelly and Samantha Tough abstaining for their respective interests) recommends that Shareholders vote in favour of Resolutions 4, 5, 6, 7 and 8.

The Chairman of the Meeting intends to vote undirected proxies in favour of Resolutions 4, 5, 6, 7 and 8.

#### **4.10. Voting Exclusions**

The Company will disregard any votes cast in favour of Resolutions 4, 5, 6, 7 and 8 by or on behalf of:

- (a) The Recipient Directors and any of their Associates, regardless of the capacity in which the votes are cast;
- (b) as a proxy, any person who is a member of KMP on the date of the AGM or a Closely Related Party of such a member; or
- (c) any other person who will obtain a material benefit as a result of the issue of the securities (except a benefit solely by being a shareholder in the Company).

However, this does not apply to a vote cast in favour of Resolutions 4, 5, 6, 7 and 8 by:

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

In accordance with section 250BD of the Corporations Act, a vote must not be cast as proxy on these resolutions by a member of the KMP, or a closely related party of a member of KMP, where that proxy appointment does not specify the way the proxy is to vote on the resolutions, and any such vote purported to be cast will be disregarded.

However, a person described above (a “KMP Voter”) may cast a vote on these resolutions as a proxy if:

- (a) The KMP Voter is the chair of the meeting; and
- (b) the written appointment of the chair as proxy expressly authorises the chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the KMP.

If you appoint the chair as your proxy and you do not direct the Chair how to vote, you will be expressly authorising the Chair to exercise the proxy even if the relevant resolution is connected directly or indirectly with the remuneration of a member of the KMP for the Company.

In accordance with section 200E of the Corporations Act, a vote must not be cast on these resolutions (in any capacity) by or on behalf of the Recipient Directors or an associate thereof and any such votes attempted to be cast will be excluded.

However, a person described above (a **Restricted Voter**) may cast a vote on these resolutions if:

- (a) it is cast by the Restricted Voter as a proxy appointed by writing that directs how to vote on the resolution; and
- (b) it is not cast on behalf of the Restricted Voter.

## Resolution 9 Approval to renew the Company’s Employee Stock Option Plan

### 9.1 Background

The Company is seeking shareholder approval to renew Fluence 2020 Employee Share Option Plan (**Plan**) as the Company’s Employee Incentive Scheme previously approved by the shareholders at the AGM on 4 June 2020.

Since 4 June 2020, the date on which Shareholders approved the Plan, the Company has issued 30,967,000 options under the Plan.

ASX Listing Rule 7.1 imposes a limit on the number of equity securities which the Company can issue in a given 12-month period without prior shareholder approval.

ASX Listing Rule 7.2 exception 13(b) provides an exception to ASX Listing Rule 7.1 for securities issued under an employee incentive scheme within 3 years after shareholder approval of the scheme. The Company therefore seeks approval of the Plan under ASX Listing Rule 7.2 Exception 13 so that issues of securities under the Plan do not impede the issuing capacity under ASX Listing Rule 7.1 and/or 7.1A.

Approval is sought to issue up to 32,527,701<sup>2</sup> options under the Plan entitling the applicable holder to one fully paid ordinary share upon exercise after achieving of the relevant vesting conditions. Any additional issues under the Plan above that number would be made using the Company’s placement capacity under ASX Listing Rule 7.1.

A summary of material terms of the Plan is set out as follows<sup>3</sup>:

<b>Offering of Options</b>	The Board may offer to issue Options to Eligible Employees, under the Plan and in such manner and on such other terms and
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<sup>2</sup> Being 5% of the total issued shares as at 14 April 2023.

<sup>3</sup> Capitalised terms shown in the table have the same meaning given to them under the Fluence 2020 Employee Share Option Plan.

	conditions as it in its absolute discretion determines. Offers of Options may be made to Directors at any time, but the Options may not be issued unless prior approval of the Company's shareholders has been obtained in accordance with the Corporations Act and the Listing Rules.
<b>Exercise Price</b>	Options will be issued free of charge to or for the benefit of Participants. The exercise price of the Options shall be as the Board in its absolute discretion determines, provided that it shall not be less than that amount which is equal to 80% of the Market Value calculated by reference to the day on which the Board resolves to offer the Options.
<b>Limit on Exercise</b>	The Board may limit the total number of Options which may be exercised under the Plan in any calendar year.
<b>Vesting Conditions</b>	The Board, in its absolute discretion, having regard to skills, experience, length of service with the Company Group, remuneration level and such other criteria as the Board considers appropriate in the circumstances, shall determine criteria to establish the periods during which the Options may be exercised or will vest. These criteria may incorporate performance related factors. Such factors may reflect, inter alia, profitability levels and sales targets and may be amended from time to time in accordance with the Plan or otherwise waived.
<b>Lapse</b>	Unless the Board in its absolute discretion determines otherwise, Options may lapse if the Participant ceases to be employed or engaged by a member of the Company Group.
<b>Entitlement</b>	Each Option entitles the holder to subscribe for and be issued with one Share (Subject to adjustment under these T&Cs).
<b>Quotation</b>	The Options will not be quoted on the ASX. However, application will be made to the ASX for official quotation of the Shares issued on the exercise of the Options.
<b>Adjustments</b>	If at any time the issued capital of the Company is reconstructed, all rights of Option holders are to be changed in a manner consistent with the Listing Rules.
<b>Transfer</b>	An Option may not be transferred or assigned unless the specified exemption applies.
<b>Exercise</b>	An Option is exercisable by the holder lodging with the Company a Notice of Exercise of Option, together with a cheque for the exercise price of each Option to be exercised and the relevant Option Certificate. If not all of the holder's Options are being exercised, a holder must exercise Options in multiples of 1,000.  An eligible Participant may elect to utilise cashless exercise facility i.e. net settlement of option exercises.

A copy of the Plan rules is available to Shareholders free of charge upon request to the Company Secretary.

## 9.2 ASX Listing Rules Chapter 7

An exception to ASX Listing Rule 7.1 is set out in ASX Listing Rule 7.2 (Exception 13(b)) which provides that ASX Listing Rule 7.1 does not apply to an issue under an employee incentive scheme if, within the three (3) years before the date of issue, shareholders have approved the incentive scheme.

Shareholder approval is sought to refresh such approval in accordance with Exception 13(b) of ASX Listing Rule 7.2 and to enable the Company to subsequently issue equity securities under the Plan for three (3) years after the Meeting, without using the Company's 15% Capacity.

The Company wishes to preserve the flexibility to use the 15% Capacity for each of the next three (3) years for issuing securities that are not related to the Plan. If this resolution is approved, the Company will be able to issue equity securities under the Plan to eligible participants over a period of next three (3) years and those equity securities will not count towards the Company's 15% Capacity applicable at the relevant time.

If this resolution is not passed, the Company may (subject to the Listing Rules and applicable law) issue equity securities under the Plan, however those securities will be taken into account when calculating whether the 15% Capacity under Listing Rule 7.1 has been reached.

### **9.3 Corporations Act**

Approval is also sought under this resolution for the purposes of section 260C of the Corporations Act 2001 (Cth). Under section 260C(4) of the Corporations Act, a company may financially assist a person to acquire its shares if the financial assistance is given under an employee share scheme that is approved by shareholders at a general meeting.

The Plan provides that the options under the Plan may be issued at nil acquisition price and the Board has the discretion to determine the exercise price of those options at an amount that is lower than the current Market Value of the Company's shares, but no less than 80% of the Market Value calculated by reference to the day on which the Board resolves to offer the options. This may be considered to be the Company providing financial assistance for the acquisition of its own shares or other securities. Accordingly, this resolution seeks approval of the Plan for the purposes of section 260C(4) of the Corporations Act.

### **9.4 Directors' Recommendation**

The Board recommends that shareholders vote in favour of this resolution.

The Chairman of the Meeting intends to vote undirected proxies in favour of this resolution.

### **9.5 Voting Exclusions**

The Company will disregard any votes cast in favour of this resolution by or on behalf of:

- (a) a person who is eligible to participate in the Plan or any associates of that person; or
- (b) a KMP, or any of their closely related parties.

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

- (a) a person as proxy or attorney for a person who is entitled to vote on the resolution in accordance with a direction on the Proxy Form;
- (b) the Chairman of the meeting as proxy or attorney for a person who is entitled to vote on the resolution in accordance with a direction on the Proxy Form to vote as the Chairman to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a KMP; 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 the resolution; and

- (ii) the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

## **Resolution 10 Approval of 10% Placement Capacity**

### **10.1 Background**

The Company is seeking Shareholder approval by way of a special resolution to have the ability, if required, to issue equity securities under the 10% Placement Facility. The effect of this resolution is to allow the Directors to issue equity securities under Listing Rule 7.1A during the 10% Placement Period (as defined below) without, or in addition to, using the Company's 15% Capacity under Listing Rule 7.1.

### **10.2 ASX Listing Rules**

#### **10.2.1 Listing Rules 7.1 & 7.1A**

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

Under Listing Rule 7.1A, however, an eligible entity can seek approval from its members, by way of a special resolution passed at its annual general meeting, to increase this 15% limit by an extra 10% (**10% Placement Facility**) to 25%.

An 'eligible entity' means an entity which is not included in the S&P/ASX 300 Index and which has a market capitalisation of \$300 million or less. The Company is, at the date of this Notice, an eligible entity. Note however that if, on the date of this Meeting, the market capitalisation of the Company exceeds \$300 million or the Company has been included in the S&P/ASX 300 Index, then this resolution will no longer be effective and will be withdrawn.

Resolution 10 seeks Shareholder approval by way of special resolution for the Company to have the additional 10% capacity provided for in Listing Rule 7.1A to issue equity securities without further Shareholder approval.

#### **10.2.2 Placement Period**

Shareholder approval of the 10% Placement Facility under Listing Rule 7.1A starts on the date of this AGM and expires on the first to occur of the following:

- (a) the date that is 12 months after the date of this AGM;
- (b) the time and date of the Company's next AGM; and
- (c) the time and date of the approval by Shareholders of a transaction under Listing Rules 11.1.2 (a significant change to the nature or scale of activities) or 11.2 (disposal of main undertaking) (**the 10% Placement Period**).

The Company will only issue and allot the equity securities approved under the 10% Placement Facility during the 10% Placement Period.

#### **10.2.3 Effect of Passing this Resolution**

If Shareholders pass this resolution, the number of equity securities permitted to be issued under the 10% Placement Facility will be determined in accordance with the formula prescribed in Listing Rule

7.1A.2 (see below) and the Company will be able to issue equity securities up to a combined 25% of the Shares on issue without further Shareholder approval.

If this resolution is not passed, the Company will not be able to access the additional 10% Placement Facility to issue equity securities provided under LR 7.1A without Shareholder approval and will remain limited by 15% Capacity to issue equity securities.

#### 10.2.4 Formula for Calculating the 10% Placement Facility – Listing Rule 7.1A.2

The maximum number of equity securities that may be issued by the Company under the 10% Placement Facility pursuant to Listing Rule 7.1A.2 is calculated in accordance with the following formula:

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

**A** is the number of Shares on issue at the commencement of the “relevant period” (which, for the Company, is the 12-month period immediately preceding the date of the issue or agreement):

- plus the number of fully paid shares issued in the relevant period under an exception in Listing Rule 7.2, other than exception 9, 16 or 17;
- plus the number of fully paid shares issued in the relevant period on the conversion of convertible securities within rule 7.2 exception 9 where:
  - i) the convertible securities were issued or agreed to be issued before the commencement of the relevant period; or
  - ii) the issue of, or agreement to issue, the convertible securities was approved, or taken under the Listing Rules to have been approved, under rule 7.1 or rule 7.4;
- plus the number of fully paid shares issued in the relevant period under an agreement to issue securities within rule 7.2 exception 16 where:
  - i) the agreement was entered into before the commencement of the relevant period; or
  - ii) the agreement or issue was approved, or taken under the Listing Rules to have been approved, under rule 7.1 or rule 7.4;
- plus the number of fully paid shares issued in the relevant period with approval of holders of shares under Listing Rules 7.1 or 7.4;
- plus the number of partly paid shares that became fully paid in the relevant period; and
- less the number of fully paid shares cancelled in the relevant period.

**D** is 10%

**E** is the number of equity securities issued or agreed to be issued under Listing Rule 7.1A.2 in the 12 months before the date of the issue or agreement to issue that are not issued with the approval of Shareholders under Listing Rule 7.1 or 7.4.

The ability of an entity to issue equity securities under Listing Rule 7.1A is in addition to the entity's 15% Capacity under Listing Rule 7.1. The actual number of equity securities that the Company will have capacity to issue under Listing Rule 7.1A will be calculated at the date of issue of the equity securities in accordance with the formula stated above.

#### 10.2.5 Type and Number of Equity Securities

Any equity securities issued under the 10% Placement Facility must be in the same class as an existing quoted class of equity securities of the Company. The Company, as at 14 April 2023, has on issue one class of quoted equity securities, being Shares as follows:

ASX Security Code and Description	Total Number
FLC: Ordinary Fully Paid	650,554,034

#### 10.2.6 Minimum Issue Price and Cash Consideration – Listing Rule 7.1A.3

The equity securities will be issued at an issue price of not less than 75% of the VWAP for the Company's equity securities in the same class calculated over the 15 trading days on which trades in that class were recorded immediately before:

- (a) the date on which the price at which the equity securities are to be issued is agreed by the Company and the recipient of the securities; or
- (b) if the equity securities are not issued within 10 trading days of the date in paragraph (a) above, the date on which the equity securities are issued.

#### 10.2.7 Purpose of the Funds Raised

The purposes for which the funds raised by an issue under the 10% Placement Facility may be used by the Company include, without limitation:

- (a) consideration for the acquisition(s) of the new assets and investments, including the expenses associated with such acquisition(s); and
- (b) continued expenditure on the Company's current business and/or general working capital.

#### 10.2.8 Risk of Economic and Voting Dilution

If this resolution is approved by Shareholders and the Company issues equity securities under the 10% Placement Facility, the existing Shareholders' voting power in the Company will be diluted as shown in the dilution table below.

Shareholders may be exposed to economic risk and voting dilution, including the following:

- (a) the market price for the Company's equity securities may be significantly lower on the date of the issue of the equity securities than on the date of this AGM; and
- (b) the equity securities may be issued at a price that is at a discount to the market price for the Company's equity securities on the issue date,

which may have an effect on the amount of funds raised by the issue of the equity securities.

The dilution table shows the hypothetical dilution of existing Shareholders on the basis of the market price of Shares as at 14 April 2023 (**Current Share Price**) and the current number of Shares for variable "A" calculated in accordance with the formula in Listing Rule 7.1A.2 as at the date of this Notice of Meeting.

The dilution table also shows:

- (a) Two examples where variable "A" has increased by 50% and 100%. Variable "A" is based on the number of Shares the Company has on issue. The number of Shares on issue may increase as a result of issues of Shares that do not require Shareholder approval (for example, a pro

rata entitlements issue or scrip issued under a takeover offer) or future specific placements under Listing Rule 7.1 that are approved at a future Shareholders' meeting; and

- (b) Two examples of where the issue price of Shares has decreased by 50% and increased by 100% as against the current market price.

This dilution table has been prepared on the following assumptions:

- (a) The Company issues the maximum number of equity securities available under the 10% Placement Facility;
- (b) No convertible security is exercised and converted into Share before the date of the issue of the Equity Securities;
- (c) The 10% voting dilution reflects the aggregate percentage dilution against the issued share capital at the time of issue. This is why the voting dilution is shown in each example as 10%;
- (d) The table does not show an example of dilution that may be caused to a particular Shareholder by reason of placements under the 10% Placement Facility, based on that Shareholder's holding at the date of the AGM;
- (e) The table shows only the effect of issues of equity securities under Listing Rule 7.1A, not under the 15% placement capacity under Listing Rule 7.1;
- (f) The issue of equity securities under the 10% Placement Facility consists only of Shares; and
- (g) The Current Share Price is \$0.19 being the closing price of the Shares on ASX on 14 April 2023.

*Dilution Table*

Variable 'A' in Listing Rule 7.1A.2	Dilution Scenario	Issue Price		
		50% decrease in Current Share Price \$0.10	Current Share Price \$0.19	100% increase in Current Share Price \$0.38
<b>Current Variable A</b> 650,554,034 Shares	10% Voting Dilution	65,055,403 Shares		
	Funds raised	\$ 6,180,263	\$ 12,360,527	\$ 24,721,053
<b>50% increase in current Variable A</b> 975,831,051 Shares	10% Voting Dilution	97,583,105 Shares		
	Funds raised	\$ 9,270,395	\$ 18,540,790	\$ 37,081,580
<b>100% increase in current Variable A</b> 1,301,108,068 Shares	10% Voting Dilution	130,110,807 Shares		
	Funds raised	\$ 12,360,527	\$ 24,721,053	\$ 49,442,107



#### 10.2.9 Allocation Policy

The Company's allocation policy is dependent on the prevailing market conditions at the time of any proposed issue pursuant to the 10% Placement Facility. The identity of the allottees of Equity Securities will be determined on a case-by-case basis having regard to relevant factors including, but not limited to, the following:

- (a) the methods of raising funds that are available to the Company, including but not limited to, rights issues or other issues in which existing security holders can participate;
- (b) the effect of the issue of the equity securities on the control of the Company;
- (c) the financial situation and solvency of the Company; and
- (d) advice from corporate, financial and broking advisers (if applicable).

The allottees under the 10% Placement Facility have not been determined as at the date of this Notice but may include existing substantial Shareholders, subject to compliance with Listing Rule 10.11, and/or new Shareholders who are not related parties or associates of a related party of the Company.

#### 10.2.10 Previous Issue

The Company has not issued or agreed to issue any Equity Securities under Listing Rule 7.1A.2 in the 12-month period preceding the date of this Meeting. The Company had not agreed, before the 12-month period referred to in the preceding paragraph, to issue any Equity Securities under rule 7.1A.2 where such securities remain unissued as at the date of the Meeting.

### **10.3 Special Resolution**

The ability to issue equity securities under the 10% Placement Facility is subject to Shareholder approval by way of a special resolution. This means it requires approval of 75% of the votes cast by Shareholders present or represented, and eligible to vote.

### **10.4 Directors Recommendation**

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

The Chair of the Meeting intends to vote undirected proxies in favour of this Resolution.

### **10.5 Voting Exclusions**

As at the date of dispatch of this Notice, the Company is not proposing to make an issue of Equity Securities under Listing Rule 7.1A.2 and, therefore, a voting exclusion statement is not required by Listing Rule 7.3A.7.

## GLOSSARY

<b>\$</b>	means Australian Dollars.
<b>10% Placement Facility</b>	has the meaning as defined in the Statement for Resolution 10.
<b>10% Placement Period</b>	has the meaning as defined in the Statement for Resolution 10.
<b>AEST</b>	means Australian Eastern Standard Time.
<b>Annual Report</b>	means the Directors' Report, the Financial Report, and Auditor's Report, in respect to the year ended 31 December 2022.
<b>ASX</b>	means ASX Limited ABN 98 008 624 691 or the Australian Securities Exchange, as the context requires.
<b>ASX Listing Rule or Listing Rule or LR</b>	means ASX Listing Rules published and maintained by ASX Limited.
<b>Auditor's Report</b>	means the auditor's report on the Financial Report.
<b>Board</b>	means of the board of Directors of the Company.
<b>Chairman or Chair</b>	means the person appointed to chair the AGM.
<b>Closely Related Party</b>	has the meaning given to this term under Section 9 of the Corporations Act.
<b>Company</b>	means Fluence Corporation Limited ACN 127 734 196.
<b>Constitution</b>	means the constitution of the Company as at the date of the Meeting.
<b>Corporations Act</b>	means <i>Corporations Act 2001</i> (Cth).
<b>Director</b>	means a director of the Company.
<b>Director Options</b>	has the meaning as defined in the Statement for Resolutions 4-8.
<b>Directors Report</b>	means the annual directors' report prepared under Chapter 2M of the Corporations Act for the Company and its controlled entities
<b>EDT</b>	means United States Eastern Daylight Time.
<b>ESOP or Plan</b>	means the Company's Employee Share Option Plan.
<b>Equity Security</b>	has the meaning given to this term under ASX Listing Rule 19.12.
<b>Financial Report</b>	means the annual financial report prepared under Chapter 2M of the Corporations Act for the Company and its controlled entities.
<b>Key Management Personnel or KMP</b>	has the meaning given to this term under Section 9 of the Corporations Act.
<b>Market Value</b>	has the meaning given to this term under the Company's Employee Share Option Plan to mean in relation to a Share, the volume weighted average market price (as defined in the ASX Listing Rules) of the Shares in the five (5) business days in which sales of the Shares were recorded immediately preceding the relevant business day, or the market value determined by applying other valuation methodology approved by the Board.
<b>Meeting</b>	has the meaning given in the introductory paragraph of the Notice of Meeting.
<b>Notice of Meeting or Notice</b>	means this Notice of AGM for the Company, including the attached notes and the Statements.
<b>Proxy Form or Voting Form</b>	means the proxy form attached to the Notice.

<b>Recipient Director</b>	has the meaning given to it in Table 1 of the Statement.
<b>Remuneration Report</b>	means the remuneration report which forms part of the Directors' Report of the Company for the financial year ended 31 December 2022 and which is set out in the 2022 Annual Report.
<b>S&amp;P/ASX 300 Index</b>	means the S&P/ASX 300 Index as published by Standard & Poors from time to time.
<b>Share</b>	means a fully paid ordinary share in the capital of the Company.
<b>Shareholder</b>	means the shareholder of the Company.
<b>Statement</b>	means the explanatory statement which forms part of the Notice of Meeting.
<b>Trading Day</b>	means a day determined by ASX to be a trading day in accordance with the Listing Rules.
<b>VWAP</b>	means volume weighted average price.

**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 10:00 am (AEST) on Tuesday 23 May 2023.**

### 🖥 TO VOTE ONLINE

- STEP 1: VISIT** <https://www.votingonline.com.au/flcagm2023>
- STEP 2: Enter your Postcode OR Country of Residence (if outside Australia)**
- STEP 3: Enter your Voting Access Code (VAC):**

### 📱 BY SMARTPHONE



Scan QR Code using smartphone  
QR Reader App

### TO VOTE BY COMPLETING THE PROXY FORM

#### SECTION 1: DIRECT VOTING

If you wish to vote directly, you should clearly mark the box in Section 1 and the boxes in Section 3 to indicate your voting instruction for each resolution. Please only mark either "for" or "against" for each resolution. Do not mark the "abstain" box if you are voting directly. If no direction is given on a resolution, or if you complete both the boxes in Section 1 and 2, your vote may be passed to the Chairman of the Meeting as your proxy. Securityholders, custodians and nominees may identify on the Voting Form the total number of votes in each of the categories "for" and "against" and their votes will be valid. The Chairman's decision as to whether a direct vote is valid is final and conclusive.

#### SECTION 2: APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

If you wish to appoint the Chairman of the Meeting as your proxy, mark the box in Section 2. If you wish to appoint someone other than the Chairman 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 or does not vote on a poll in accordance with your instructions, the Chairman of the Meeting will be your proxy by default. 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.

#### SECTION 3: VOTING DIRECTIONS

To cast your direct vote or to direct your proxy how to vote, place a mark in one of the boxes opposite each resolution. 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 resolution by inserting the percentage or number that you wish to vote in the appropriate box or boxes. The sum of the votes cast must not exceed your voting entitlement or 100%. If you do not mark any of the boxes on a given resolution, your proxy may vote as he or she chooses (subject to any voting restrictions that apply to your proxy). If you mark more than one box on a resolution for all your securities your vote on that resolution 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 **10:00 am (AEST) on Tuesday 23 May 2023.** 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/flcagm2023>
- 📠 **By Fax** + 61 2 9290 9655
- ✉ **By Mail** Boardroom Pty Limited  
GPO Box 3993,  
Sydney NSW 2001 Australia
- 👤 **In Person** Boardroom Pty Limited  
Level 18, 210 George Street,  
Sydney NSW 2000 Australia

**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**

**SECTION 1: DIRECT VOTING**

I/We being a Securityholder/s of **Fluence Corporation Limited** (Company) and entitled to attend and vote hereby elect to vote directly at the Annual General Meeting of the Company to be held **virtually via webinar conferencing facility on Thursday, 25 May 2023 (AEST), Wednesday, 24 May 2023 (US EDT)** and at any adjournment of that Meeting.

**SECTION 2: APPOINTMENT OF PROXY**

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

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

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

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the Annual General Meeting of the Company to be held **virtually via webinar conferencing facility on Thursday, 25 May 2023 (AEST), Wednesday, 24 May 2023 (US EDT)** 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.

Chair of the Meeting authorised to exercise undirected proxies on remuneration related matters: If I/we have appointed the Chair of the Meeting as my/our proxy or the Chair of the Meeting becomes my/our proxy by default and I/we have not directed my/our proxy how to vote in respect of Resolutions 1, 4-9 I/we expressly authorise the Chair of the Meeting to exercise my/our proxy in respect of these Resolutions even though Resolutions 1, 4-9 are connected with the remuneration of a member of the key management personnel for the Company.

The Chair of the Meeting will vote all undirected proxies in favour of all Items of business (including Resolutions 1, 4-9). If you wish to appoint the Chair of the Meeting as your proxy with a direction to vote against, or to abstain from voting on an item, you must provide a direction by marking the 'Against' or 'Abstain' box opposite that resolution.

**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*		FOR	AGAINST	ABSTAIN*	
<b>Res 1</b>	Adoption of Remuneration Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Res 8</b>	Approval to Grant Options to Samantha Tough (and/or her nominee)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Res 2</b>	Election of Douglas Brown as a Director of the Company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Res 9</b>	Approval to renew the Company's Employee Stock Option Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Res 3</b>	Re-election of Ross Haghight as a Director of the Company	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Special Resolution</b>				
<b>Res 4</b>	Approval to Grant Options to Douglas Brown (and/or his nominee)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Res 10</b>	Approval of 10% Placement Capacity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Res 5</b>	Approval to Grant Options to Richard Irving (and/or his nominee)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
<b>Res 6</b>	Approval to Grant Options to Ross Haghight (and/or his nominee)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					
<b>Res 7</b>	Approval to Grant Options to Paul Donnelly (and/or his nominee)	<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 / / 2023