# COVATA LIMITED ACN 120 658 497

#### **NOTICE OF 2016 ANNUAL GENERAL MEETING**

Notice is given that the 2016 Annual General Meeting of Covata Limited ("the **Company**" or "**Covata**") will be held at The Grace Hotel, 77 York Street, Sydney, New South Wales, 2000 on Wednesday, 30 November 2016 at 10.30am AEDT.

Further details in respect of each of the resolutions proposed in this Notice of Annual General Meeting are set out in the Explanatory Memorandum accompanying this Notice of Annual General Meeting. The details of the resolutions contained in the Explanatory Memorandum should be read together with, and form part of, this Notice of Annual General Meeting.

#### **GENERAL BUSINESS**

#### **2016 Annual Financial Statements**

To lay before the meeting and consider the 2016 Annual Financial Statements of the Company in respect of the year ended 30 June 2016 and comprising the Annual Financial Report, the Directors' Report and the Auditor's Report.

#### Resolution 1: Non-binding resolution to adopt Remuneration Report

To consider and, if thought fit, pass the following resolution as a non-binding ordinary resolution:

"That the Company approve the adoption of the Remuneration Report, included in the Directors' Report, for the year ended 30 June 2016."

#### **Voting Exclusion Statement:**

A vote on Resolution 1 must not be cast (in any capacity) by or on behalf of either of the following persons:

- (a) a member of the key management personnel, details of whose remuneration are included in the Remuneration Report; or
- (b) a closely related party of such a member (referred to herein as "Restricted Voters").

However, a person (the voter) described above may cast a vote on Resolution 1 as a proxy if the vote is not cast on behalf of a Restricted Voter and the voter is appointed as a proxy in writing that specifies the way the proxy is to vote on Resolution 1. The Chair may also exercise undirected proxies if the vote is cast on behalf of a person entitled to vote and the proxy appointment expressly authorises the Chair to exercise the proxy even if Resolution 1 is connected directly or indirectly with the remuneration of members of the key management personnel of the Company.

# Voting Note:

Directors of the Company who are key management personnel whose remuneration details are included in the 2016 Remuneration Report, any other key management personnel whose remuneration details are included in the 2016 Remuneration Report, or any of their closely related parties, will not be able to vote on Resolution 1 or to vote undirected proxies held by them on Resolution 1.

#### Resolution 2A: Re-Election of Phillip Dunkelberger as a Director

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

"THAT Phillip Dunkelberger who retires by rotation in accordance with the Company's Constitution and, being eligible, offers himself for re-election, be re-elected as a Director of the Company."

# Resolution 2B: Election of Bill McCluggage as a Director

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

"THAT Bill McCluggage, a Director appointed to fill a casual vacancy on 21 October 2016, who retires in accordance with the Company's Constitution and, being eligible, offers himself for election, be elected as a Director of the Company."

#### Resolution 3: Approval for issue of Options to Michael Quinert

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

"That, for the purposes of ASX Listing Rule 10.11 and for all other purposes, approval is given for the Company to issue 250,000 options (having an exercise price of \$0.195 (19.5 cents) and an expiry date of 20 July 2021) to Michael Quinert (or his nominee) on the terms and conditions set out in the Explanatory Statement."

#### **Voting Exclusion Statement:**

The Company will disregard any votes cast on this resolution cast by a person who is to receive securities under the proposed issue or any of their associates or it is cast as a proxy by a Restricted Voter. However, the Company need not disregard a vote if it is cast by a person as a proxy for a person who is entitled to vote, in accordance with the directions on the Proxy Form, or it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the Proxy Form or with the express authorisation to exercise the undirected proxy even though Resolution 3 is connected directly or indirectly with the remuneration of a member of the key management personnel for the Company's consolidated group.

#### **Resolution 4: Amendment of Constitution**

To consider and, if thought fit to pass, with or without amendment, the following resolution as a special resolution:

"THAT clause 15.11 of the Constitution of the Company be amended as set out in the Explanatory Memorandum which accompanied and formed part of the Notice of Meeting."

Dated: 25 October 2016

By the order of the Board

NTILY

Patrick Gowans
Joint Company Secretary

The accompanying Explanatory Memorandum and the Proxy and Voting Instructions form part of this Notice of Meeting.

#### PROXY AND VOTING INSTRUCTIONS

#### **Proxy Instructions**

A member who is entitled to vote at a meeting may appoint:

- one proxy if the member is only entitled to one vote; and
- one or two proxies if the member is entitled to more than one vote.

Where more than one proxy is appointed each proxy may be appointed to represent a specific proportion of the member's voting rights. If the appointment does not specify the proportion or number of votes each proxy may exercise, each proxy may exercise half of the votes in which case any fraction of votes will be disregarded.

The Proxy Form (and the power of attorney or other authority, if any, under which the Proxy Form is signed) or a copy or facsimile which appears on its face to be an authentic copy of the Proxy Form (and the power of attorney or other authority) must be lodged with the Company's share registry not less than 48 hours before the time for holding the Meeting, or adjourned meeting as the case may be, at which the individual named in the Proxy Form proposes to vote.

The Proxy Form must be signed by the member or his/her attorney duly authorised in writing or, if the member is a corporation, in a manner permitted by the Corporations Act. A proxy given by a foreign corporation must be executed in accordance with the laws of that corporation's place of incorporation.

The proxy may, but need not, be a member of the Company.

A Proxy Form is attached to this Notice.

If you sign the Proxy Form and do not appoint a proxy, you will have appointed the Chair of the meeting as your proxy.

# **Corporate Representatives**

Any corporation which is a member of the Company may authorise (by certificate under common seal or other form of execution authorised by the laws of that corporation's place of incorporation, or in any other manner satisfactory to the chairperson of the Meeting) a natural person to act as its representative at any general meeting.

#### **Voting Entitlement**

For the purposes of the Corporations Act and Corporations Regulations shareholders entered on the Company's Register of Members as at 7pm on 28 November 2016 (AEDT) are entitled to attend and vote at the meeting.

On a poll, members have one vote for every fully paid ordinary share held. Holders of options are not entitled to vote.

#### **How the Chair Will Vote Undirected Proxies**

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

# Proxies that are Undirected on Resolution 1 (Remuneration Report) and Resolution 3 (Issue of Options to Michael Quinert)

The Remuneration Report identifies key management personnel for the year ended 30 June 2016. Their closely related parties are defined in the Corporations Act 2001 (Cth) and include specified family members, dependents and companies they control.

Directors of the Company who are key management personnel whose remuneration details are included in the 2016 Remuneration Report, any other key management personnel whose remuneration details are included in the 2016 Remuneration Report, or any of their closely related parties, will not be able to vote on Resolution 1 or to vote undirected proxies held by them on Resolutions 1 or Resolution 3 provided however that the Chair may vote undirected proxies on behalf of persons eligible to vote where expressly authorised to do so on the Proxy Form.

#### **Special Resolutions**

For a special resolution to be passed, at least 75% of the votes validly cast on the resolution by shareholders (by number of shares) must be in favour of the resolution. Resolution 4 is a special resolution.

# COVATA LIMITED ACN 120 658 497 ("the Company")

#### **2016 ANNUAL GENERAL MEETING**

#### **EXPLANATORY MEMORANDUM**

#### **PURPOSE OF INFORMATION**

This Explanatory Memorandum ("this Memorandum") accompanies and forms part of the Company's Notice of the 2016 Annual General Meeting to be held at The Grace Hotel, 77 York Street, Sydney, New South Wales, 2000 on Wednesday, 30 November 2016 at 10.30 am. The Notice of the 2016 Annual General Meeting incorporates, and should be read together with, this Memorandum.

#### **BUSINESS**

#### **2016 Annual Financial Statements**

The 2016 Annual Financial Statements, comprising the Financial Report, Directors' Report and Auditor's Report for the year ended 30 June 2016 will be laid before the meeting. Shareholders will have the opportunity to ask questions about or make comments on the 2016 Annual Financial Statements and the management of the Company. A representative of the auditor will be invited to attend to answer questions about the audit of the Company's 2016 Annual Financial Statements.

The Company's 2016 Annual Financial Statements are set out in the Company's 2016 Annual Report which can be obtained from the Company's website, www.covata.com or upon request to Nick Chiarelli at the office of the Company, 154-156 Clarence Street, Sydney, New South Wales, 2000 (telephone (02) 8412 8200).

There is no requirement for these reports to be formally approved by shareholders. No resolution is required to be moved in respect of this item.

#### **Resolution 1: Non-binding Resolution - Remuneration Report**

The Company is required, pursuant to the Corporations Act 2001 (Cth) ("the Corporations Act"), to propose a non-binding resolution regarding the 2016 Remuneration Report, which forms part of the Directors' Report in the 2016 Annual Financial Statements. The vote is advisory only and does not bind the Directors or the Company.

Shareholders attending the 2016 Annual General Meeting of the Company will have an opportunity to discuss and put questions in respect of the Remuneration Report.

The Board 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. Under the Corporations Act, if 25% or more of votes that are cast are voted against the adoption of the Remuneration Report at two consecutive annual general meetings ("AGM") (treating this AGM as the first such meeting), shareholders will be required to vote at the second of those AGM's 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 and CEO) must be put up for re-election. The vote on the Remuneration Report contained in the Company's 2015 Annual Financial Statements was passed with the support of more than 75% of votes thus a spill resolution will not be required in the event that 25% or more of votes that are cast are against the adoption of the 2016 Remuneration Report. However, in the event that 25% or more of votes that are cast are against the adoption of the 2016 Remuneration Report, shareholders should be aware that if there is a 'no' vote of 25% or more at the same resolution at the 2017 AGM, the consequences are that it may result in the re-election of the Board.

Note that a voting exclusion applies to Resolution 1 in the terms set out in the Notice of Meeting. In particular, Directors and other members of the key management personnel details of whose remuneration are included in the Remuneration Report or a closely related party of those persons must not vote on Resolution 1 and must not cast a vote as proxy, unless the proxy appointment gives a direction on how to vote provided

however that the Chair may vote undirected proxies on behalf of persons eligible to vote where expressly authorised to do so on the Proxy Form.

#### Resolution 2A: Re-Election of Phillip Dunkelberger as a Director

Resolution 2A is a resolution for the election of Phillip Dunkelberger as a Director of the Company.

Pursuant to the Constitution of the Company, one-third of the Directors or, if their number is not a multiple of three, the number nearest to one-third (rounded up), but disregarding the Managing Director and Directors appointed to fill casual vacancies, are required to retire by rotation at each AGM. The Company has five directors, one of whom is the CEO/Managing Director and one of whom was appointed to fill a casual vacancy during the year. Accordingly, one director other than the CEO is required to retire by rotation at the AGM.

Phillip is President and CEO of Nok Nok Labs, Inc., a leader in strong authentication solutions. Phillip has broad experience resulting from more than 34 years in technology. Prior to leading Nok Nok Labs, he served for 8 years as co-founder and CEO of PGP Corporation, a leader in the Enterprise Data Protection market, until acquired by Symantec in 2010. He has significant experience in SaaS infrastructure and enterprise software, having served as Entrepreneur-in-Residence at DCM, President and CEO of Embark, and COO of Vantive Corporation. He has also held senior management positions with Symantec, Apple Computer and Xerox Corporation.

Phillip has served on several boards of directors, and currently serves on the Board of Nok Nok Labs and numerous Advisory Boards. He is a founding board member of the Cyber Security Industry Alliance (CSIA) and is Chairman Emeritus of TechAmerica's CxO Council. Phillip holds a B.A. in Political Science from Westmont College and is a member of the school's President's Advisory Board.

Director of Cocoon Data Holdings Limited since 1 August 2014. Appointed Director of Covata Limited 31 October 2014.

Phillip Dunkelberger, who was appointed to the Board of the Company on 31 October 2014 retires by rotation and, being eligible, offers himself for re-election.

# Resolution 2B: Election of Bill McCluggage as a Director

Resolution 2B is a resolution for the election of Bill McCluggage as a Director of the Company.

Bill was appointed to fill a casual vacancy on 21 October 2016.

Pursuant to the Constitution of the Company, a Director appointed to fill a casual vacancy holds office until the next annual general meeting and is then eligible for re-election but shall not be taken into account in determining the Directors who retire by rotation at that meeting.

Bill has over 15 years of experience working in IT Director, CTO and CIO roles within central Government bodies and the private sector and prior to these positions had a 24-year career as an engineering officer within the British Royal Air Force. His experience includes:

- As CIO of the Irish Government, Mr McCluggage was responsible for the development and implementation of a Government ICT Strategy;
- As Deputy Government CIO of the UK Cabinet Office, Mr McCluggage was responsible for the formulation, development and communication of cross-Government ICT strategies and policies; and
- As Chief Technologist of Dell EMCs public sector business, Mr McCluggage was a trusted adviser to UK
  and Ireland's public sector customers translating EMC's Cloud, Cyber and Big Data technology pillars
  into business language and propositions.

#### **Resolution 3: Issue of Options to Michael Quinert**

Resolution 3 is proposed to seek shareholder approval for the issue of a total of 250,000 unlisted options to Michael Quinert, or his nominee, a Director of the Company.

ASX Listing Rule 10.11 requires a company to obtain shareholder approval by ordinary resolution prior to the issue of equity securities to a related party of the company. For the purposes of Listing Rule 10.11, a related party includes a Director of the Company.

ASX Listing Rule 7.2 states that approval pursuant to ASX Listing Rule 7.1 is not required if approval is being obtained pursuant to ASX Listing Rule 10.11. Accordingly, as shareholder approval is being sought under ASX Listing Rule 10.11, a further approval is not required under ASX Listing Rule 7.1.

Under Chapter 2E of the Corporations Act, a public company cannot give a "financial benefit" to a "related party" unless one of the exceptions to the section apply or shareholders have in a general meeting approved the giving of that financial benefit to the related party.

Section 211 of the Corporations Act provides that one of the exceptions to the requirement to obtain shareholder approval for giving a financial benefit to a related party is where the benefit is given to the related party as an officer of the Company and to give the remuneration would be reasonable given:

- the circumstances of the Company; and
- the related party's circumstances (including the responsibilities involved in the office or employment).

Mr Quinert currently holds an indirect interest in 57,600 ordinary shares.

The Company considers the proposed issues are reasonable remuneration and, as such, falls within the exception set out in section 211 of the Corporations Act.

In reaching this view, the Company has considered the responsibilities of Mr Quinert (which include acting as Chair of the Company's Remuneration Committee) and his overall remuneration package. The Company has also considered the need for the Company to effectively incentivise each of the Directors while aligning the incentive with increasing shareholder value and the desirability of preserving cash resources within the Company.

ASX Listing Rule 10.13 requires that the meeting documents concerning a proposed resolution to approve an issue of securities in accordance with ASX Listing Rule 10.11 must include the following information:

- Michael Quinert (or his nominee/s) will receive the options the subject of Resolution 3.
- The maximum number of securities to be issued will be 250,000 options to acquire ordinary shares.
- The Company will issue the options the subject of Resolution 3 within one (1) month of the date of the AGM.
- Michael Quinert is a Director of the Company and therefore a related party for the purposes of ASX Listing Rule 10.11.
- The options will have an exercise price of \$0.195 and an expiry date which is 5 years from the issue date. The options will vest immediately upon issue.
- No funds will be raised through the issue of the options. Any funds raised upon exercise of the options will be applied to the Company's working capital requirements at the time of issue.
- A voting exclusion statement applies to Resolution 3 on the terms set out in the Notice.

#### **Resolution 4: Amendment of Constitution (Special Resolution)**

Resolution 4 is proposed to seek shareholder approval to amend to clause 15.11 of the Company's Constitution to allow for written resolutions to be passed upon being signed by a majority (as opposed to all) of the Directors of the Company eligible to vote on the resolution. Given the number Directors, and the combination of residences in USA and Australia, the amendment is proposed to enable the Company to pass resolutions more efficiently and without the need for a Board meeting in the event that one or more of the Directors is unavailable.

Accordingly, it is proposed that clause 15.11 of the Company's Constitution is deleted in full and replaced with the following:

#### 15.11 Written Resolutions

"If a majority of the Directors who are eligible to vote on a resolution sign a document containing a statement that they are in favour of a resolution on the terms set out in the document, then the resolution is passed when the last Director forming part of that majority signs. For the purpose of this clause 15.11, separate copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. Any document referred to in this clause 15.11 may be in the form of a facsimile transmission or electronic notification. If a Directors' meeting is taken to have been held in accordance with this clause, the minutes must record that fact. This clause applies to meeting of Directors' committees as if all Members of the committee were Directors. Any document referred to in this clause 15.11 must be sent to every Director who is entitled to vote on the resolution (whether or not the Director signs the document). A facsimile transmission, an email bearing the signature of the Director or an email of the Director addressed to another officer of the Company confirming agreement with the resolution and undertaking to sign the resolution as soon as practicable shall be deemed to be a document in writing signed by the relevant Director for the purposes of this clause."

Should you wish to obtain a copy of the current Company Constitution for the purpose of a comparison with the proposed amendments please direct your enquiry to Nick Chiarelli, the Company's CFO, at the office of the Company, 154-156 Clarence Street, Sydney, New South Wales, 2000 (telephone (02) 8412 8200).



#### 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

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 10:30am AEDT on Monday, 28 November 2016.

# 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 security holder 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 10:30am AEDT on Monday, 28 November 2016. 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:

**■ By Fax** + 61 2 9290 9655

GPO Box 3993,

Sydney NSW 2001 Australia

In Person Boardroom Pty Limited

Level 12, 225 George Street, Sydney NSW 2000 Australia

### Attending the Meeting

If you wish to attend the meeting please bring this form with you to assist registration.

# Covata Limited ACN 120 658 497

			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 me	ember/s of Covata Limited (Company) and	d 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 shareholder) you are appointing as your proxy below			
арропшід аз у	our 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 at <b>The Grace Hotel</b> , <b>77 York Street</b> , <b>Sydney</b> , <b>New South Wales</b> , <b>2000</b> , <b>on Wednesday</b> , <b>30 November 2016 at 10.30am AEDT</b> 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. <b>Chair of the Meeting authorised to exercise undirected proxies on remuneration related matters:</b> 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 and 3, I/we expressly authorise the Chair of the Meeting to exercise my/our proxy in respect of these Resolutions even though Resolutions 1 and 3 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 and 3). 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	P 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.		
	J. A.	, g . p	For Against Abstain*
Resolution 1	To Adopt the Remuneration Report		
Resolution 2A	Re-Election of Phillip Dunkelberger as a	Director	
Resolution 2B	Election of Bill McCluggage as a Director		
Resolution 3	Approval for issue of Options to Michael	Quinert	
Resolution 4	Amendment of Constitution		
STEP 3 SIGNATURE OF SHAREHOLDERS  This form must be signed to enable your directions to be implemented.			
Individual or Securityholder 1		Securityholder 2	Securityholder 3
Sole Director and Sole Company Secretary		Director	Director / Company Secretary
Contact Name		Contact Daytime Telephone	Date / / 2016