

MOTIO LIMITED (ACN 147 799 951)

**Notice of Annual General Meeting** 

# **Contents**

Business of the Meeting (setting out the proposed resolutions)  Explanatory Statement (explaining the proposed resolutions)  Glossary	4 6 16		
		Proxy Form	Enclosed

This Notice of Meeting should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their professional advisers prior to voting.

Should you wish to discuss the matters in this Notice of Meeting please do not hesitate to contact the Company Secretary on (+61 2) 7227 2277

# **Important Information**

#### TIME AND PLACE OF MEETING

Notice is given that the Annual General Meeting of the Shareholders to which this Notice of Meeting relates will be held at 12:00pm (EDST) on Friday, 11 November 2022 at:

Level 15, 189 Kent Street Sydney NSW 2000

#### YOUR VOTE IS IMPORTANT

The business of the Annual General Meeting affects your shareholding and your vote is important.

#### **VOTING ELIGIBILITY**

The Directors have determined pursuant to Regulation 7.11.37 of the *Corporations Regulations 2001* (Cth) that the persons eligible to vote at the Annual General Meeting are those who are registered Shareholders at 7:00pm (EDST) on **Wednesday, 9 November 2022**.

#### **VOTING IN PERSON**

To vote in person, attend the Annual General Meeting at the time, date and place set out above.

#### **VOTING BY PROXY**

To vote by proxy, please complete and sign the enclosed Proxy Form and return by the time and in accordance with the instructions set out on the Proxy Form.

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

- · each member has a right to appoint a proxy;
- the proxy need not be a member of the Company; and
- a member who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If the member appoints 2 proxies and the appointment does not specify the proportion or number of the member's votes, then in accordance with section 249X(3) of the Corporations Act, each proxy may exercise one-half of the votes.

Shareholders and their proxies should be aware that changes to the Corporations Act made in 2011 mean that:

- if proxy holders vote, they must cast all directed proxies as directed; and
- any directed proxies which are not voted will automatically default to the Chair, who must vote the proxies as directed.

Further details on these changes is set out below.

# Proxy vote if appointment specifies way to vote

Section 250BB(1) of the Corporations Act provides that an appointment of a proxy may specify the way the proxy is to vote on a particular resolution and, **if it does**:

• the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way (i.e. as directed); and

- if the proxy has 2 or more appointments that specify different ways to vote on the resolution the proxy must not vote on a show of hands; and
- if the proxy is the chair of the meeting at which the resolution is voted on the proxy must vote on a poll, and must vote that way (i.e. as directed); and
- if the proxy is not the chair the proxy need not vote on the poll, but if the proxy does so, the proxy must vote that way (i.e. as directed).

# Transfer of non-chair proxy to chair in certain circumstances

Section 250BC of the Corporations Act provides that, if:

- an appointment of a proxy specifies the way the proxy is to vote on a particular resolution at a meeting of the Company's members; and
- the appointed proxy is not the chair of the meeting; and
- at the meeting, a poll is duly demanded on the resolution; and
- either of the following applies:
  - o the proxy is not recorded as attending the meeting;
  - o the proxy does not vote on the resolution,

the chair of the meeting is taken, before voting on the resolution closes, to have been appointed as the proxy for the purposes of voting on the resolution at the meeting.

#### **Voting Prohibition**

In accordance with section 250BD of the Corporations Act, a person appointed as a proxy must not vote on the basis of that appointment on Resolution 1 if the person is either:

- a member of the Key Management Personnel of the Company; or
- a Closely Related Party of such a member, and
- the appointment does not specify the way the proxy is to vote on Resolution 1.

However, the prohibition does not apply if the proxy is the Chair and the appointment expressly authorises the Chair to exercise the proxy even if Resolution 1 is connected directly or indirectly with remuneration of a member of the Key Management Personnel of the Company.

# **Business of the meeting**

#### **AGENDA**

#### **ORDINARY BUSINESS**

#### **Financial Statements and Reports**

To receive and consider the annual financial report of the Company for the financial year ended 30 June 2022 together with the declaration of the directors, the Directors' Report, the Remuneration Report and the auditor's report.

#### 1. RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

To consider and, if thought fit, to pass, with or without amendment, the following resolution as a **non-binding resolution**:

"That, for the purpose of Section 250R(2) of the Corporations Act and for all other purposes, approval is given for the adoption of the Remuneration Report as contained in the Company's annual financial report for the financial year ended 30 June 2022."

Note: the vote on this Resolution is advisory only and does not bind the Directors or the Company.

#### **Voting Prohibition Statement:**

A vote on this Resolution must not be cast (in any capacity) by or on behalf of any 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.

However, a person (the **voter**) described above may cast a vote on this Resolution as a proxy if the vote is not cast on behalf of a person described above and either:

- (a) the voter is appointed as a proxy by writing that specifies the way the proxy is to vote on this Resolution; or
- (b) the voter is the Chair and the appointment of the Chair as proxy:
  - (i) does not specify the way the proxy is to vote on this Resolution; and
  - (ii) expressly authorises the Chair to exercise the proxy even though this Resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

# 2. RESOLUTION 2 – RE-ELECTION OF DIRECTOR – MR JUSTUS WILDE

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

"That, for the purpose of clause 12.3(b) of the Constitution and for all other purposes, Mr Justus Wilde, a Director, retires and being eligible, is re-elected as a Director.

#### 3. RESOLUTION 3 - APPROVAL OF 10% PLACEMENT CAPACITY- SHARES

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

"That, for the purpose of Listing Rule 7.1A and for all other purposes, approval is given for the issue of Equity Securities totalling up to 10% of the issued capital (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 set out in the Explanatory Statement."

# 4. RESOLUTION 4 – RATIFICATION OF PRIOR ISSUE OF LIQUID THINKING CONSIDERATION SHARES

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

"That, for the purpose of ASX Listing Rule 7.4 and for all other purposes, Shareholders ratify the issue of 4,125,000 ordinary shares issued in consideration for the acquisition of Liquid Thinking Ltd on the terms and conditions set out in the Explanatory Statement."

#### **Voting Exclusion:**

The Company will disregard any votes cast in favour of Resolution 4 by or on behalf of a Mr Matthew Davies, or any associates of Mr Davies. However, the Company need not disregard a vote if it is cast in favour of the resolution by:

- (a) a person as a proxy or attorney for a person who is entitled to vote on the Resolution, in accordance with the directions given to the proxy or attorney to vote on the Resolution in that way; or
- (b) the Chair 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 the following conditions are met:
  - (iii) 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
  - (iv) the holder votes on the Resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

# 5. RESOLUTION 5 – RENEWAL OF PROPORTIONAL TAKEOVER PROVISIONS OF THE CONSTITUTION

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

"That the proportional takeover provisions in Clause 9 of the Constitution be renewed for a period of three years commencing on the date of the AGM pursuant to section 648G of the Corporations Act."

**DATED: 10 OCTOBER 2022** 

BY ORDER OF THE BOARD

MR MATTHEW FOY COMPANY SECRETARY

# **Explanatory Statement**

This Explanatory Statement has been prepared to provide information which the Directors believe to be material to Shareholders in deciding whether or not to pass the Resolutions which are the subject of the business of the Meeting.

# 1. FINANCIAL STATEMENTS AND REPORTS

In accordance with the Constitution, the business of the Meeting will include receipt and consideration of the annual financial report of the Company for the financial year ended 30 June 2022 together with the declaration of the directors, the Directors' Report, the Remuneration Report and the auditor's report.

The Company will not provide a hard copy of the Company's annual financial report to Shareholders unless specifically requested to do so. The Company's annual financial report is available on its website at **https://www.motio.com.au/** or by contacting the Company on (02) 7227 2277.

# 2. RESOLUTION 1 – ADOPTION OF REMUNERATION REPORT

#### 2.1 General

The Corporations Act requires that at a listed company's annual general meeting, a resolution that the remuneration report be adopted must be put to the shareholders. However, such a resolution is advisory only and does not bind the company or the directors of the company.

The Remuneration Report sets out the Company's remuneration arrangements for the directors and senior management of the Company. The Remuneration Report is part of the Directors' Report contained in the annual financial report of the Company for the financial year ended 30 June 2022.

The Chair of the meeting will allow a reasonable opportunity for Shareholders to ask questions about or make comments on the Remuneration Report at the Meeting.

### 2.2 Voting consequences

Under changes to the Corporations Act which came into effect on 1 July 2011, a company is required to put to its shareholders a resolution proposing the calling of another meeting of shareholders to consider the appointment of directors of the company (other than the managing director) who were in office at the date of approval of the applicable directors' report (Spill Resolution) if, at consecutive annual general meetings, at least 25% of the votes cast on a remuneration report resolution are voted against adoption of the remuneration report and at the first of those annual general meetings a Spill Resolution was not put to vote. If required, the Spill Resolution must be put to vote at the second of those annual general meetings.

If more than 50% of votes cast are in favour of the Spill Resolution, the company must convene a shareholder meeting (**Spill Meeting**) within 90 days of the second annual general meeting.

All of the directors of the company who were in office when the directors' report (as included in the company's annual financial report for the most recent financial year) was approved, other than the managing director of the company, will cease to hold office immediately before the end of the Spill Meeting but may stand for re-election at the Spill Meeting.

Following the Spill Meeting those persons whose election or re-election as directors of the company is approved will be the directors of the company.

MOTIO LTD AGM 2022 6

# 2.3 Previous voting results

At the Company's previous annual general meeting the votes cast against the Remuneration Report considered at that annual general meeting were less than 25%. Accordingly, the Spill Resolution is not relevant for this Annual General Meeting.

# 2.4 Chair voting undirected proxies

The Chair intends to exercise all undirected proxies in favour of Resolution 1. If the Chair of the Meeting is appointed as your proxy and you have not specified the way the Chair is to vote on Resolution 1, by signing and returning the Proxy Form, you are considered to have provided the Chair with an express authorisation for the Chair to vote the proxy in accordance with the Chair's intention.

#### 3. RESOLUTION 2 - RE-ELECTION OF DIRECTOR - MR JUSTUS WILDE

Clause 12.3 of the Constitution provides that:

- (a) A Director must not hold office without re-election:
  - (i) past the third annual general meeting following the Director's appointment or last election; or
  - (ii) for more than three years,

whichever is the longer.

- (b) There must be an election of Directors at each annual general meeting of the Company. This can be satisfied by one or more of the following so long as the maximum number of Directors set by the Company in general meeting (if applicable) is not exceeded:
  - (a) a person standing for election as a new Director having nominated in accordance with article 12.6;
  - (b) any Director who was appointed under article 12.7 standing for election as a Director;
  - (c) any Director who is retiring at the end of the annual general meeting due to the tenure limitation in article 12.3(a), standing for re-election; or
  - (d) if no person or Director is standing for election or re-election in accordance with paragraphs (a), (b) or (c), then the Director who has been a Director the longest without re-election must retire and stand for re-election. If two or more Directors have been a Director the longest and an equal time without re-election, then in default of agreement, the Director to retire will be determined by ballot.
- (c) This article does not apply to one Managing Director who is exempt from retirement and re-election in accordance with article 13.10.

This article 12.3 only applies while the Company is on the official list of ASX.

Mr Wilde has held office the longest of the three Directors eligible for rotation and accordingly retires by rotation and, being eligible, seeks re-election.

The Board (other than Mr Wilde) unanimously supports the re-election of Mr Wilde.

#### 4. RESOLUTION 3 - APPROVAL OF 10% PLACEMENT CAPACITY- SHARES

#### 4.1 General

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.

Listing Rule 7.1A provides that an Eligible Entity may seek shareholder approval by way of a special resolution passes at its annual general meeting to increase this 15% limit by an extra 10% to 25% (10% Placement Capacity).

An 'eligible entity' means an entity that is not included in the S&P/ASX300 Index and which has a market capitalisation of \$300 million or less. MXO is an eligible entity for these purposes.

Resolution 3 seeks shareholder approval by way of special resolution for MXO to have the additional 10% capacity provided for in Listing Rule 7.1A to issue equity securities without shareholder approval.

If Shareholders approve Resolution 3, the number of Equity Securities the Eligible Entity may issue under the 10% Placement Capacity will be determined in accordance with the formula prescribed in Listing Rule 7.1A.2 (as set out below).

The effect of passing Resolution 3 will be to allow the Company to issue Equity Securities up to a combined limit of 25% pursuant to Listing Rules 7.1 and 7.1A without any further shareholder approval. If Resolution 3 is passed the Company will be permitted to issue Equity Securities up to 10% of the Company's fully paid ordinary securities on issue under the 10% Placement Capacity during the period up to a maximum of 12 months after the Meeting, without subsequent Shareholder approval and without using the Company's 15% annual placement capacity granted under Listing Rule 7.1.

Resolution 3 is a special resolution. Accordingly, at least 75% of votes cast by Shareholders entitled to vote on the Resolution must be in favour of Resolution 3 for it to be passed.

If Resolution 3 is not passed, the Company will not be able to access the additional 10% capacity to issue equity securities to issue equity securities without shareholder approval provided for in Listing Rule 7.1A and will remain subject to the 15% limit on issuing equity securities without shareholder approval set out in Listing Rule 7.1.

The Directors of the Company believe that Resolution 3 is in the best interest of the Company and its Shareholders and unanimously recommend that the Shareholders vote in favour of this Resolution.

#### 4.2 ASX Listing Rule 7.1A Requirements

Pursuant to ASX Listing Rule 7.1A.3 the issue price for each security issued under the Additional Placement Capacity will not be less than 75% of the volume weighted average price for securities in that class over the 15 trading days on which trades in that class were recorded immediately before:

- the date on which the price at which the securities are to be issued is agreed; or
- if the securities are not issued within 10 trading days of the date above, the date on which the securities are issued.

Equity securities that may be issued under listing rule 7.1A will only be in an existing quoted class of securities.

The issue of equity securities under the Additional Placement Capacity may result in voting dilution of existing ordinary shareholders (as shown in the table below). There is also the risk that:

- the market price for equity securities in that class may be significantly lower on the issue date than on the date of the Annual General Meeting; and
- the equity securities may be issued at a price that is at a discount to the market price for those equity securities on the issue date.

Table 1 below shows the dilution of existing Shareholders calculated in accordance with the formula outlined in ASX Listing Rule 7.1A.2 on the basis of the current market price of Shares and the current number of ordinary securities quoted on ASX for variable "A" calculated in accordance with the formula in Listing Rule 7.1A.2 as at the date of this Notice.

#### The table also shows:

- (i) two examples where variable "A" has increased, by 50% and 100%. Variable "A" is based on the number of ordinary securities the Company has on issue. The number of ordinary securities on issue may increase as a result of issues of ordinary securities 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
- (ii) two examples of where the issue price of ordinary securities has decreased by 50% and increased by 50% against the current market price.

**Dilution Number of** \$0.019 \$0.038 \$0.057 Shares on Issue Issue **Price** (per 50% decrease in Current 50% increase Share) **Issue Price Issue Price** in Issue Price 257,602,157 25,760,215 25,760,215 25,760,215 10% voting dilution (Current) **Shares Shares** Shares \$489,444 \$978,888 \$1,468,332 Funds raised 386,403,236 38,640,323 38,640,323 38,640,323 10% voting dilution (50% increase) Shares Shares Shares Funds raised \$734,166 \$1,468,332 \$2,202,498 515,204,314 51,520,431 51,520,431 51,520,431 (100% 10% voting dilution **Shares** Shares Shares increase) Funds raised \$978,888 \$1,957,776 \$2,936,665

Table 1

The above table is based on the following assumptions:

- The number of shares on issue (Variable "A") is calculated as 257,602,157 being all the fully paid ordinary shares on issue as at the date of this Notice.
- The Company issues the maximum number of equity securities available under the Additional Placement Capacity.
- The 10% voting dilution reflects the aggregate percentage dilution against the issued share capital at the time of issue.
- The table shows only the issue of equity securities under the Additional Placement Capacity and not under Listing Rule 7.1.
- The issue of equity securities under the Additional Placement Capacity includes only Shares
- The issue price of \$0.038 was the closing price of shares on ASX on 24 September 2022.

Equity securities under the Additional Placement Capacity may be issued until the earlier of:

- the date that is 12 months after the date of the Annual General Meeting at which the approval is obtained; or
- the time and date of the entity's next annual general meeting; or
- 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); or
- or such longer period if allowed by ASX (10% Placement Period).

The Company may only issue equity securities under the Additional Placement Capacity for cash consideration to raise funds for the development of the Company's existing assets, the acquisition of new assets or investments (including assets associated with such acquisition), to repay debt or to fund working capital.

The Company will comply with the disclosure obligations under Listing Rules 7.1A.4 and 3.10.5A upon issue of any equity securities under the Additional Placement Capacity.

The Company's allocation policy for issues under the Additional Placement Capacity is dependent on prevailing market conditions at the time of any proposed issue. The identity of the allottees of the equity securities will be determined on a case-by-case basis having regard to the factors including but not limited to the following:

- the purpose of the issue;
- the methods of raising funds that are available to the Company, including rights issues or other issues in which existing shareholders may participate;
- the effect of the issue of the equity securities on the control of the Company;
- the financial situation and solvency of the Company;
- prevailing market conditions; and
- advice from the Company's advisors.

As the Company has no current plans to undertake a new capital raising using its additional 10% placement capacity, the allottees under the Additional Placement Capacity have not yet been determined but if such an exercise was undertaken, allottees may include existing substantial shareholders and/or new shareholders who are not related parties or associates of a related party of the Company.

The Company previously sought and obtained shareholder approval under Listing Rule 7.1A at the immediately prior Annual General Meeting held 12 November 2021.

In accordance with Listing Rule 7.3A.6, in the 12 months preceding the date of this meeting, the Company issued Nil ordinary shares pursuant to ASX Listing Rule 7.1A.2 representing 0% of the total number of equity securities on issue from the commencement of the last approval of Listing Rule 7.1A.

A voting exclusion statement is not included in this Notice. As at the date of this Notice, the Company has not been approached by or invited any existing Shareholder to participate in an issue of Equity Securities under ASX Listing Rule 7.1A. Therefore, no existing Shareholders will be excluded from voting on Resolution 3.

When the Company issues equity securities pursuant to the Additional Placement Capacity, it will give to ASX:

- a list of the allottees of the equity securities and the number of equity securities allotted to each (not for release to the market), in accordance with Listing Rule 7.1A.4; and
- the information required by Listing Rule 3.10.5A for release to the market.

#### 5. RESOLUTION 4 – PRIOR ISSUE OF LIQUID THINKING CONSIDERATION SHARES

#### 5.1 General

On 16 March 2022 the Company advised it had entered into an agreement to acquire 100% of UK-based Liquid Thinking Limited (owner of the Spawtz Software operated in Australia by Motio under license) which also operates through licensees in South Africa and New Zealand (**Acquisition**).

Liquid Thinking's portfolio of customers and technology focusses on delivering end-to-end player registration, competition management and payments for Indoor Sports Centres, Sporting Associations and Leagues across the UK, Australia, South Africa and New Zealand. Its primary revenue is recurring Software as a Service (SaaS) and emerging revenue through fees from facilitating online and cashless payments.

Liquid Thinking's software is used extensively across these growing environments encompassing more than 900 venues and interacting with over 750,000 players across the aforementioned markets. The acquisition of Liquid Thinking will provide Motio with continuing opportunity to deepen its capabilities in Australia and broaden its footprint across key markets, specifically the UK and New Zealand. The acquisition serves as a powerful and significant change in its leadership within indoor sports across Australia offering a suite of options for operators as it continues its driving force as an **Audience Experience and Digital Place-Based media company**.

Motio has successfully represented the *Spawtz* software within these environments for a number of years (previously as Adline Media prior to Motio's acquisition in January 2020) and has a strong working relationship with Liquid Thinking. Together, the companies have continued to operate and develop a growing payments business within the sports and team environments.

#### 5.2 Terms of the Acquisition

Motio entered into a binding agreement to acquire all the issued capital of Liquid Thinking on the following material terms:

- AUD\$375,000 cash (funded through Motio's existing cash reserves);
- Up to 4,125,000 ordinary shares comprised:
  - 3,750,000 shares issued upon completion (escrowed for 12 months from date of completion) at a deemed issue price of \$0.10 per share issued pursuant to Motio's existing ASX Listing Rule 7.1 capacity; and
  - o 375,000 shares if, in the event the MXO 30-day VWAP is less than or equal to \$0.09 per share within 60 days of completion issued pursuant to Motio's existing ASX Listing Rule 7.1 capacity (escrowed for 12 months from date of completion).

Up to AUD\$600,000 in cash or shares at Motio's option (issued pursuant to Motio's existing ASX Listing Rule 7.1 capacity) across three tranches:

- Tranche 1: If, for the financial year ending 30 June 2022 or the financial year ending 30 June 2023, as the case may be, Liquid Thinking achieves more than GPB£200,000 in total revenue from customers (excluding customers in Australia) Motio agrees to pay the Vendor AUD\$200,000 cash or issue to the Vendor AUD\$200,000 worth of Motio Shares as calculated based on the 30-day VWAP in MXO shares, at the absolute discretion of Motio.
- **Tranche 2**: If, for the financial year ending 30 June 2023 or the financial year ending 30 June 2024, as the case may be, Liquid Thinking achieves between AUD\$977,501

and AUD\$1,150,000 in Total Gross Software and Payments Revenue<sup>1</sup>, Motio shall pay the Vendor AUD\$200,000 cash or issue to the Vendor AUD\$200,000 worth of Motio Shares as calculated based on the 30-day VWAP in MXO shares, at the absolute discretion of Motio. In the event Liquid Thinking achieves between AUD\$977,501 and AUD\$1,150,000 in Total Gross Software and Payments Revenue, the cash amount/value of MXO Shares shall be calculated as follows:

A= (TR/1,150,000) X AUD\$200,000

Where:

A is the AUD amount or value of Motio Shares; and

TR is the Total Gross Software Payments Revenue for the applicable financial year.

- **Tranche 3**: If for the financial year ending 30 June 2024 or 30 June 2025, as applicable, Liquid Thinking achieves between AUD\$1,080,001 and AUD\$1,350,000 in Total Gross Software and Payments Revenue, Motio shall pay the Vendor AUD\$200,000 cash or issue to the Vendor the equivalent value of MXO Shares as calculated based on the 30-day VWAP in MXO shares, at the absolute discretion of Motio. In the event Liquid Thinking achieves between AUD\$1,080,001 and AUD\$1,350,000 in Total Gross Software and Payments Revenue, the cash amount/value of MXO Shares shall be calculated as follows:

A= (TR/1,350,000) X AUD\$200,000

Where:

A is the AUD amount or value of Motio Shares; and

TR is the Total Gross Software Payments Revenue for the applicable financial year.

Motio completed the acquisition of Liquid Thinking on 1 April 2022 and issued 3,750,000 ordinary shares to the vendor of Liquid Thinking. Sixty days following completion the Company issued a further 375,000 ordinary shares to the vendor on 17 May 2022.

Resolution 4 seeks Shareholder ratification pursuant to ASX Listing Rule 7.4 for the issue of a total of 4,125,000 ordinary shares issued pursuant to the Acquisition (**Acquisition Shares**).

# 5.3 ASX Listing Rule 7.1

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

# 5.4 Technical Information required by Listing Rule 14.1A

If Resolution 4 is passed, the Acquisition Shares will be excluded in calculating the Company's combined 15% limit in Listing Rule 7.1, effectively increasing the number of equity securities the Company can issue without Shareholder approval over the 12 month period following the date of issue of the Acquisition Shares.

If Resolution 4 is not passed, the Acquisition Shares will be included in calculating the Company's 15% limit in Listing Rule 7.1, effectively decreasing the number of equity securities the Company can issue without Shareholder approval over the 12 month period following the date of issue of the Acquisition Shares.

<sup>&</sup>lt;sup>1</sup> Means all revenue generated by Liquid Thinking from the Spawtz software.

# 5.5 Technical Information required by Listing Rule 7.4

Pursuant to and in accordance with ASX Listing Rule 7.5, the following information is provided in relation to the ratification of the Acquisition Shares:

- (a) the Acquisition Shares were issued to the sole shareholder of Liquid Thinking Ltd being Mr Matthew Davies;
- (b) 4,125,000 Acquisition Shares were issued in consideration for the acquisition of 100% of Liquid Thinking Ltd.
- (c) The Acquisition Shares were issued at a deemed issue price of \$0.10 per share, accordingly no funds were raised from the issue of Acquisition Shares;
- (d) 3,750,000 Acquisition Shares were issued on 31 March 2022 and 375,000 Acquisition Shares were issued on 17 May 2022;
- (e) a voting exclusion statement is set out in Resolution 4 of this Notice.

The Board recommends that Shareholders vote in favour of Resolution 4.

# 6. RESOLUTION 5 – RENEWAL OF PROPORTIONAL TAKEOVER PROVISIONS OF THE CONSTITUTION

#### 6.1 Summary of the proposal

The Constitution of the Company currently contains provisions dealing with proportional takeover bids for Motio Shares in accordance with the Corporations Act. The provisions, which are contained in Clause 9 of the Constitution, are designed to assist Shareholders to receive proper value for their shares if a proportional takeover bid is made for the Company. Under the Corporations Act, these provisions must be renewed every three years' or they will cease to have effect. The current provisions will automatically cease to have effect after 12 November 2022 unless renewed by the proposed special resolution. If renewed, the proposed proportional takeover provisions will be in the exactly the same terms as the existing provisions and will have effect until 11 November 2025.

The Corporations Act required the Company to provide shareholders with an explanation of the proposed proportional takeover approval provisions as set out below so that shareholders may make an informed decision on whether to support or oppose the resolution.

#### 6.2 What is a proportional takeover bid?

A proportional takeover bid is a takeover offer sent to all shareholders, but only in respect of a specified proportion of each shareholder's shares. Accordingly, if a shareholder accepts in full the offer under a proportional takeover bid, the shareholder will dispose of the specified proportion of their shares in the Company and retain the balance of the shares.

# 6.3 Legal and regulatory requirements

Section 648G of the Corporations Act provides that a company may renew its proportional takeover provisions in the same manner as that in which the company could alter its constitution to insert proportional takeover provisions.

Section 648G(5) of the Corporations Act provides that with every notice that specifies the intention to propose a resolution to renew a company's proportional takeover provisions and is sent to a person who is entitled to vote on the resolution the company must send a statement that.

(i) explains the effect of the provisions proposed to be renewed;

- (ii) explains the reasons for proposing the resolution and sets out the factual matters and principles underlying those reasons;
- (iii) states whether, as at the date on which the statement is prepared, any of the directors of the company is aware of a proposal by a person to acquire, or to increase the extent of, a substantial interest in the company and, if so, explains the extent (if any) to which the proposal has influenced the decision to propose the resolution;
- (iv) for a proposed resolution to renew proportional takeover provisions review both the advantages, and disadvantages, of the provisions proposed to be renewed for the directors and the company's members during the period during which the provisions have been in effect; and
- (v) discusses both the potential advantages, and the potential disadvantages, of the provisions proposed to be renewed for the directors and the company's members.

# 6.4 Effect of proportional takeover provisions

Clause 9 of the Constitution requires that, if a proportional takeover bid is made, the Directors must convene a meeting of Shareholders to vote on a resolution to approve the bid. The meeting must be held, and the resolution voted on, before the approving resolution deadline which is defined in the Corporations Act as the 14<sup>th</sup> day before the last day of the bid period. The rule does not apply to full takeover offers.

Clause 9 provides that, for a resolution to be approved, it must be passed by a majority of votes at the meeting, excluding votes by the bidder and its associates. If no resolution to approve the bid has been voted on in accordance with Clause 9 as at the end of the 14<sup>th</sup> day before the end of the bid period, a resolution approving the bid will be deemed by the Corporations Act to have been passed, thereby allowing the bid to proceed.

If a resolution to approve the bid is rejected, binding acceptances are required to be rescinded, and all unaccepted offers and offers failing to result in binding contracts are taken to be withdrawn.

If the resolution is approved, the relevant transfers of shares will be registered, provided they comply with the other provisions of the Constitution and otherwise with the Corporations Act.

## 6.5 Reasons

The Directors consider that Shareholders should have the opportunity to vote on a proposed proportional takeover bid. A proportional takeover bid for the Company may enable control of the Company to be acquired by a party holding less than a majority interest and without Shareholders having the opportunity to dispose of all of their shares. This may mean that Shareholders could be at risk of being left as part of a minority interest in the Company. Clause 9, if renewed, would enable Shareholders to decide collectively whether a proportional takeover bid should be permitted to proceed.

### 6.6 Present acquisition proposals

At the date of this Explanatory Statement, the Directors of the Company are aware of a proposal by Ian Gandel and his associated entities to increase the extent of a substantial interest in the Company. This proposal is expected to be consistent with the exception to the takeovers prohibition at item 9 (3% creep in 6 months) of section 611 of the Corporations Act, and has not influenced the decision to propose this resolution. No Director is aware of any proposal by any person (other than Ian Gandel and his associated entities) to acquire, or to increase the extent of, a substantial interest in the Company.

# 6.7 Review of advantages and disadvantages of Clause 9 while previously in effect

The Directors consider that there were no advantages or disadvantages when Clause 9 was previously in force as they remained free to make a recommendation on whether a proportional takeover bid should be accepted. Given no proportional takeover bid was made during this period, the Directors do not consider that there have been any advantages of Clause 9 for the members of the Company during the period. Whilst the Directors consider it unlikely, and have no reason to believe that such is the case, they cannot guarantee that the existence of Clause 9 prevented a potential bidder from making a proportional takeover bid which might have been advantageous to members.

#### 6.8 Potential advantages and disadvantages of renewal of Clause 9

The Directors consider that there are no such advantages or disadvantages for them as they remain free to make a recommendation on whether a proportional takeover bid should be accepted. The renewal of the rule will ensure that all members continue to have an opportunity to study a proportional takeover bid, if made, and then attend or be represented by proxy at a meeting called specifically to vote on the proposal.

A majority of shares voted at the meeting, excluding the shares of the bidder and its associates, will be required for the resolution to be passed, following which Shareholders will be able to decide whether to accept the bid which may result in a change of control of the Company. This will enable Shareholders to prevent a proportional takeover bid proceeding if they believe that control of the Company should not be permitted to pass under the bid and, accordingly, the terms of any future proportional takeover bid are likely to be structured in a manner that is attractive to a majority of Shareholders.

It may be argued that renewal of Clause 9 reduces the possibility of a successful proportional takeover bid and that, as a result, proportional takeover bids for the Company will be discouraged. This, in turn, may reduce opportunities that Shareholders may have to sell some of their Shares at an attractive price to persons seeking control of the Company and may reduce any 'takeover speculation' element in the Company's share price. It may also be said that the provisions constitute an additional restriction on the ability of individual Shareholders to deal freely with their shares.

The Directors believe that Resolution 5 is in the best interests of the Company and unanimously recommend that Shareholders vote in favour of this Resolution.

# 7. ENQUIRIES

Shareholders are required to contact the Company Secretary, Mr Matthew Foy, on (+61 2) 7227 2277 if they have any queries in respect of the matters set out in these documents.

# **Glossary**

\$ means Australian dollars.

10% Placement Capacity has the meaning given to that term in section 4.1 of the Explanatory Statement.

Acquisition has the meaning set out in section 5.1.

Acquisition Shares has the meaning set out in section 5.2.

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

ASIC means the Australian Securities and Investments Commission.

**ASX** means ASX Limited.

ASX Listing Rules means the Listing Rules of ASX.

Board means the current board of directors of the Company.

**Business Day** means Monday to Friday inclusive, except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, and any other day that ASX declares is not a business day.

Chair means the Chair of the Meeting.

Closely Related Party of a member of the Key Management Personnel means:

- (a) a spouse or child of the member;
- (b) a child of the member's spouse;
- (c) a dependent of the member or the member's spouse;
- (d) anyone else who is one of the member's family and may be expected to influence the member, or be influenced by the member, in the member's dealing with the entity;
- (e) a company the member controls; or
- (f) a person prescribed by the Corporations Regulations 2001 (Cth).

Company means Motio Ltd (ACN 147 799 951).

Constitution means the Company's constitution.

Corporations Act means the Corporations Act 2001 (Cth).

**Directors** means the current directors of the Company.

**Directors' Report** means the annual directors' report prepared under Chapter 2M of the Corporations Act for the Company and its controlled entities.

EDST means Australia Eastern Daylight Savings Time as observed in Sydney, NSW.

Eligible Entity means an entity that, at the date of the relevant general meeting:

- (a) is not included in the S&P/ASX 300 Index; and
- (b) has a maximum market capitalisation (excluding restricted securities and securities quoted on a deferred settlement basis) of \$300,000,000.

**Equity Securities** includes a Share, a right to a Share or Option, an Option, a convertible security and any security that ASX decides to classify as an Equity Security.

Explanatory Statement means the explanatory statement accompanying the Notice.

**Key Management Personnel** has the same meaning as in the accounting standards and broadly includes those persons having authority and responsibility for planning, directing and controlling the activities of the Company, directly or indirectly, including any director (whether executive or otherwise) of the Company.

**Notice** or **Notice** of **Meeting** or **Notice** of **Annual General Meeting** means this notice of annual general meeting including the Explanatory Statement and the Proxy Form.

Ordinary Securities has the meaning set out in the ASX Listing Rules.

Proxy Form means the proxy form accompanying the Notice.

**Remuneration Report** means the Remuneration Report set out in the Directors' Report section of the Company's annual financial report for the year ended 30 June 2022.

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

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

Shareholder means a holder of a Share.

VWAP means the volume weighted average price of trades in the Company's shares.



Motio Limited | ACN 147 799 951

# **Proxy Voting Form**

If you are attending the meeting in person, please bring this with you for Securityholder registration.

Holder Number:

Your proxy voting instruction must be received by 12.00pm (WST) on Wednesday, 9 November 2022, being not later than 48 hours before the commencement of the Meeting. Any Proxy Voting instructions received after that time will not be valid for the scheduled Meeting.

# **SUBMIT YOUR PROXY**

Complete the form overleaf in accordance with the instructions set out below.

#### YOUR NAME AND ADDRESS

The name and address shown above is as it appears on the Company's share register. If this information is incorrect, and you have an Issuer Sponsored holding, you can update your address through the investor portal: https://investor.automic.com.au/#/home Shareholders sponsored by a broker should advise their broker of any changes.

#### STEP 1 - APPOINT A PROXY

If you wish to appoint someone other than the Chair of the Meeting as your proxy, please write the name of that Individual or body corporate. A proxy need not be a Shareholder of the Company. Otherwise if you leave this box blank, the Chair of the Meeting will be appointed as your proxy by default.

#### DEFAULT TO THE CHAIR OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chair of the Meeting, who is required to vote these proxies as directed. Any undirected proxies that default to the Chair of the Meeting will be voted according to the instructions set out in this Proxy Voting Form, including where the Resolutions are connected directly or indirectly with the remuneration of KMP.

## STEP 2 - VOTES ON ITEMS OF BUSINESS

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

#### APPOINTMENT OF SECOND PROXY

You may appoint up to two proxies. If you appoint two proxies, you should complete two separate Proxy Voting Forms and specify the percentage or number each proxy may exercise. If you do not specify a percentage or number, each proxy may exercise half the votes. You must return both Proxy Voting Forms together. If you require an additional Proxy Voting Form, contact Automic Registry Services.

### SIGNING INSTRUCTIONS

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

Joint holding: Where the holding is in more than one name, all Shareholders should sign.

**Power of attorney**: If you have not already lodged the power of attorney with the registry, please attach a certified photocopy of the power of attorney to this Proxy Voting Form when you return it.

**Companies**: To be signed in accordance with your Constitution. Please sign in the appropriate box which indicates the office held by you.

Email Address: Please provide your email address in the space provided.

By providing your email address, you elect to receive all communications despatched by the Company electronically (where legally permissible) such as a Notice of Meeting, Proxy Voting Form and Annual Report via email.

## CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate 'Appointment of Corporate Representative' should be produced prior to admission. A form may be obtained from the Company's share registry online at https://automic.com.au.

#### **Lodging your Proxy Voting Form:**

#### Online:

Use your computer or smartphone to appoint a proxy at

https://investor.automic.com.au/#/log insah

or scan the QR code below using your smartphone

Login & Click on 'Meetings'. Use the Holder Number as shown at the top of this Proxy Voting Form.



# BY MAIL:

Automic GPO Box 5193 Sydney NSW 2001

#### IN PERSON:

Automic Level 5, 126 Phillip Street Sydney NSW 2000

#### BY EMAIL:

meetings@automicgroup.com.au

# BY FACSIMILE:

+61 2 8583 3040

#### All enquiries to Automic:

WEBCHAT: https://automicgroup.com.au/

**PHONE:** 1300 288 664 (Within Australia) +61 2 9698 5414 (Overseas)

By providing your email address, you elect to receive all of your communications despatched by the Company electronically (where legally permissible)