

**BIDDER'S STATEMENT**

an Offer by

**MOOTER MEDIA LIMITED**

(ACN 059 081 293)

to acquire all of your fully paid ordinary shares in

**ENTELLECT SOLUTIONS LIMITED**

(ACN 009 221 783)

**Mooter Media Limited is offering two MMZ Shares, one \$0.015 MMZ Option and one \$0.05 MMZ Option for every 40 of your ESN Shares**

**The Offer is dated [ ] 2010 and will expire at 7.00pm (Sydney time) on [ ] 2010, unless extended.**

**THIS IS AN IMPORTANT DOCUMENT AND REQUIRES YOUR IMMEDIATE ATTENTION  
YOU SHOULD READ ALL OF THE CONTENTS OF THIS DOCUMENT**

If you are in doubt as to how to deal with this document or the Offer contained in it, please consult your financial or other professional adviser.

# Important information

---

This is a replacement bidder's statement dated 11 October 2010 (**Bidder's Statement**) and is issued by Mooter Media Limited under Part 6.5 of the Corporations Act and in compliance with sections 636 and 637 of the Corporations Act. A copy of this Bidder's Statement was lodged with ASIC on 11 October 2010.

This Bidder's Statement replaces a bidder's statement dated 4 October 2010 and lodged with ASIC on that date (**Original Bidder's Statement**). ASIC takes no responsibility for the contents of this Bidder's Statement.

## Defined terms

A number of defined terms are used in this Bidder's Statement. The definitions are set out in Part 9 of this Bidder's Statement.

## Investment decisions

ESN Shareholders should read all of this Bidder's Statement before deciding whether to accept the Offer.

This Bidder's Statement does not take into account the individual investment objectives, financial situation or particular needs of each ESN Shareholder or any other person.

ESN Shareholders may wish to seek independent financial and taxation advice before making a decision as to whether or not to accept the Offer.

## Foreign or overseas shareholders

This Bidder's Statement does not constitute an offer in any jurisdiction in which, or to any person to whom, it would not be lawful to make such an offer. The distribution of this Bidder's Statement may, in certain jurisdictions, be restricted by law. Persons who come into possession of this document should inform themselves of and observe any of these restrictions. Any failure to comply with these restrictions may constitute a violation of the securities laws of any of these jurisdictions. MMZ does not assume any responsibility for any violation by any person of any of these restrictions.

No action has been taken to register or qualify MMZ or to otherwise permit a public offering of MMZ Securities outside Australia or New Zealand. MMZ Securities have not been, and will not be, registered under the United States Securities Act of 1933 (**Securities Act**) or the securities laws of any United States state or other jurisdiction and therefore may not be offered or sold in the United States or to, or for the account or benefit of, a U.S. person (as defined in Regulation S under the Securities Act), except in a transaction exempt from the registration requirements of the Securities Act and applicable United States securities laws.

In making the Offer available to persons resident in New Zealand, MMZ is relying on an exemption contained in the *New Zealand Securities Act (Overseas Companies) Exemption Notice 2002* (as amended) in relation to prospectus and investment statement requirements in New Zealand.

## Disclaimer as to forward-looking statements

Some of the statements appearing in this Bidder's Statement may be in the nature of forward-looking statements. You should be aware that such statements are only predictions and are based on assumptions and subject to inherent risks and uncertainties. Those risks and uncertainties include factors and risks specific to the industry in which MMZ and ESN operate as well as general economic conditions, prevailing exchange rates and interest rates and conditions in the financial markets. Actual events or results may differ

materially from the events or results expressed or implied in any forward-looking statement.

None of MMZ, the officers of MMZ, any persons named in this Bidder's Statement with their consent, or any person involved in the preparation of this Bidder's Statement, makes any representation or warranty (express or implied) as to the accuracy or likelihood of fulfillment of any forward-looking statement, or any events or results expressed or implied in any forward-looking statement, except to the extent required by law. You are cautioned not to place undue reliance on any forward-looking statement. The forward-looking statements in this Bidder's Statement reflect views held only as at the date of this Bidder's Statement.

## Disclaimer as to ESN information

The information on ESN and ESN's securities contained in this Bidder's Statement has been prepared by MMZ using publicly available information.

The information in this Bidder's Statement concerning ESN and the assets and liabilities, financial position and performance, profits and losses and prospects of ESN, has not been independently verified by MMZ. Accordingly, subject to the Corporations Act, MMZ does not make any representation or warranty, express or implied, as to the accuracy or completeness of such information.

Further information relating to ESN's business may be included in ESN's target's statement which ESN must provide to its shareholders in response to this Bidder's Statement.

## Privacy

MMZ has collected your information from the ESN register of shareholders for the purpose of making this Offer and, if accepted, administering your holding of ESN Shares. The Corporations Act requires the name and address of shareholders to be held in a public register. Your information may be disclosed on a confidential basis to MMZ's related bodies corporate and external service providers, and may be required to be disclosed to regulators such as ASIC. The registered address of Mooter Media Limited is Level 6, 8 Help Street, Chatswood, NSW 2067.

## Imputed value

As the consideration being offered for your ESN Shares consists of MMZ Securities, the imputed value of the Offer to you may vary with the market price of MMZ Shares. In addition, all references to the imputed value of the Offer are subject to rounding.

## Further information

For any queries in relation to the Offer, please contact the MMZ Company Secretary, John Diddams, on (02) 9325 5900.

11 October 2010

Dear ESN Shareholder,

**Takeover Bid for Entellect Solutions Limited (ESN)**

On behalf of the directors of Mooter Media Limited (MMZ), I am pleased to offer you this opportunity to become a shareholder in MMZ.

If you have followed the progress of ESN in recent months, you will be aware that the Company has no funds, no project or asset of note, and is currently suspended from trading on the ASX.

You may well ask, 'Why, in those circumstances, is MMZ interested in ESN?' MMZ believes it can play a lead role in reactivating ESN by helping it to develop new products, help it to restructure its funding, and help it to seek reinstatement of ESN shares to quotation on ASX.

In this regard, I refer you to the following quotes attributed to me and to my fellow director, Professor Paul Fullwood, which were contained in the MMZ announcement to ASX on 12 August 2010.

*'Mooter has been developing an educational derivatives strategy for a number of months now based on our own developments and on the vast knowledge and experience of Professor Paul Fullwood and some of his games and university associates. Through the proposed acquisition of ESN, Mooter believes it can direct its educational strategy through a separate, singularly focused and purpose driven company for the substantial and additional benefit of all shareholders.'*

*'ESN is in the educational solutions industry but has, in our view, tackled it in an entirely unproductive way. The company is now suspended from trading with very little chance of re-igniting interest or restoring shareholders value. We believe the success of this proposal will create new interest, new vitality and new opportunities for the company while the consequent issue of Mooter securities to ESN shareholders will give them the opportunity of becoming investors in Mooter, remaining connected to the concept and being involved in two highly exciting and related areas of the web.'*

*'We want our own Mooter shareholders to be a direct part of this associated and exciting growth. Consequently (subject to the acceptance of the 50.1% minimum acceptance threshold), we intend to distribute to our shareholders, on a pro rata ... basis, all of the shares acquired in ESN, pursuant to the offer, over and above the first 20%...' Peter Jermyn*

*'Following my operational experience as a founding VP of educational games developer, Lightspan, Inc. [A company that boasted shareholders of the ilk of Microsoft, Sony, Comcast, Kleiner Perkins et al and that IPO'd on Nasdaq in 2000, circa US\$600 million], this sector of the market has continued to mature and develop to the extent that its inherent potential now comprehensively exceeds what I did 10 years ago. It is my view that Mooter has a definitive edge in various segments of the educational area and can foster ESN into it becoming a force in this quite compelling space...' Paul Fullwood*

MMZ is offering you two MMZ Shares, one \$0.015 MMZ Option and one \$0.05 MMZ Option for every 40 of your ESN Shares. The Offer is subject to a minimum acceptance level of 50.1%. If the Offer is successful, MMZ intends to distribute back to all MMZ Shareholders (which will include you, if you accept the Offer) all of the ESN Shares acquired by MMZ under the Offer, less 20% which will be retained by MMZ as a strategic holding in ESN.

I believe the success of the Offer will provide an exciting, market-focused and commercially directed future for ESN, whose association with MMZ is expected to create a relationship of significance within the games space and give substantial strength and related benefits to both companies and their combined shareholder base. It will also allow ESN to take advantage of the market success of MMZ and to utilise the facilities and technical credentials of MMZ's joint venture partner, Hot Shot Media Pte Ltd, in both San Francisco and Singapore. ESN shareholders who accept the Offer will become shareholders in both companies (following the distribution of ESN shares to MMZ Shareholders by way of a return of capital) and will thereby enjoy any financial benefits that result from market upside in either or both companies.

**I urge you to read this document thoroughly and to accept the Offer.**

Yours sincerely

P G Jermyn

Chairman, Mooter Media Limited

# Contents

---

Important dates	5
Corporate information	5
Part 1 – Summary of the Offer, key questions, and how to accept	6
Part 2 – Information on MMZ	10
Part 3 – Information on ESN	15
Part 4 – MMZ's intentions in relation to ESN	17
Part 5 – Profile of MMZ and ESN following successful completion of the Takeover Bid	20
Part 6 – Investment considerations	22
Part 7 – Other material information	24
Part 8 – Offer Terms	28
Part 9 – Definitions and interpretation	41
Signing page	44

# Important dates

---

Announcement Date	12 August 2010
Original Bidder's Statement lodged with ASIC and ASX	4 October 2010
Record Date	5 October 2010
Bidder's Statement lodged with ASIC and ASX	11 October 2010
Date of Offer (Offer opens)	[ ] 2010
Offer closes (unless extended)	[ ] 2010

# Corporate information

---

## Directors

Peter Jermyn	Chairman
Simon Meadmore	Non Executive Director
Nicholas Stavropoulos	Non Executive Director
Prof. Paul Fullwood	Non-executive Director

## Company Secretary

John F. Diddams

## Registered Office

Level 6, 8 Help Street  
Chatswood, NSW 2067

## Share registry

Registries Limited  
Level 7, 207 Kent Street  
Sydney, NSW 2000

## Legal adviser

Minter Ellison  
Level 49, Central Park  
152 St Georges Terrace  
Perth, Western Australia 6000

# Part 1 – Summary of the Offer, key questions, and how to accept

---

## Summary of the Offer

Set out below is an overview of the Offer. This information is a summary only and should be read in conjunction with the detailed terms of the Offer set out in Part 8 and other information contained in this Bidder's Statement.

You should read the entire Bidder's Statement before deciding whether to accept the Offer.

### **The bidder**

MMZ is making the Offer. Further details about MMZ are set out in Part 2.

### **The Offer**

MMZ is offering to acquire all of your ESN Shares on the terms set out in Part 8.

### **Offer price**

Under the Offer you will receive two MMZ Shares, one \$0.015 MMZ Option and one \$0.05 MMZ Option for every 40 of your ESN Shares.

### **Closing date**

Unless extended or withdrawn in accordance with the Corporations Act, the Offer remains open for acceptance from the Offer Date until 7.00pm (Sydney time) on [ ] 2010.

### **Conditions**

The Offer is subject to the conditions set out in section 7 of the Offer Terms. MMZ may waive any of those conditions in accordance with the Offer Terms.

### **Issue of MMZ Securities**

If you accept the Offer then, subject to the satisfaction of the conditions of the Offer, MMZ will issue the MMZ Securities to which you are entitled on or before the earlier of:

- (a) one month after the Offer is validly accepted or the contract resulting from its acceptance becomes unconditional (whichever is the later); and
- (b) 21 days after the Offer closes.

### **Stamp duty and brokerage**

You will not pay stamp duty or brokerage if you accept the Offer.

### **Further information**

For any queries in relation to the Offer, please contact the MMZ Company Secretary, John Diddams, on (02) 9325 5900.

## Key questions

This section answers some key questions that you may have about the Offer and should only be read in conjunction with the entire Bidder's Statement.

### **What is the Bidder's Statement?**

The Bidder's Statement sets out the terms of the Offer and information relating to the Offer and the consideration you will receive if you accept the Offer.

### **What is the Offer?**

MMZ is offering to acquire all of your ESN Shares by way of an off-market takeover offer. You will receive two MMZ Shares, one \$0.015 MMZ Option and one \$0.05 MMZ Option for every 40 of your ESN Shares.

### **What is the value of the Offer?**

The implied value of the Offer will vary, depending on the price of MMZ Shares.

Based on the closing price of MMZ Shares on 11 August 2010 (being the day prior to the Announcement Date), the implied value of the Offer is 0.06 cents per ESN Share (assuming no value is attributed to the \$0.015 MMZ Options and \$0.05 MMZ Options).

### **What are the tax consequences if I accept the Offer?**

You should consult your financial or other professional adviser on the tax implications of accepting the Offer.

See section 2 of Part 6 and Annexure C for further information on the availability of rollover relief and tax considerations generally.

### **How do I accept the Offer?**

To accept the Offer you must follow the instructions set out in section 5 of the Offer Terms. Acceptances of the Offer must be received before the close of the Offer Period.

### **Can I accept the Offer for part of my holding?**

No, generally speaking you can only accept for all of your holding. Your acceptance will be treated as being for all your ESN Shares plus any additional ESN Shares registered in your name at the date your acceptance is processed. Special arrangements apply to trustee and nominee shareholdings, as to which see section 9 of the Offer Terms.

### **What happens if I do not accept the Offer?**

If you do not accept the Offer, you will remain the holder of your ESN Shares. MMZ does not intend to exercise its right to acquire any outstanding ESN Shares compulsorily should it be in a position to do so upon conclusion of the Takeover Bid. MMZ's intentions are described in Part 4.

### **Can I withdraw my acceptance?**

No, unless a withdrawal right arises under the Corporations Act. Generally, this right would only arise if MMZ extended the Offer Period for more than one month whilst the Offer remained conditional.

### **When does the Offer close?**

Unless extended or withdrawn in accordance with the Corporations Act, the Offer remains open for acceptance from the Offer Date until 7.00pm (Sydney time) on [ ] 2010.

### **Can MMZ extend the Offer Period?**

Yes, the Offer Period can be extended by MMZ in accordance with the Corporations Act. In certain circumstances, the Corporations Act imposes a mandatory extension of the Offer Period.

### **Can I sell the MMZ Shares I receive from accepting the Offer on the market?**

Yes. You will be able to sell the MMZ Shares (though not the MMZ Options) you receive on the ASX.

### **What if I am a Foreign Shareholder?**

Certain foreign holders of ESN Shares will not be entitled to receive MMZ Securities on accepting the Offer. These holders will be paid the net proceeds from the sale of the MMZ Securities which they would otherwise have received (see section 6.5 of the Offer Terms).

### **If I accept the Offer, when will I receive the consideration for my ESN Shares?**

If you accept the Offer, and subject to satisfaction of the conditions of the Offer, MMZ will issue the MMZ Securities to which you are entitled on or before the earlier of:

- (a) one month after the Offer is validly accepted or the contract resulting from its acceptance becomes unconditional (whichever is the later); and
- (b) 21 days after the Offer closes.

For further information, see section 6 of the Offer Terms.

### **Will I need to pay stamp duty or brokerage if I accept the Offer?**

You will not pay any stamp duty or brokerage on accepting the Offer.

If your ESN Shares are registered in an Issuer Sponsored Holding and you deliver them directly to MMZ, you will not incur any brokerage in accepting the Offer.

If your ESN Shares are in a CHESS Holding or you hold your ESN Shares through a bank, custodian or other nominee, you should ask your Controlling Participant (usually, your broker or the bank, custodian or other nominee) whether it will charge any transaction fees or service charges connected with you accepting the Offer.

If you are a Foreign Shareholder, the proceeds of sale of the MMZ Securities which you would otherwise have received as a consequence of accepting the Offer will be net of sale costs, including brokerage (see section 6.5 of the Offer Terms).

### **What are the conditions to the Offer?**

The Offer is subject to a number of conditions, which are set out in full in section 7 of the Offer Terms.

### **What happens if the conditions of the Offer are not satisfied or waived?**

If the conditions of the Offer are not satisfied or waived before the Offer closes, the Offer will lapse. MMZ will make an announcement to the ASX if the conditions of the Offer are satisfied or waived during the Offer Period.

### **Are there any risks in accepting the Offer?**

If you accept the Offer you will become a shareholder in MMZ. There are risks associated with holding MMZ Securities. These are summarised in Part 6. You are already exposed to several of these risks, to varying degrees, as a result of holding ESN Shares.

# How to Accept

## What you should do next

- Step 1:** Carefully read the entire Bidder's Statement and consider the information provided on MMZ and ESN, as well as all the risk factors described in Part 6.
- Step 2:** If you need advice, consult your financial or other professional adviser.
- If you have any queries about this Bidder's Statement, the Offer or how to accept the Offer, please contact the MMZ Company Secretary, John Diddams, on (02) 9325 5900.
- Step 3:** If you wish to accept the Offer, follow the instructions below (and detailed further in the Offer Terms).

## How to accept the Offer

You should read section 5 of the Offer Terms for full details on how to accept the Offer. Acceptances of the Offer must be received before the close of the Offer Period.

How you accept the Offer will depend on whether your ESN Shares are in an Issuer Sponsored Holding or a CHESS Holding. If they are in an Issuer Sponsored Holding, you will have a securityholder reference number (SRN) beginning with 'I'. If they are in a CHESS Holding, you will have a holder identification number (HIN) beginning with 'X'. Your Acceptance Form will also have these descriptions and specific details of your holding printed on it.

### For Issuer Sponsored Holdings of ESN Shares

You must complete and sign the enclosed Acceptance Form in accordance with the instructions on that form and within this Bidder's Statement and return it to the address indicated on the form so that it is received before the close of the Offer Period.

### For CHESS Holdings of ESN Shares

You must either:

- (a) instruct your broker or other CHESS Controlling Participant to initiate acceptance of the Offer on your behalf in sufficient time for the Offer to be accepted before the close of the Offer Period; or
- (b) complete, sign and return the Acceptance Form in accordance with the instructions on that form and within this Bidder's Statement and return it to the address indicated on the form so that MMZ can relay your instruction on your behalf in sufficient time for the Offer to be accepted before the end of the Offer Period.

The mailing address for completed Acceptance Forms is:

Registries Limited  
Level 7, 207 Kent Street  
Sydney, NSW 2000

## Further information

For any queries in relation to the Offer, please contact the MMZ Company Secretary, John Diddams, on (02) 9325 5900.

# Part 2 – Information on MMZ

---

## 1. Principal activities of MMZ

MMZ is an ASX-listed developer and provider of digital media solutions, including a contextual targeting and analysis platform.

Through its wholly-owned subsidiary, Hot Shot Media Pty Ltd (ACN 127 050 775), MMZ has a 50% interest in a joint venture with Hot Shot Media Pte Ltd, a Singaporean company, to commercialise the full suite of Hot Shot games, gaming and competition-based products.

MMZ also owns Project Search Pty Ltd (ACN 125 652 388) which has strategic partnerships with a number of online publishers and advertisers intended to provide strong revenue growth for the Company.

Pursuant to an agreement with Wink Martindale Enterprises entered into on 15 June 2010, MMZ has acquired exclusive rights to develop, produce and market skill and contest games, competitions and games-formatted television shows for global web, Internet TV, online and mobile use, as well as additional rights to worldwide cable, broadcast, and free-to-air television deployment.

MMZ announced on 17 September 2010 that it had entered into a Heads of Agreement with Netherlands-based Woophy (an acronym for 'World Of Photography') BV to establish a joint venture company to own all of the rights and intellectual property of that company. Woophy is a geo-targeted social photography website and online community. MMZ will have 80% equity in the joint venture company.

## 2. Publicly available information

As MMZ is offering MMZ Securities as consideration for the acquisition of ESN Shares under the Takeover Bid, the Corporations Act requires that this Bidder's Statement must include all information that would be required for a prospectus for an offer of MMZ Securities under sections 710 to 713 of the Corporations Act.

By virtue of section 710, this Bidder's Statement is required to contain all the information investors and their professional advisers would reasonably require to make an informed assessment of:

- (a) the rights and liabilities attaching to the MMZ Securities to be issued pursuant to the Takeover Bid; and
- (b) the assets and liabilities, financial position and performance, profits and losses and prospects of MMZ.

A summary of the rights and liabilities attaching to MMZ Securities is set out in sections 3.6 and 3.7 of this Part 2.

MMZ's annual report to shareholders for the year ended 30 June 2010 was lodged with ASIC on 30 September 2010 (**Annual Report**). The Annual Report includes the directors' report, remuneration report and auditor's independence declaration, statements of comprehensive income, financial position, changes in equity and cash flows, comprehensive notes to the financial statements, and an independent auditor's report.

Pursuant to section 712 of the Corporations Act, this Bidder's Statement incorporates by reference the Annual Report and all continuous disclosure notices given by MMZ since 30 September 2010. A list of those notices is set out in Annexure A.

To obtain a copy of the Annual Report or any of MMZ's continuous disclosure notices, ESN Shareholders may call MMZ's Company Secretary, John Diddams, on (02) 9325 5900 or obtain a copy from the ASX website (at ASX code: MMZ) or ASIC.

There is no other information, other than that set out elsewhere in this Bidder's Statement, which investors or their professional advisers would reasonably require for the purpose of making an informed assessment of:

- (a) the assets and liabilities, financial position and performance, profits and losses and prospects of MMZ; or
- (b) the rights and liabilities attaching to the MMZ Securities to be issued pursuant to the Takeover Bid.

This Bidder's Statement contains details specific to the issue of those MMZ Securities. If ESN Shareholders require further information in relation to MMZ, MMZ recommends that they take advantage of the ability to inspect or obtain copies of the documents referred to above.

### **3. Information about MMZ securities**

#### **3.1 Capital structure**

As at the date of this Bidder's Statement MMZ has 2,380,233,608 fully paid ordinary shares on issue. There are no other classes of shares on issue. 2,135,072,317 MMZ Shares are listed for quotation on the ASX.

There are also currently outstanding 749,761,430 Existing MMZ Options.

#### **3.2 Ownership of MMZ**

MMZ has a diverse shareholder base, with over 1,650 shareholders on its register. Based on an analysis of MMZ's register of shareholders as at 30 September 2010, MMZ's top 20 shareholders accounted for approximately 58% of MMZ's issued share capital.

#### **3.3 Dividends**

Subject to the Corporations Act MMZ's board of directors may pay any dividend it thinks appropriate out of the company's profits, and may fix the time of payment. Historically, MMZ has not paid dividends, preferring instead to re-invest profits in developing its assets.

#### **3.4 Recent trading in MMZ Shares**

The last recorded sale price of MMZ Shares on the ASX before the Announcement Date was 1.2 cents per share.

The last recorded sale price of MMZ Shares on the ASX before the Lodgement Date was \$0.009 per share on 1 October 2010.

The highest and lowest recorded sale prices of MMZ Shares on the ASX in the four months prior to the Lodgement Date were 2.6 cents per share (on 12 April 2010) and 0.8 cents per share (on 30 June 2010) respectively.

#### **3.5 Directors' interests in MMZ securities**

As at the date of this Bidder's Statement, the Company's directors have relevant interests in the following MMZ securities:

Name	MMZ Shares	MMZ Options
P Jermyn	136,258,889	59,366,741
S Meadmore	208,079,115	60,075,090
N Stavropoulos	113,250,001	71,666,667
P Fullwood	nil	nil

### 3.6 Summary of rights and liabilities attaching to MMZ Shares

All MMZ Shares to be issued pursuant to the Takeover Bid will rank equally with all other MMZ Shares then on issue.

MMZ Shares are quoted on the ASX. As stated in section 3 of the Offer Terms, MMZ will make an application to the ASX for quotation of the new MMZ Shares issued pursuant to the Takeover Bid, and the grant of that quotation is a condition of the Offer.

The rights attaching to MMZ Shares arise from a combination of MMZ's constitution, statute and general law. The primary rights attaching to MMZ Shares include the rights to receive notice of meetings, attend and vote at meetings, receive non-cumulative dividends which are declared and any surplus on winding up. A brief summary of some of the more significant rights attaching to the MMZ Shares is set out below. This summary does not purport to be exhaustive or to constitute a definitive statement of the rights and liabilities of holders of MMZ Shares.

#### (a) Voting

At a general meeting, every member present in person or by proxy, body corporate representative or attorney has one vote on a show of hands in respect of their shareholding and has one vote on a poll for each fully paid MMZ Share held and a fraction of a vote for each partly paid MMZ share held (subject to any rights or restrictions attached to any class of shares). If two or more persons are jointly entitled to a share, and more than one joint holder is present at any meeting, either personally or by attorney or proxy, the vote of the person present whose name stands first in the register of members in respect of that share shall be accepted to the exclusion of the other joint holders.

#### (b) Meetings of members

A general meeting may be called by a director or, as permitted under the Corporations Act, at the request of MMZ members with at least 5% of the votes that may be cast at a general meeting. Each member of MMZ is entitled to notice of all general meetings.

#### (c) Dividends

The directors of MMZ may deduct from the dividends payable to any member all sums as may be presently payable by that member to MMZ for calls due and payable and apply the amount deducted in or towards satisfaction of the money owing.

#### (d) Issue of further MMZ Shares

The directors of MMZ may issue shares in MMZ and may also decide the terms on which shares in MMZ are issued and the rights and restrictions attached to those MMZ Shares. This power is subject to the requirements of the Corporations Act and the Listing Rules.

#### (e) Transfer of MMZ Shares

Holders of MMZ Shares may transfer those shares by a proper transfer effected in accordance with the ASTC Settlement Rules, the Corporations Act or by a written transfer in any usual or common form or in any other form approved by MMZ. MMZ must not

decline to register a transfer of a share except in certain circumstances.

**(f) Dividend reinvestment**

MMZ's constitution contains a provision whereby the directors of MMZ may implement a dividend reinvestment plan on the terms they think fit under which the whole or any part of a dividend due to members who participate in the plan on their shares or any class of shares may be applied in subscribing for securities of the Company or of a related body corporate.

### **3.7 Summary of rights and liabilities attaching to MMZ Options**

The terms and conditions of the \$0.015 MMZ Options and \$0.05 MMZ Options are as follows:

- (a) The options will expire on 30 June 2012 (**expiry date**) and may be exercised at any time upon vesting and prior to the expiry date.
- (b) The options vest immediately.
- (c) Subject to conditions (j) and (k), each option is a right in favour of the option holder to subscribe for one Share.
- (d) The exercise price of the options will be payable in full on exercise.
- (e) Options are exercisable by the delivery to the registered office of the Company of a notice in writing stating the intention of the option holder to exercise all or a specified number of the options held by the option holder accompanied by a option certificate and payment of the exercise price for the specified number of options. An exercise of only some of the options will not affect the rights of the option holder to the balance of the options held by him.
- (f) The Company will allot the resultant shares and deliver the holding statement within five business days after the exercise of the option.
- (g) The options are not transferable, and no application will be made to the ASX for Official Quotation of the options.
- (h) There will be no participating entitlements inherent in the options to participate in new issues of capital that may be offered to shareholders during the currency of the options. Prior to any new pro-rata issue of securities to shareholders, holders of options will be notified by the Company in accordance with the requirements of the Listing Rules.
- (i) In the event the Company proceeds with a pro-rata issue (except a bonus issue) of the securities to the holders of shares after the date of issue of the options, the exercise price of the options will be adjusted in accordance with a formula set out in Listing Rule 6.22.2, with such adjustment to take effect on and from the final date of allotment of the securities comprised in that issue.
- (j) In the event of a bonus issue of securities, the number of shares over which the options are exercisable may be increased by the number of shares that the option holders would have received if the options had been exercised before the record date for the bonus issue.
- (k) In the event of a reconstruction, including the consolidation, subdivision, reduction or return of issue capital of the Company prior to the expiry date, all rights of an option holder are to be changed in a manner consistent with the Listing Rules.
- (l) There is no right to a change in the exercise price of the options or to the number of shares over which the options are exercisable in the event of a new issue of capital (other than a bonus issue or a pro rata issue) during the currency of the options.
- (m) Shares allotted pursuant to an exercise of options will rank, from the date of allotment, in all respects equally with existing fully paid ordinary shares of the Company.

- (n) In accordance with the Listing Rules the Company will apply for Official Quotation of all shares allotted pursuant to an exercise of options.

# Part 3 – Information on ESN

---

## 1. Source of information on ESN

The information on ESN included in this Bidder's Statement has been prepared by MMZ using publicly available information, including, but not limited to, ESN annual reports, ESN ASX announcements and the ESN website. The information on ESN in this Bidder's Statement should not be considered to be comprehensive and is based on the public information regarding the business of ESN, which is known to MMZ at the date of this Bidder's Statement. Whilst MMZ has completed a substantial review of the business operated by ESN, information in this Bidder's Statement concerning ESN's business has not been independently verified.

Accordingly, MMZ does not make any representation or warranty, express or implied, as to the accuracy or completeness of this information, other than as required by the Corporations Act.

For further information on ESN, investors should read the ASX announcements made by ESN and ESN's 2009 Annual Report, all of which are available on the ASX website (Code: ESN). A list of the ASX announcements made by ESN since 30 September 2009 is attached as Annexure B.

Additional information relating to ESN and its assets may be included in the target's statement which ESN must provide to its shareholders in response to this Bidder's Statement, and reference should also be made to that information.

## 2. Overview of ESN

ESN is an ASX-listed company whose principal activities are stated as being the development, customisation, sale and support of eMinerva™ Student Management Systems software, vSTARSTM Curriculum, Assessment and Reporting software and vPublisher™ e-book online publishing software.

ESN's registered office is located at Level 3, 1 Collins Street, Melbourne, Victoria 3000.

From information in announcements made by ESN to ASX since 30 March 2010 (when ESN detailed its assets in an Explanatory Memorandum accompanying a Notice of General Meeting), MMZ believes that some of those assets may no longer be a property of ESN. Of particular relevance is the announcement made by ESN to ASX on 18 June 2010 in which it stated that MXL Consolidated Pty Ltd, a wholly owned subsidiary of ESN, had been placed in administration on 9 April 2010.

ESN Shares have been suspended from official quotation by the ASX since 9 April 2010.

## 3. Information about ESN securities

### 3.1 Capital structure

According to an Appendix 3B lodged by ESN with the ASX on 3 November 2009, there are 1,744,778,615 ESN Shares and 706,681,392 ESN Options on issue.

According to ESN's 2009 Annual Report, 37,500,000 out of the total of 706,681,392 ESN Options on issue were held by directors of ESN as at 30 June 2009.

### 3.2 MMZ's interest in ESN securities

As at the date of this Bidder's Statement:

- (a) MMZ does not have a relevant interest in any ESN Shares, and it has no voting power in ESN; and
- (b) MMZ does not have a relevant interest in any ESN Options.

As at the Offer Date:

- (a) MMZ's voting power in ESN was 0%;
- (b) MMZ has not had a relevant interest in any ESN Shares; and
- (c) MMZ does not have, and has not had, a relevant interest in any ESN Options.

### **3.3 Dealings in ESN Shares**

During the period of four months prior to the Offer Date, neither MMZ nor any of its associates provided, or agreed to provide, consideration for ESN Shares under any purchase or agreement.

# Part 4 – MMZ's intentions in relation to ESN

---

## 1. Introduction

This Part 4 sets out MMZ's intentions in relation to the following:

- (a) the continuance of, and any major changes to be made to, the business of ESN, including any redeployment of the fixed assets of ESN (section 2.1 in this Part 4); and
- (b) the future employment of the present directors and employees of ESN (section 2.2 in this Part 4).

MMZ considers the education business direction of ESN is a good fit strategically with MMZ's stated intentions and MMZ would seek, subject to the review outlined below, to retain all ESN employees involved in that business.

These intentions are based on the public information regarding the business of ESN known to MMZ at the time of preparation of this Bidder's Statement. MMZ does not currently have access to all material information that is necessary to assess the implications of its current intentions. A final decision on these matters has not been made and can only be concluded once all material facts and circumstances are known and an internal review of the assets and operations of ESN has been completed. The statements set out in this Part 4 are statements of current intention only which may change as new information becomes available or circumstances change.

## 2. Operational intentions

### 2.1 ESN's business

If at the close of the Offer Period MMZ has a voting power of 50.1% or more in ESN (notwithstanding that that voting power may subsequently reduce as a result of the *in specie* distribution of ESN Shares referred to below):

- (a) MMZ intends to introduce ESN to opportunities in the online learning and education sectors;
- (b) MMZ will undertake a financial, strategic and technical review of the assets held by ESN, including assessing the performance, profitability, commitments and prospects on an asset by asset basis. Following this review, assets will be ranked and expenditure and personnel allocated to assets on a best quality-most attention type process;
- (c) the key objective of that review will be to ascertain whether improvements can be made to any of ESN's operations;
- (d) if MMZ receives an offer to purchase an asset upon terms and conditions that present a value higher than the value assessed by MMZ, then MMZ may consider a divestment of the asset. At this time, MMZ has received no offers and is not in discussions with any third party regarding any of ESN's assets; and
- (e) MMZ will review the need to retain ESN's Sydney office and may close that office as a cost-saving measure.

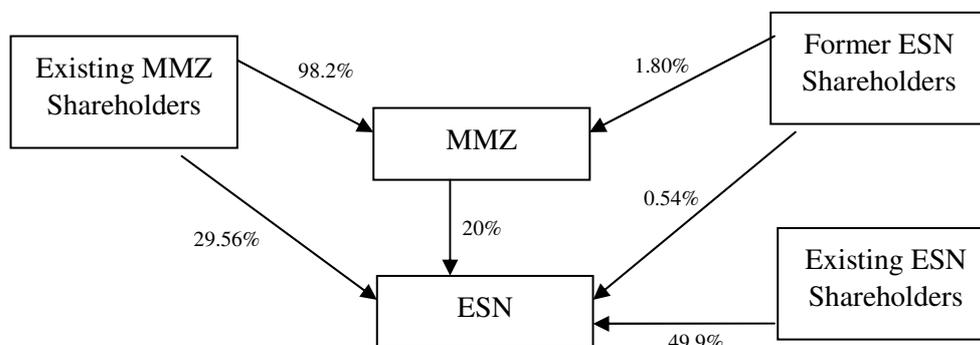
Without having access to the confidential data that ESN holds on each of its assets, and without having yet conducted the review, MMZ cannot formulate a specific and prescribed intention in relation to each of the assets (if any) until the review has been completed.

In addition, MMZ intends to:

- (a) maintain ESN's listing on the ASX, subject to the Listing Rules;
- (b) seek the appointment of Professor Paul Fullwood to the ESN board of directors. However MMZ would retain an appropriate number of independent directors on the ESN board of directors to represent minority shareholders; and
- (c) undertake an *in specie* distribution of all ESN Shares acquired pursuant to the Takeover Bid except for a 20% shareholding in ESN which MMZ intends to retain.

MMZ does not intend to exercise its right to acquire any outstanding ESN Shares compulsorily should it be in a position to do so upon conclusion of the Takeover Bid.

The distribution *in specie* referred to above will be effected by way of a return of capital to MMZ Shareholders, pro rata to their shareholdings in MMZ as at the record date for the return of capital. This date will only be set after all MMZ Shares have been issued to accepting offerees under the Takeover Bid, so that all ESN Shareholders who accept the Offer will participate in the return of capital and thereby receive back a portion of the ESN Shares sold to MMZ by accepting the Offer. The number of ESN Shares which ESN Shareholders will receive back will depend on the level of acceptances of the Takeover Bid achieved by MMZ. However, assuming a 50.1% acceptance level, the ownership structure of MMZ and ESN following completion of the Takeover Bid and the return of capital to MMZ Shareholders would look as follows:



The extent to which MMZ's intentions described above may be realised will be subject to:

- (a) the law and the Listing Rules which may in some circumstances require approval of the remaining ESN Shareholders for arrangements between MMZ and ESN;
- (b) the legal obligations of the ESN board of directors to act in good faith and in the best interests of ESN and for proper purposes; and
- (c) the outcome of the financial, strategic and technical review conducted by MMZ in relation to ESN's assets.

Any transactions between MMZ (on the one hand) and ESN (on the other) required to the effect those intentions (including the initiatives described above) will be entered into on arm's length terms. In addition, if required by law or the Listing Rules, MMZ will seek any necessary approval of the remaining ESN Shareholders to implement those steps.

## 2.2 Directors and employees

If at the close of the Offer Period MMZ has a voting power of 50.1% or more in ESN (notwithstanding that that voting power may subsequently reduce as a result of the *in specie* distribution of ESN Shares referred to in section 2.1), MMZ:

- (a) does not have any present intention to materially change the composition of the ESN board of directors other than to seek the appointment of one of its directors to the ESN board of directors;

- (b) does not intend to invite any of the current directors of ESN onto the MMZ board of directors; and
- (c) will undertake an operational review of ESN's staff and premises and, subject to that review, will consolidate all head office functions and overall direction and control of ESN in MMZ's existing head office in Chatswood, New South Wales.

Without having access to ESN's employee records, MMZ cannot formulate a specific and prescribed intention in relation to employees until a full operational review has been completed. However, MMZ does expect some minor cost savings may be made in relation to ESN's Sydney office. Any reduction in employee numbers would be effected through voluntary redundancies on terms consistent with market practice, the terms of employment of the relevant personnel and other legal obligations.

### 3. Intentions if MMZ does not acquire effective control of ESN

As set out above, the Offer is subject to a 50.1% minimum acceptance condition, which MMZ has no present intention of waiving. Notwithstanding that, this section 3 sets out MMZ's intentions if the Offer closes and MMZ then has a voting power in ESN of less than 20% (in which case the *in specie* distribution of ESN Shares referred to in section 2.1 will not take place). In these circumstances, MMZ intends to take an active interest in the development of ESN. A number of possibilities are open to MMZ, including:

- (a) if it has not already done so under the Takeover Bid, acquiring additional ESN Shares until MMZ obtains 19.9% of ESN;
- (b) once MMZ holds 19.9% of ESN (whether acquired under the Takeover Bid or otherwise), acquiring a further 3% every six months as permitted under the Corporations Act;
- (c) seeking representation on the ESN board of directors; and/or
- (d) providing technical and operational expertise to ESN on a commercial basis that would need to be agreed.

The implementation of the possibilities referred to in paragraphs (a) and (b) above are likely to be dependent on ESN Shares not trading on the ASX above a level that MMZ believes represents fair value at the time. MMZ's view on what is fair value will change from time to time and will depend on a number of factors.

Despite paragraphs (a) and (b) above, MMZ may decide not to purchase any further ESN Shares once the Offer Period closes. Notwithstanding MMZ's present intention to take an active interest in the development of ESN, it is also possible that MMZ may subsequently decide to sell its ESN Shares.

The possibilities referred to in paragraph (c) and (d) above are likely to require the support of the ESN board of directors. If MMZ is unable to secure appropriate board representation, then it will review its proposed ongoing involvement with ESN. This may include MMZ selling its ESN Shares.

### 4. Other intentions

MMZ has no current intentions with respect to ESN or its business or assets other than those set out above.

# Part 5 – Profile of MMZ and ESN following successful completion of the Takeover Bid

---

## 1. Strategic benefits

The key strategic benefits of bringing MMZ and ESN under common management are outlined in further detail below.

Following successful completion of the Offer:

- MMZ will assist ESN to seek reinstatement of ESN Shares to quotation on ASX;
- MMZ will assist ESN to establish an operating subsidiary in Australia and associated development initiatives in the US and Singapore;
- MMZ will provide to ESN, on arm's length commercial terms, the development initiatives, product marketing, infrastructural facilities and strategic alliances required to assist ESN become a global provider of educational games, educational derivatives and learning products;
- MMZ will work cooperatively with ESN to position both companies at the forefront of web-based games development, with MMZ in the area of *photo-centric* 'entertainment' games and ESN in the area of 'educational' games;
- MMZ will provide access to the expertise and experience of its development team, including the active involvement of MMZ director and games expert, Professor Paul Fullwood, and Mr Robin Mathews who has significant games and management experience; and
- MMZ will assist ESN in replicating, as closely as is practicable, the previous success of Professor Fullwood and his team in this industry.

## 2. Outlook for MMZ and ESN

This Bidder's Statement does not include any financial forecasts or projections for revenue or profit in relation to MMZ or ESN.

MMZ considers that the inclusion of financial forecasts in respect of MMZ and ESN would be speculative and potentially misleading for ESN Shareholders given that MMZ has only had access to publicly available information about ESN and its affairs.

## 3. Post-acquisition capital structure

The consideration for the acquisition of the ESN Shares under the Takeover Bid will be satisfied by the issue of MMZ Securities.

Assuming 50.1% acceptance of the Offer (and assuming no ESN Options are exercised), the capital structure of MMZ following the Takeover Bid will be as follows:

<b>Current structure</b>	
Number of MMZ Shares on issue as at the date of this Bidder's Statement	2,380,233,608
Number of Existing MMZ Options on issue as at the date of this Bidder's Statement	749,761,430
<b>Structure assuming 50.1% acceptance under the Takeover Bid (and assuming no ESN Options are exercised)</b>	
Number of new MMZ Shares to be issued pursuant to the Takeover Bid	43,619,466
Total MMZ Shares on issue	2,423,853,074
Number of MMZ Options to be issued pursuant to the Takeover Bid	43,619,466
Total Existing MMZ Options and new MMZ Options on issue	793,380,896

# Part 6 – Investment considerations

---

## 1. Risks

### 1.1 Introduction

ESN Shareholders who accept the Offer will receive MMZ Securities in exchange for their ESN Shares and as a result will become exposed to the same risks, benefits and other investment considerations as existing MMZ Shareholders and MMZ Optionholders.

As ESN is a publicly-listed company involved in the information technology (IT) industry, ESN Shareholders are already exposed to risks similar to those experienced by MMZ Shareholders.

The price at which MMZ Shares trade on the ASX from time to time is influenced by a large number of controllable and uncontrollable factors and risks including, but not limited to, those set out below. Accordingly, the market price of MMZ Shares (and, more generally, the value of MMZ Securities) may rise or fall over any given period.

ESN Shareholders should consider carefully the risks set out below and other information contained in this Bidder's Statement.

### 1.2 General risk factors

The operating and financial performance of MMZ is influenced by a variety of general economic and business conditions including the level of inflation, international share markets, interest rates and exchange rates, and regulatory policies and factors peculiar to the IT and entertainment sectors. A prolonged deterioration in general economic conditions, including an increase in interest rates or a decrease in consumer and business demand, could be expected to have a material adverse impact on MMZ's business or financial situation.

### 1.3 Specific business risk factors

The business risks set out in this section may impact the value or market price of MMZ Securities. These risks are not, in MMZ's opinion, materially different in nature or extent to those to which ESN Shareholders are already exposed to through their investment in ESN.

An investment in companies involved in technology and new media sectors attracts additional risks associated with investing in industries which are evolving rapidly. There are specific risks affecting investment in sectors involving technologies, arising from market perception that the industry is subject to volatility. MMZ's photo centric and social media product offerings all utilise relatively new technology. There is no guarantee that consumers and/or businesses will take up those product offerings or that the technology will not, in the future, be superseded by other technologies.

Development and commercialisation of new products and services generally involves long lead times. There is no certainty that MMZ will be able to be successfully develop new products within commercial time frames.

The social media industry is relatively new and there is no guarantee that the Company's products will be commercially successful. The willingness of customers to utilise the Company's product offerings is subject to a wide range of factors beyond the control of the Company, the occurrence or effect of which cannot be predicted.

MMZ is also exposed to the risk that changes to industry technical standards could have a material adverse impact on MMZ's financial performance.

Market acceptance, both in Australia and internationally, of the Company's products is uncertain.

These uncertainties are due to difficulties in estimating market size, product pricing and acceptance, lead times for the awarding of contracts and the possibility of the discovery and development of new technologies and competing products and services. Accordingly, there can be no assurance that MMZ's products and services will gain acceptance in the market, or that MMZ will receive profits from the sale of its products and services.

## 1.4 Specific transaction risks

The following risks relate specifically to the Offer.

### (a) MMZ Securities as consideration

Under the Takeover Bid MMZ will issue MMZ Securities to ESN Shareholders in exchange for their ESN Shares. Upon completion of the Takeover Bid, some of the former ESN Shareholders may seek to sell their MMZ Securities. There is a risk that if a significant number of ESN Shareholders seek to do so, the value or market price of MMZ Securities may be adversely impacted.

### (b) Partial acceptance of the Offer

MMZ expects various benefits and synergies to accrue from a successful completion of the Takeover Bid. These benefits and synergies are described in Part 5 of this Bidder's Statement. MMZ believes that value can be added for both ESN and MMZ Shareholders by bringing the companies under common management in an effective and timely manner. However, if MMZ is unable to acquire a level of shareholding in ESN sufficient to bring the companies under common management (assuming MMZ elects to waive the minimum acceptance condition in section 7.1(a) of Part 8, which it has no present intention of doing), MMZ may be unable to achieve those benefits and synergies.

## 2. Tax considerations

Annexure C contains a general description of the principal Australian tax consequences that will apply to ESN Shareholders who accept the Offer and who hold their ESN Shares **on capital account**. That description does not take into account or anticipate changes in the law (by legislation or judicial decision). In addition, the description is not exhaustive of all tax considerations which could apply to particular ESN Shareholders, such as insurance companies, superannuation fund and, financial institutions. It also does not apply to those ESN Shareholders who hold their ESN Shares **on revenue account** (ie are engaged in a business of trading in shares), or who hold ESN Shares as trading stock or acquired their ESN Shares for the purpose of resale at a profit.

ESN Shareholders who are not resident in Australia for tax purposes should take into account the tax consequences under the laws of their country of residence of accepting the Offer and of the acquisition, ownership and disposal of MMZ Securities.

# Part 7 – Other material information

---

## 1. Financial position of ESN

MMZ is not aware of any material change in the financial position of ESN since 30 June 2010. However, MMZ notes that the Appendix 4C Quarterly Report released by the Company to ASX on 30 July 2010 shows 'Cash at end of quarter' of \$45,000.

## 2. Compulsory acquisition

### 2.1 Post-bid compulsory acquisition provisions

MMZ does not intend to exercise its right to acquire any outstanding ESN Shares compulsorily under section 661A of the Corporations Act should it be entitled to do so at the close of the Offer Period.

### 2.2 Compulsory offer to buy out ESN Shares and ESN Options

If MMZ is required to offer to buy out outstanding ESN Shares and ESN Options under section 662A and section 663A respectively of the Corporations Act (and no relevant modification of those sections applies), MMZ will give notices to the relevant ESN security holders offering to buy out their ESN Shares and ESN Options in accordance with section 662B and section 663B respectively of the Corporations Act.

MMZ must serve a notice offering to buy out all remaining holders of ESN Shares and ESN Options if, at the close of the Offer Period, MMZ and its associates have relevant interests in at least 90% (by number) of ESN Shares. ESN security holders who hold securities covered by the notice may, but need not, accept the offer in the notice. The notices must be lodged with ASIC within one month after the close of the Offer Period (and must be despatched to ESN security holders on the same day or the next business day). ESN security holders who wish to accept the offer must do so within one month after the notice is lodged with ASIC.

## 3. Benefits given, offered or agreed

During the four months before the Offer Date neither MMZ nor an associate gave, offered to give or agreed to give a benefit to another person that was likely to induce the other person or an associate to:

- (a) accept an Offer under the Takeover Bid; or
- (b) dispose of ESN Shares,

that is not being offered to all ESN Shareholders under the Offer.

## 4. No escalation agreements

Neither MMZ nor any associate of MMZ has entered into any escalation agreement that is prohibited by section 622 of the Corporations Act.

## 5. Consents

This Bidder's Statement includes statements which are made in, or based on statements made in, documents lodged with ASIC or on the Company Announcement Platform of the ASX. Under

the terms of ASIC Class Order 01/1543, the parties making those statements are not required to consent to, and have not consented to, the inclusion of those statements in this Bidder's Statement.

Pursuant to the Class Order, MMZ will make available, free of charge, to holders of ESN Shares or ESN Options who request them during the Offer Period copies of all ASX announcements made by ESN since 30 September 2009, as set out in Annexure B.

To obtain a copy of these documents, holders of ESN Shares or ESN Options should call the MMZ Company Secretary, John Diddams, on (02) 9325 5900.

In addition, as permitted by ASIC Class Order 03/635, this Bidder's Statement may include or be accompanied by certain statements:

- (a) fairly representing a statement by an official person; or
- (b) from a public official document or a published book, journal or comparable publication, where the statement is not made or the document is not published in connection with the Takeover Bid or MMZ or ESN or any business, property or person the subject of this Bidder's Statement.

In addition, as permitted by ASIC Class Order 07/429, this Bidder's Statement contains ASX share price trading information sourced from IRESS Market Technology Ltd without its consent.

The following persons have consented to being named in this Bidder's Statement in the form and context in which their names appear and have not withdrawn their consent prior to lodgement of this Bidder's Statement with ASIC:

- (a) Minter Ellison as legal adviser to the Offer; and
- (b) Registries Limited as share registry to the Offer.

Each person named above as having given its consent to being named in this Bidder's Statement:

- (a) does not make, or purport to make, any statement in this Bidder's Statement or any statement on which a statement in this Bidder's Statement is based; and
- (b) to the maximum extent permitted by law, expressly disclaims and takes no responsibility for any part of this Bidder's Statement, other than a reference to their name.

## 6. Disclosure of interests of certain persons

Other than as set out below or elsewhere in this Bidder's Statement, no:

- (a) director or proposed director of MMZ;
- (b) person named in this Bidder's Statement as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Bidder's Statement;
- (c) promoter of MMZ; or
- (d) broker or underwriter in relation to the issue of MMZ Securities pursuant to the Takeover Bid,

(together, the **Interested Persons**) holds at the date of this Bidder's Statement or held at any time during the last two years, any interest in:

- (a) the formation or promotion of MMZ;
- (b) property acquired or proposed to be acquired by MMZ in connection with its formation or promotion, or the offer of MMZ Securities under the Takeover Bid; or
- (c) the offer of MMZ Securities under the Takeover Bid.

## 7. Disclosure of fees and benefits received by certain persons

Other than as set out below, no amounts have been paid or agreed to be paid and no benefits have been given or agreed to be given:

- (a) to a director or proposed director of MMZ, to induce them to become, or to qualify as, a director of MMZ; or
- (b) for services provided by any Interested Person in connection with the formation or promotion of MMZ or the offer of MMZ Securities under the Takeover Bid.

Minter Ellison has acted as legal adviser to MMZ in relation to this Bidder's Statement. Minter Ellison has received or will receive legal fees of approximately \$50,000 (plus disbursements and GST) for these services.

The amounts disclosed above are exclusive of any amount of GST that may be payable in respect of those amounts.

## 8. Interests of MMZ directors in MMZ securities and ESN securities

The relevant interests of MMZ's directors in MMZ securities are set out in section 3.5 of Part 2. None of the MMZ directors has a relevant interest in any ESN securities.

## 9. Expiry date

No securities will be issued on the basis of this Bidder's Statement after [ ] 2011.

## 10. Date for determining offerees

For the purposes of section 633(2) of the Corporations Act, the date for determining the people to whom information is to be sent under items 6 and 12 of section 633(1) of the Corporations Act for each Offer is the Record Date.

## 11. Foreign Shareholders

ESN Shareholders who are Foreign Shareholders will not be entitled to receive MMZ Securities as consideration for their ESN Shares pursuant to the Offer, unless MMZ otherwise determines.

An ESN Shareholder is a Foreign Shareholder for the purposes of the Offer if his address as shown in the register of members of ESN is in a jurisdiction other than Australia or its external territories or New Zealand. However, such a person will not be a Foreign Shareholder if MMZ is satisfied that it is not unlawful, nor unduly onerous or impracticable to make the Offer to a ESN Shareholder in the relevant jurisdiction and to issue MMZ Securities to such a ESN Shareholder on acceptance of the Offer.

The MMZ Securities which would otherwise have been issued to Foreign Shareholders will instead be issued to a nominee approved by ASIC, who will sell those MMZ Securities. The net proceeds of the sale of such shares will then be remitted to the relevant Foreign Shareholders. See section 6.5 of the Offer Terms for further details.

## 12. No other material information

Except as set out below or elsewhere in this Bidder's Statement, there is no other information material to the making of a decision by a ESN Shareholder whether or not to accept the Offer, being information that is known to MMZ and has not previously been disclosed to the holders of

ESN Shares.

On 6 October 2010, ASIC made a determination under subsections 708AA(3), 708A(2) and 713(6) in relation to MMZ. The determination restricts MMZ from relying on certain prospectus exemptions in Chapter 6D of the Corporations Act. In particular, the determination prevents MMZ from relying on:

- (a) the disclosure exemptions for sale offers of securities under section 708A of the Corporations Act;
- (b) the disclosure exemptions for rights issues of securities under section 708AA of the Corporations Act; and
- (c) the special prospectus content rules under section 713 of the Corporations Act.

The determination came into effect immediately and will apply until 5 October 2011.

MMZ has appealed to the Administrative Appeals Tribunal against the determination. As at the date of this Bidder's Statement, that appeal has not been determined.

# Part 8 – Offer Terms

---

## 1. Offer

### 1.1 Full offer

MMZ offers to acquire all of your ESN Shares, together with all Rights attaching to those shares, on the following terms and conditions.

Subject to section 9 of these Offer Terms, you may only accept this Offer for all (and not a portion only) of your ESN Shares.

An Offer in this form and bearing the same date is being made to each person registered as the holder of ESN Shares in ESN's register of members as at 7.00pm (Sydney time) on the Record Date.

The Offer also extends to all ESN Shares issued after the Record Date and before the expiry of the Offer Period pursuant to an exercise of ESN Options on issue at the Record Date.

### 1.2 Offer extends to others

This Offer extends to any person able to give good title to any of your ESN Shares during the Offer Period.

### 1.3 Acceptance of the Offer

By accepting this Offer you undertake to transfer to MMZ not only the ESN Shares to which the Offer relates but also all Rights attached to those shares.

### 1.4 Date of Offer

This Offer is dated [ ] 2010.

## 2. Consideration

If you accept this Offer, you will receive two MMZ Shares, one \$0.015 MMZ Option and one \$0.05 MMZ Option for every 40 of your ESN Shares. If necessary, the number of your ESN Shares will be rounded down to the nearest whole multiple of 40 in calculating the number of MMZ Securities to which you will become entitled by accepting this Offer.

## 3. ASX quotation of MMZ Securities

The MMZ Shares offered as consideration under the Takeover Bid will be issued fully paid and will rank equally with existing MMZ Shares from their date of issue.

An application will be made to the ASX within seven days after the start of the Offer Period for admission to quotation of the MMZ Shares to be issued as consideration under this Offer.

No application will be made to the ASX for quotation of the \$0.015 MMZ Options or the \$0.05 MMZ Options to be issued as consideration under this Offer.

## 4. Offer Period

The Offer will, unless withdrawn in accordance with the Corporations Act, remain open for acceptance during the period commencing on the date of this Offer and ending at 7.00pm (Sydney time) on the later of:

- (a) [ ] 2010; or
- (b) any date to which that period is extended in accordance with the Corporations Act.

## 5. How to accept this Offer

### 5.1 Acceptance procedure

The acceptance procedure will depend on whether your ESN Shares are in an Issuer Sponsored Holding or a CHESS Holding. If they are in an Issuer Sponsored Holding, you will have a securityholder reference number (SRN) beginning with 'I'. If they are in a CHESS Holding, you will have a holder identification number (HIN) beginning with 'X'. Your Acceptance Form will also have these descriptions and specific details of your holding printed on it.

#### **If you hold your ESN Shares in an Issuer Sponsored Holding**

If your ESN Shares are held on ESN's issuer-sponsored subregister, then to accept this Offer in respect of those ESN Shares, you must:

- (a) **complete and sign** the Acceptance Form which accompanies this Bidder's Statement in accordance with the terms of the Offer and the instructions on the Acceptance Form; and
- (b) **return** the Acceptance Form together with all other documents required by the terms of this Offer and the instructions on the Acceptance Form to the address specified on the Acceptance Form, so that they are received before the close of the Offer Period.

#### **If you hold your ESN Shares in a CHESS Holding**

If your ESN Shares are held in a CHESS Holding, then to accept this Offer in respect of those ESN Shares:

- (a) you must comply with the ASTC Settlement Rules;
- (b) if you are the Controlling Participant, you must initiate acceptance of this Offer in accordance with rule 14.14 of the ASTC Settlement Rules before the close of the Offer Period; and
- (c) if you are not the Controlling Participant, you may either:
  - (i) instruct your Controlling Participant, in accordance with the sponsorship agreement between you and the Controlling Participant, to initiate acceptance of this Offer in accordance with rule 14.14 of the ASTC Settlement Rules, such initiation to occur before the close of the Offer Period. If you choose to accept the Offer in this way, your Controlling Participant will be obliged by rule 14.14.1 of the ASTC Settlement Rules to initiate acceptance within the following timeframes:
    - (A) if you specify a time when or by which this Offer must be accepted, in accordance with those instructions; or
    - (B) otherwise, by the End of Day (as defined in the ASTC Settlement Rules) on the day that you instruct the Controlling Participant to accept this Offer or, if the Offer Period ends on the day you provide those instructions, before the close of the Offer Period; or
  - (ii) complete, sign and return the Acceptance Form in accordance with the terms of the Offer and the instructions on the Acceptance Form, together with all other documents required by the terms of this Offer and the instructions on the Acceptance Form, to the address specified on the Acceptance Form, so that it is received in sufficient time to effect an acceptance before the close of the Offer Period.

## **5.2 Irrevocable authorisation**

By completing, signing and returning the Acceptance Form in respect of ESN Shares in a CHES Holding you will be deemed to have irrevocably authorised MMZ (and any nominee or nominees of MMZ) to:

- (a) instruct your Controlling Participant to initiate acceptance of this Offer in respect of all such ESN Shares in accordance with rule 14.14 of the ASTC Settlement Rules; and
- (b) give any other instructions concerning those ESN Shares to your Controlling Participant on your behalf under the sponsorship agreement between you and the Controlling Participant.

## **5.3 Foreign laws**

It is your sole responsibility to satisfy yourself that you are permitted by any foreign law applicable to you to accept this Offer and/or to be issued MMZ Securities as a result of that acceptance.

## **5.4 Address**

The mailing address for completed Acceptance Forms is:

Registries Limited  
Entellect Offer  
GPO BOX 3993  
Sydney, NSW 2001

The address for delivering completed Acceptance Forms in person is:

Registries Limited  
Entellect Offer  
Level 7, 207 Kent Street  
Sydney, NSW 2000

## **5.5 ESN Shareholder's risk**

The method chosen to deliver the Acceptance Form and other documents is at your risk.

## **5.6 Acceptance Form**

The Acceptance Form which accompanies this Offer forms part of it. The requirements on the Acceptance Form must be observed in accepting this Offer in respect of your ESN Shares.

## **5.7 Power of attorney, deceased estate**

When accepting this Offer, you should also forward for inspection:

- (a) if the Acceptance Form is executed by an attorney, the power of attorney; and
- (b) if the Acceptance Form is executed by the executor of a will or the administrator of the estate of a deceased ESN Shareholder, the relevant grant of probate or letters of administration.

## **5.8 Signing under power of attorney**

If the Acceptance Form is signed under power of attorney, the attorney will be taken to have declared that the attorney has no notice of revocation of the power and is empowered to delegate powers under the power of attorney as contemplated by section 8.1 of these Offer Terms.

## **5.9 When acceptance is complete**

Acceptance of this Offer will not be complete until the completed Acceptance Form has been received at one of the addresses set out in section 5.4 above and the requirements of this section 5 have been met, provided that:

- (a) MMZ may in its sole discretion waive any or all of those requirements at any time; and
- (b) where such requirements have been complied with in respect of some but not all of your ESN Shares, MMZ may, in its sole discretion, deem your acceptance of this Offer complete in respect of those ESN Shares for which the requirements have been complied with but not in respect of the remainder.

## 6. Payment of consideration

### 6.1 When consideration is provided

Subject to section 6.2 of these Offer Terms and the Corporations Act, if the contract resulting from your acceptance of this Offer becomes unconditional, MMZ will provide the consideration to which you are entitled on acceptance of this Offer on or before the earlier of:

- (a) one month after the date this Offer is accepted or, if the Offer is subject to a Defeating Condition when accepted, within one month after this Offer or the contract resulting from your acceptance of this Offer becomes unconditional; or
- (b) 21 days after the close of the Offer Period.

Under no circumstances will interest be paid on the consideration to which you are entitled under this Offer, regardless of any delay in providing the consideration or any extension of the Offer.

### 6.2 Where additional documents are required

Where the Acceptance Form requires additional documents to be given with your acceptance (such as a power of attorney):

- (a) if the documents are given with your acceptance, MMZ will provide the consideration in accordance with section 6.1;
- (b) if MMZ is given the documents after acceptance and before the close of the Offer Period, MMZ will provide the consideration:
  - (i) if at the time that MMZ is given the documents the Offer is subject to a Defeating Condition, by the earlier of one month after this Offer or the contract resulting from your acceptance of the Offer becomes unconditional or 21 days after the close of the Offer Period; or
  - (ii) if the Offer is unconditional at the time that MMZ is given the documents, by the earlier of one month after MMZ is given the documents or 21 days after the close of the Offer Period; or
- (c) if the documents are given after acceptance and after the close of the Offer Period, MMZ will provide consideration:
  - (iii) if at the time that MMZ is given the documents, the contract resulting from your acceptance of the Offer is subject to a Defeating Condition that relates only to the happening of an event or circumstance referred to in sections 652C(1) or (2) of the Corporations Act, within 21 days after the contract becomes or is declared unconditional; or
  - (iv) if at the time that MMZ is given the documents the contract resulting from your acceptance of the Offer is unconditional within 21 days after MMZ is given the documents.

If you do not provide MMZ with any required additional documents within one month after the close of the Offer Period, MMZ may, in its sole discretion, rescind the contract resulting from your acceptance of the Offer.

### 6.3 Where MMZ is entitled to any Rights

If any cash Rights are declared, paid, made, arise or accrue to you as the holder of your ESN Shares, MMZ may reduce the consideration specified in section 2 by the amount of the Rights, unless the benefit of the Rights is passed to MMZ under section 8.1(h).

If any non-cash Rights are issued, made, arise or accrue to you as the holder of your ESN Shares, MMZ may reduce the consideration specified in section 2 by the value (as reasonably determined by MMZ) of the non-cash Rights, unless the benefit of the Rights is passed to MMZ under section 8.1(h).

### 6.4 Provision of consideration

The obligation of MMZ to allot and issue any MMZ Shares to which you are entitled under this Offer will be satisfied:

- (a) by entering your name on the register of members of MMZ; and
- (b) if your name is entered onto the issuer-sponsored subregister of MMZ, by MMZ despatching or procuring the despatch to you, by pre-paid post to your address as shown on the register of members of ESN, and within five business days after your name is so entered, an issuer-sponsored holding statement in accordance with Listing Rule 8.5.

Payment of any cash consideration to which you become entitled by accepting this Offer will be made by cheque in Australian currency and will be sent by pre-paid post to your address as shown on the register of members of ESN.

### 6.5 Foreign Shareholders

If you are a Foreign Shareholder, you will not be entitled to receive MMZ Securities as part of the consideration for your ESN Shares as a result of acceptance of this Offer, and MMZ will:

- (a) arrange for the issue to a nominee approved by ASIC (**Nominee**) of the number of MMZ Securities to which you and all other Foreign Shareholders would have been entitled but for this section 6.5 and the equivalent provision in each other Offer;
- (b) cause the MMZ Securities so issued to be offered for sale by the Nominee as soon as practicable and otherwise in the manner, at the price and on such other terms and conditions as are determined by the Nominee; and
- (c) cause the amount ascertained in accordance with the formula below to be paid to you:

$$\frac{PxN}{T}$$

where:

- P is the amount (if any) remaining after deducting the expenses of sale from the proceeds of sale of the MMZ Securities issued to the Nominee under this section 6.5 and the equivalent provision in each offer under the Offer;
- N is the number of MMZ Shares, \$0.015 MMZ Options and \$0.05 MMZ Options which would, but for this section 6.5, otherwise have been issued to you under this Offer; and
- T is the total number of MMZ Shares, \$0.015 MMZ Options and \$0.05 MMZ Options issued to the Nominee under this section 6.5 and the equivalent provision in each other offer under the Offer.

Payment of the amount referred to in this section 6.5 will be made by cheque in Australian dollars or, if this is unlawful, the currency of the jurisdiction of your residence (as shown in the register of members of ESN or on the Acceptance Form). Cheques will be sent (at your risk) to your

address as shown on the Acceptance Form or on ESN's register of members by pre-paid airmail.

## 6.6 Clearances for offshore residents and others

- (a) If at the time you accept the Offer any of the following:
- (i) *Banking (Foreign) Exchange Regulations 1959* (Cth);
  - (ii) *Charter of the United Nations (Terrorism and Dealing with Assets) Regulations 2002* (Cth);
  - (iii) *Charter of the United Nations (Sanctions – Afghanistan) Regulations 2001* (Cth);
  - (iv) *Iraq (Reconstruction and Repeal of Sanctions) Regulations 2003* (Cth); or
  - (v) any other law of Australia,
- require that an authority, clearance or approval of the Reserve Bank of Australia, the Australian Tax Office or any other government authority be obtained before you receive any consideration for your ESN Shares, or would make it unlawful for MMZ to provide any consideration to you for your ESN Shares, you will not be entitled to receive any consideration for your ESN Shares until all requisite authorities, clearances or approvals have been received by MMZ.
- (b) As far as MMZ is aware, as at the date of this Bidder's Statement, the persons to whom this section 6.6 applies are:
- (i) prescribed supporters of the former government of Yugoslavia;
  - (ii) ministers and senior officials of the Government of Zimbabwe;
  - (iii) persons associated with the former government of Iraq (including senior officials, immediate family members of senior officials or entities controlled by any of those persons);
  - (iv) Osama bin Laden;
  - (v) the Taliban;
  - (vi) members of the Al-Qaeda organisation;
  - (vii) an authority or agency associated with the North Korean regime; and
  - (viii) a person named in the list maintained pursuant to paragraph 2 of Resolution 1390 of the Security Council of the United Nations.

## 7. Conditions of the Offer

### 7.1 Conditions

This Offer, and any contract resulting from acceptance of this Offer, are subject to fulfilment of the following conditions:

**(a) Minimum acceptance condition**

Before the close of the Offer Period MMZ and its associates have relevant interests in at least 50.1% (by number) of all issued ESN Shares.

**(b) Prescribed Occurrences**

That during the period from the Announcement Date to the date that is three business days after the close of the Offer Period (each inclusive), none of the following events or circumstances, as referred to in sections 652C(1) and (2) of the Corporations Act, happen:

- (i) ESN converts all or any of its shares into a larger or smaller number of shares in accordance with section 245H of the Corporations Act;
- (ii) ESN or a subsidiary of ESN resolves to reduce its share capital in any way;
- (iii) ESN or a subsidiary of ESN enters into a buy-back agreement or resolves to approve the terms of a buy-back agreement under section 257C or 257D of the Corporations Act;
- (iv) ESN or a subsidiary of ESN issues shares, or grants an option over its shares, or agrees to issue shares or grant an option over its shares (other than the issue of ESN Shares on the exercise of any ESN Options that are on issue as at the Announcement Date);
- (v) ESN or a subsidiary of ESN issues, or agrees to issue, convertible notes;
- (vi) ESN or a subsidiary of ESN disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (vii) ESN or a subsidiary of ESN charges, or agrees to charge, the whole, or a substantial part, of its business or property;
- (viii) ESN or a subsidiary of ESN resolves to be wound up;
- (ix) a liquidator or provisional liquidator of ESN or a subsidiary of ESN is appointed;
- (x) a court makes an order for the winding up of ESN or of a subsidiary of ESN;
- (xi) an administrator of ESN, or of a subsidiary of ESN, is appointed under section 436A, 436B or 436C of the Corporations Act;
- (xii) ESN or a subsidiary of ESN executes a deed of company arrangement; or
- (xiii) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of ESN or of a subsidiary of ESN.

MMZ confirms that, as far as it is aware, none of the above events or circumstances had occurred as at the Lodgement Date. If any such event had occurred prior to the Lodgement Date, MMZ waives the condition in respect of that event.

**(c) Material adverse change**

That no specified event occurs which has, or could reasonably be expected to have, a material adverse effect on the business, assets, liabilities, financial position, performance, profits, losses or prospects of ESN, or the title to any of its assets, including as a result of making the Offers or the acquisition of ESN Shares pursuant to the Offers. For these purposes, a 'specified event' is:

- (i) an event or occurrence that occurs or is discovered during the Offer Period;
- (ii) an event or occurrence that occurs prior to the Offer Period but is only announced or publicly disclosed on or after the Announcement Date; or
- (iii) an event or occurrence that will or is likely to occur following the Offer Period and which has not been publicly announced prior to the Announcement Date.

**(d) No action or investigation**

That between the Announcement Date and the close of the Offer Period, no action or investigation is instituted or threatened by a statutory or regulatory body because of or in connection with the Takeover Bid that might impose a material limitation on the ability of MMZ, ESN or any of their related bodies corporate to conduct its business or own all its assets (other than any action or decision by, or application to, ASIC or the Takeovers

Panel in exercise of the powers or discretions conferred by the Corporations Act).

**(e) Equal access to information**

Between the Announcement Date and the close of the Offer Period, ESN promptly (and in any event within two Business Days) provides to MMZ a copy of all information that is not generally available (within the meaning of the Corporations Act) relating to ESN or any related body corporate of ESN or any of their respective officers, employees, advisers or agents to any person (other than MMZ) for the purpose of soliciting, encouraging or facilitating a proposal or offer by that person, or any other person, in relation to a transaction under which:

- (i) any person (together with its associates) may acquire voting power of 10% or more in ESN (whether by way of takeover bid, compromise or arrangement under Part 5.1 of the Corporations Act, or otherwise);
- (ii) any person may acquire, directly or indirectly (including by way of joint venture, dual listed company structure or otherwise), any interest in all or a substantial part of the business or assets of ESN or of any related body corporate of ESN; or

that person may otherwise acquire control, of or merge or amalgamate with, ESN.

**(f) Other regulatory approvals**

Before the close of the Offer Period, all regulatory approvals or consents that are required by law, regulation or regulatory policy as are necessary to permit:

- (i) the Offer to be lawfully made to and accepted by holders of ESN Shares;
- (ii) the acquisition of ESN Shares by MMZ; or
- (iii) completion of the transactions contemplated by this Bidder's Statement, including the full, lawful and effectual implementation of the intentions set out in the Bidder's Statement,

are granted, given, made or obtained on an unconditional basis, remain in full force and effect, and do not become subject to any notice, intimation or indication of intention to revoke, suspend, restrict, modify or not renew.

MMZ confirms that, as far as it is aware, no such approvals or consents are required, but in any event it undertakes to use its best endeavours to obtain any such approvals or consents as may be required.

## **7.2 Nature of conditions**

Each of the conditions set out in each paragraph and subparagraph of section 7.1 of these Offer Terms:

- (a) constitutes and will be construed as a separate, several and distinct condition and each of the conditions will not be taken to limit the meaning and effect of any other condition;
- (b) is a condition subsequent; and
- (c) until the expiration of the Offer Period (or in the case of a Defeating Condition that relates to a circumstance or event referred to in subsection 652C(1) or (2) of Corporations Act, until three business days after the close of the Offer Period) will be for the benefit of MMZ alone and may be relied upon only by MMZ.

## **7.3 Effect of breach or non-fulfilment**

The breach or non-fulfilment of any of the Defeating Conditions does not, until the close of the Offer Period, prevent a contract arising to acquire your ESN Shares resulting from your acceptance of this Offer, but if at the close of the Offer Period (or, in the case of a Defeating

Condition that relates to a circumstance or event referred to in subsection 652C(1) or (2) of the Corporations Act, at the end of three business days after the close of the Offer Period), in respect of any Defeating Condition:

- (a) MMZ has not declared the Offers (and they have not become) free from that condition; or
- (b) that condition has not been fulfilled,

all contracts resulting from acceptance of this Offer and all acceptances that have not resulted in binding contracts are automatically void. In such a case, MMZ will return the Acceptance Form together with all documents to the address shown in the Acceptance Form and notify ASTC of the lapse of the Offer in accordance with rule 14.19 of the ASTC Settlement Rules.

#### **7.4 MMZ may decide Offer is free from all or any of the conditions**

MMZ may at any time at its sole discretion, but in compliance with section 650F and section 630 of the Corporations Act, declare the Offers free from all or any of the Defeating Conditions which are capable of being waived by notice in writing to ESN:

- (a) in the case of a Defeating Condition that relates to the happening of a circumstance or event referred to in subsection 652C(1) or (2) of the Corporations Act – not later than three business days after the close of the Offer Period; and
- (b) in any other case – not later than seven days before the close of the Offer Period.

#### **7.5 Date for giving notice on status of conditions**

The date for giving a notice on the status of the conditions as required by section 630(1) of the Corporations Act is [ ], subject to variation in accordance with section 630(2) of the Corporations Act where the Offer Period is extended.

#### **7.6 Section 625(3) of the Corporations Act**

This Offer and any contract that results from your acceptance of this Offer are also subject to the condition set out in section 625(3) of the Corporations Act. If that condition is not fulfilled, any contract that results from your acceptance of this Offer will be automatically void.

## **8. Effect of acceptance**

### **8.1 Effect of acceptance**

By accepting this Offer in accordance with section 5 of these Offer Terms (including where the Offer is caused to be accepted in accordance with the ASTC Settlement Rules), you will, or will be deemed to have:

- (a) irrevocably authorised MMZ to alter the Acceptance Form on your behalf by:
  - (i) inserting correct details of your ESN Shares;
  - (ii) filling in any blanks remaining on the Acceptance Form; and
  - (iii) rectifying any errors in, and omissions from, the Acceptance Form, as may be necessary to make the Acceptance Form an effectual acceptance of this Offer and to enable registration of the transfer of your ESN Shares to MMZ;
- (b) accepted this Offer (and any variation of it) and agreed to its terms and conditions, in respect of all of your ESN Shares (together with all Rights attaching to them) despite any difference between that number and the number of ESN Shares shown in the Acceptance Form;
- (c) agreed to transfer all of your ESN Shares to MMZ subject to the Offer being declared free from the Defeating Conditions (or those conditions being fulfilled);

- (d) represented and warranted to MMZ:
- (i) that you are not a Foreign Shareholder, unless otherwise indicated on the Acceptance Form, and acknowledged and agreed that if you are a Foreign Shareholder, or if MMZ believes that you are a Foreign Shareholder, MMZ will arrange for any MMZ Securities otherwise issuable to you to be issued and sold, and for the net proceeds to be remitted to you, as described in section 6.5 of these Offer Terms; and
  - (ii) as a condition of the contract resulting from your acceptance of the Offer, that at the time of acceptance and at the time of transfer to MMZ:
    - (A) you have paid to ESN all amounts which are due for payment in respect of your ESN Shares;
    - (B) all of your ESN Shares are fully paid and MMZ will acquire good title to them and full beneficial ownership of them free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise and restrictions on transfer of any kind; and
    - (C) you have full power and capacity to accept this Offer and to sell and transfer the legal and beneficial ownership of your ESN Shares (together with all Rights attaching to them) to MMZ;
- (e) with effect from the later of acceptance of this Offer and the date that any contract resulting from that acceptance becomes, or is declared, free from conditions, appointed MMZ and each of its directors, secretaries and other officers from time to time severally as your agent and true and lawful attorney, with power to do all things which you could lawfully do concerning your ESN Shares or in exercise of any right or power derived from the holding of your ESN Shares, including, without limitation, to:
- (i) attend and vote in respect of your ESN Shares at any general meeting of ESN;
  - (ii) appoint a proxy or proxies to attend and vote on your behalf in respect of your ESN Shares at any meeting of ESN;
  - (iii) requisition or join with other holders of ESN Shares in requisitioning or convening (or both) a meeting of ESN;
  - (iv) demand a poll for any vote to be taken at any meeting of ESN;
  - (v) propose or second any resolution to be considered at any meeting of ESN;
  - (vi) receive from ESN or any other party, and retain, any share certificates which were held by ESN, or any other party;
  - (vii) sign all documents (including an instrument appointing one of MMZ's directors as a proxy in respect of any or all of your ESN Shares and any application to ESN for a replacement certificate in respect of any share certificate which has been lost or destroyed) and resolutions relating to your ESN Shares, and generally to exercise all powers and rights which you may have as a ESN Shareholder and perform such actions as may be appropriate in order to vest good title in your ESN Shares (together with all Rights attaching to them) in MMZ; and
  - (viii) do all things incidental and ancillary to the foregoing,
- and to have agreed that in exercising the powers conferred by that power of attorney, the attorney may act in the interests of MMZ as the intended registered holder and beneficial holder of your ESN Shares. This appointment is irrevocable and terminates upon registration of a transfer to MMZ of your ESN Shares. MMZ will indemnify you and keep you indemnified in respect of all costs, expenses and obligations which might be

incurred or undertaken as a result of the exercise by an attorney of any powers under this subclause;

- (f) agreed to fully indemnify MMZ in respect of any claim or action against it or any loss, damage or liability whatsoever incurred by it as a result of you not producing your holder identification number or securityholder reference number or in consequence of the transfer of your ESN Shares to MMZ being registered by ESN without production of your holder identification number or securityholder reference number;
- (g) irrevocably authorised MMZ (and any nominee or nominees of MMZ) to notify ESN on your behalf that your place of address for the purpose of serving notices upon you in respect of your ESN Shares is the address as specified in the notification, and that all such notices are to be marked care of MMZ and to have directed ESN to serve all correspondence, payments or notifications in respect of any Rights and other communications and documents whatsoever in respect of those ESN Shares to MMZ at that address;
- (h) irrevocably authorised and directed ESN to pay MMZ, or to account to MMZ for, all Rights in respect of your ESN Shares, subject, however, to any such Rights being received by MMZ being accounted for by MMZ to you if this Offer is withdrawn or any contract resulting from your acceptance of this Offer is rescinded or rendered void;
- (i) irrevocably authorised MMZ (and any nominees or nominees of MMZ) to cause a message to be transmitted in accordance with ASTC Settlement Rule 14.17.1 (and at a time permitted by ASTC Settlement Rule 14.17.1(b)) so as to transfer your ESN Shares to MMZ's Takeover Transferee Holding, regardless of whether MMZ has at that time paid or provided the consideration due to you under this Offer;
- (j) authorised MMZ to issue to you and agreed to accept the MMZ Securities you have become entitled to receive under this Offer and to register your name in the MMZ register of members and optionholders in respect of those MMZ Shares and MMZ Options respectively, and agreed that you will be bound by the constitution of MMZ; and
- (k) agreed, subject to the Defeating Conditions being satisfied or waived, to execute all documents, transfers and assurances as may be necessary or desirable to convey your ESN Shares and Rights to MMZ.

MMZ may at any time deem the receipt of a signed Acceptance Form to be a valid acceptance of this Offer even though you omit to include your share certificate(s) (if any) or there is not compliance with any one or more of the other requirements for acceptance but, if MMZ does so, MMZ is not obliged to make the consideration available to you until all of the requirements for acceptance have been met.

## **8.2 Continuing representations and warranties**

The representations, warranties, undertakings and authorities referred to in section 5.2 of these Offer Terms and this section 8 of these Offer Terms will (unless otherwise stated) remain in force after you receive the consideration for your ESN Shares and after MMZ becomes registered as holder of them.

## **9. Acceptances by transferees and nominees**

### **9.1 Who may accept the Offer**

During the Offer Period:

- (a) any person who is able to give good title to a parcel of your ESN Shares may accept (if they have not already accepted an offer in the form of this Offer for those ESN Shares) as

if an offer on terms identical with this Offer has been made to them; and

- (b) any person who holds one or more distinct parcels of ESN Shares as trustee or nominee, or otherwise on account of another person, may accept as if a separate and distinct offer had been made in relation to:
  - (i) each of those parcels; and
  - (ii) any parcel they hold in their own right.

## **9.2 Holding ESN Shares**

A person is taken to hold ESN Shares if they are, or are entitled to be registered as, the holder of those ESN Shares.

## **9.3 Holding ESN Shares on trust or as a nominee**

A person is taken to hold ESN Shares on trust for, as nominee for, or on account of, another person if they:

- (a) are entitled to be registered as the holder of particular ESN Shares; and
- (b) hold their interest in the ESN Shares on trust for, as nominee for, or on account of, that other person.

## **9.4 Effective acceptance**

An acceptance of an offer pursuant to section 9.1(b) of these Offer Terms is ineffective unless:

- (a) the person who holds on account of another person gives MMZ a notice stating that the ESN Shares consist of a separate and distinct parcel; and
- (b) the acceptance specifies the number of ESN Shares in the distinct parcel.

## **9.5 Notice of acceptance**

A notice under section 9.4(a) of these Offer Terms must be made:

- (a) if it relates to ESN Shares entered on a CHESS subregister - in an electronic form approved by the ASTC Settlement Rules; or
- (b) otherwise - in writing.

## **9.6 Person may accept for two or more parcels**

A person may, at the one time, accept for two or more parcels under this section as if there had been a single offer for a separate parcel consisting of those parcels.

# **10. Other matters**

## **10.1 Notices and other communications**

Subject to the Corporations Act, a notice or other communication given by MMZ to you in connection with this Offer shall be deemed to be duly given if it is in writing and:

- (a) is delivered to your address as recorded on the register of members of ESN or the address shown in the Acceptance Form; or
- (b) is sent by pre-paid ordinary mail, or in the case of an address outside Australia by pre-paid airmail, to you at either of those addresses.

## **10.2 Return of documents**

If:

- (a) this Offer is withdrawn after your Acceptance Form has been sent to MMZ, but before it

has been received; or

- (b) for any other reason MMZ does not acquire the ESN Shares to which your Acceptance Form relates,

MMZ will despatch at your risk your Acceptance Form together with all other documents forwarded by you, to your address as shown on the Acceptance Form or such other address as you may notify in writing to MMZ by, where such address is inside Australia, pre-paid ordinary post, or, where such address is outside Australia, pre-paid airmail.

### **10.3 Costs and expenses**

All costs and expenses of the preparation, despatch and circulation of the Offers and all stamp duty payable in respect of a transfer of ESN Shares in respect of which Offers are accepted, will be paid by MMZ. If you hold your ESN Shares through a bank, broker or nominee which charges transaction fees or service charges in connection with your acceptance of the Offer, MMZ will not pay those fees or charges.

### **10.4 Withdrawal**

MMZ may withdraw unaccepted Offers at any time with the written consent of ASIC and subject to the conditions (if any) specified in that consent.

### **10.5 Variation**

MMZ may vary this Offer in accordance with the Corporations Act.

### **10.6 Governing law**

This Offer and any contract that results from your acceptance of this are governed by the laws in force in New South Wales.

# Part 9 – Definitions and interpretation

---

## 1. Definitions

In this Bidder's Statement unless the context otherwise requires:

**\$0.015 MMZ Option** means an MMZ Option exercisable at \$0.015 per option, expiring on 30 June 2012 and having the other terms and conditions set out in section 3.7 of Part 2.

**\$0.05 MMZ Option** means an MMZ Option exercisable at \$0.05 per option, expiring on 30 June 2012 and having the other terms and conditions set out in section 3.7 of Part 2.

**Acceptance Form** means the form of acceptance and transfer enclosed with this Bidder's Statement and which forms part of the Offer.

**Announcement Date** means 12 August 2010, being the date of the announcement of the Offer by MMZ.

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

**ASTC** means ASX Settlement and Transfer Corporation Pty Ltd.

**ASTC Settlement Rules** means the operating rules of the ASTC, being the holder of an Australian CS facility licence under the Corporations Act.

**ASX** means ASX Limited or the market it conducts (as the context requires).

**Bidder's Statement** means this document, being the statement of MMZ under Part 6.5 Division 2 of the Corporations Act relating to the Offer.

**Business Day** has the meaning given in the Listing Rules.

**CHESS** means the Clearing House Electronic Subregister System established and operated by ASTC for the clearing, settlement, transfer and registration of approved securities.

**CHESS Holding** means a holding of ESN Shares on the CHESS Subregister of ESN (usually a CHESS holding will be through a Controlling Participant).

**Controlling Participant** means the person who is designated as the Controlling Participant for shares in a CHESS Holding in accordance with the ASTC Settlement Rules.

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

**Defeating Condition** means each condition set out in section 7.1 of Part 8.

**ESN** means Entellect Solutions Limited (ACN 009 221 783).

**ESN Optionholder** means a person who holds ESN Options.

**ESN Options** means options to subscribe for ESN Shares.

**ESN Shareholder** means a person who holds ESN Shares.

**ESN Shares** means fully paid ordinary shares in ESN.

**Existing MMZ Options** means MMZ Options on issue as at the date of this Bidder's Statement.

**Foreign Shareholder** means a holder of ESN Shares whose address as shown in ESN's register of members is in a jurisdiction other than Australia or its external territories or New Zealand, unless MMZ otherwise determines after being satisfied that it is not unlawful, not unduly onerous and not unduly impracticable to make the Offer to a ESN Shareholder in the relevant jurisdiction and to issue MMZ

Securities to such a ESN Shareholder on the acceptance of the Offer.

**GST** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Issuer Sponsored Holding** means a holding of ESN Shares on ESN's issuer-sponsored subregister.

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

**Lodgement Date** means the date of lodgement of this Bidder's Statement with ASIC (being 11 October 2010).

**MMZ or Company** means Mooter Media Limited (ACN 059 081 293).

**MMZ Options** means options to subscribe for MMZ Shares.

**MMZ Optionholder** means a person who holds MMZ Options.

**MMZ Securities** means the MMZ Shares, the \$0.015 MMZ Options and the \$0.05 MMZ Options offered as consideration under the Offer.

**MMZ Shareholder** means a person who holds MMZ Shares.

**MMZ Shares** means fully paid ordinary shares in MMZ.

**Offer** means the offer contained in section 1 of the Offer Terms.

**Offer Date** means the date referred to in section 1.4 of the Offer Terms.

**Offer Period** means the period referred to in section 3 of the Offer Terms.

**Offers** means the offers referred to in section 1 of the Offer Terms.

**Offer Terms** means the detailed terms of the Offer set out in Part 8.

**Prescribed Occurrence** means the events or circumstances listed in section 7.1(b) of the Offer Terms.

**Record Date** means 5 October 2010.

**related body corporate** has the same meaning as in the Corporations Act.

**Rights** means all accretions and rights which accrue to or arise from ESN Shares after the Lodgement Date, including all rights to receive dividends, to receive or subscribe for shares, notes, options or other securities and all other distributions or entitlements declared, paid, made or issued by ESN after that date.

**Takeover Bid** means the off-market takeover bid constituted by the Offers.

**VWAP** means, in relation to a period, the volume-weighted average sale price on the ASX over that period.

## 2. Interpretation

In this Bidder's Statement:

- (a) headings are for convenience only and do not affect the interpretation of this Bidder's Statement or the Offer;
- (b) the singular includes the plural and vice versa;
- (c) words importing a gender include all other genders;
- (d) another grammatical form of a defined word or expression has a corresponding meaning;
- (e) references to persons include corporations;
- (f) references in this Bidder's Statement to paragraphs and sections are to paragraphs and sections in this Bidder's Statement;

- (g) references in this Bidder's Statement to appendices are to appendices of this Bidder's Statement;
- (h) references to **dollars** or **\$** or **cents** are to Australian currency;
- (i) words or phrases to which a meaning is given by the Corporations Act, the Listing Rules or the ASTC Settlement Rules have the same meaning when used in this Bidder's Statement, unless that meaning is inconsistent with the context in which the word or phrase is used; and
- (j) appendices to this Bidder's Statement form part of this Bidder's Statement.

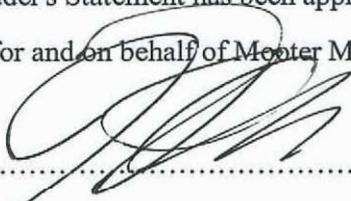
# Signing page

---

**DATED** 11 October 2010

This Bidder's Statement has been approved by a unanimous resolution of the directors of MMZ.

Signed for and on behalf of Menter Media Limited.



.....

John Diddams

Director (alternate for Peter Jermyn) and Company Secretary

# Annexure A

(section 2 of Part 2)

MMZ's announcements to ASX made  
after 30 September 2010

---

<b>Date lodged</b>	<b>Announcement title</b>
11/10/2010	ASIC Determination
7/10/2010	Trading Halt
4/10/2010	MMZ Bidder's Statement for ESN

# Annexure B

(section 1 of Part 3)

ESN's announcements to ASX made  
after 30 September 2009

---

<b>Date lodged</b>	<b>Announcement title</b>
11/10/2010	MMZ: ASIC Determination
4/10/2010	MMZ Bidder's Statement for ESN
22/09/2010	Mutual Termination of Yilgarn takeover bid
31/08/2010	Preliminary Final Report
31/08/2010	Initial Director's Interest Notice
31/08/2010	Initial Director's Interest Notice
26/08/2010	Directors and Secretary Appointment
20/08/2010	Final Director's Interest Notice
20/08/2010	Final Director's Interest Notice
19/08/2010	Resignation of Directors
18/08/2010	Takeover Offer - Correction
18/08/2010	Clarification of MMZ Offer for ESN
17/08/2010	Entellect Solutions Ltd Takeover Offer for Yilgarn Ltd
13/08/2010	Unsolicited takeover offer - take no action
12/08/2010	MMZ: Scrip Takeover Offer for ESN
30/07/2010	Appendix 4C
18/06/2010	Progress of Administration
26/05/2010	ASX Appendix 4C Query and Response
28/04/2010	Appendix 4C - quarterly
09/04/2010	CSV: ESN Transaction Not Proceeding
09/04/2010	Suspension from Official Quotation
09/04/2010	Update
09/04/2010	Update - Proposed Placement
07/04/2010	Trading Halt
06/04/2010	Change in substantial holding
30/03/2010	Revised Notice of EGM - Annexure B - Revised IER
30/03/2010	Revised Notice of EGM - Annexure A - Revised Proxy Form
30/03/2010	Revised Notice of Extraordinary General Meeting
30/03/2010	Cover Letter to Revised Notice of EGM
23/03/2010	Company Secretary Appointment/Resignation
16/03/2010	EGM Annexure B - Independent Experts Report
16/03/2010	EGM - Annexure A Proxy Form
16/03/2010	Notice of Extraordinary General Meeting

<b>Date lodged</b>	<b>Announcement title</b>
16/03/2010	Change in substantial holding
04/03/2010	Confirmation of Intended Placement
04/03/2010	Reinstatement to Official Quotation
03/03/2010	CSV: Proposed Sale of International Software Licence
03/03/2010	Suspension from Official Quotation
03/03/2010	Corporate Update
26/02/2010	Half Yearly Report and Accounts
25/02/2010	Corporate Update
23/02/2010	Trading Halt
08/02/2010	Appendix 4C Query and Response
29/01/2010	Appendix 4C - quarterly
26/11/2009	Results of Meeting
12/11/2009	Change in substantial holding
03/11/2009	Appendix 3B
29/10/2009	Appendix 4C - quarterly
27/10/2009	Notice of Annual General Meeting/Proxy Form
22/10/2009	Appointment of UK Channel Consultant
21/10/2009	Appendix 3B
20/10/2009	Change in substantial holding
12/10/2009	Appointment of Channel Partner in Singapore
30/09/2009	Results of Meeting
30/09/2009	Annual Report to shareholders

# Annexure C

Tax considerations

---

In broad terms the Australian tax consequences for ESN Shareholders who hold their ESN Shares **on capital account** and who accept the Offer will depend on whether or not 'scrip for scrip' capital gains tax rollover relief is available and, if available, is elected. The following discussion considers the general Australian tax consequences for ESN Shareholders where:

- (a) rollover relief is not available or is not elected; and
- (b) rollover relief is available and is elected.

Given the complexity of the taxation legislation, ESN Shareholders should seek independent taxation advice regarding the tax consequences of disposing of ESN Shares given the particular circumstances which apply to them.

## 1. Acceptance of the Offer where rollover relief is not available or is not elected

- (a) Acceptance of the Offer is likely to involve a disposal by a ESN Shareholder of his ESN Shares for capital gains tax (CGT) purposes.
- (b) An Australian-resident ESN Shareholder may make a capital gain or capital loss, depending on whether his capital proceeds from the exchange are more than the cost base of his ESN Shares, or whether those capital proceeds are less than the cost base of those shares.
- (c) ESN Shareholders who are not resident in Australia for tax purposes will generally be subject to Australian CGT on the disposal of ESN Shares if:
  - (i) together with their associates, they directly or indirectly own at least 10% or more (by value) of the shares in ESN:
    - (A) at the time of the sale; or
    - (B) throughout a 12 month period beginning no earlier than 24 months before the time of the sale and ending no later than the time of the sale; and
  - (ii) if more than 50% of the value of ESN's assets is attributable to Australian real property,

subject to the terms of any applicable double tax agreement. It is imperative that non-residents independently confirm their Australian tax position.

- (d) The capital proceeds that a ESN Shareholder will be taken to have received in respect of the disposal of his ESN Shares will generally be the market value of MMZ Shares on the date a ESN Shareholder accepts the Offer.
- (e) The cost base of ESN Shares will generally be the cost at which they were acquired.
- (f) If a ESN Shareholder does not elect for rollover relief, or that relief is not available, then partial tax relief may be available in the form of the CGT discount.

Specifically, where ESN Shares have been held for at least 12 months before their disposal, a shareholder who is an individual, a complying superannuation entity or the trustee of a trust should be able to reduce the capital gain arising from the disposal of ESN Shares by the CGT discount (see below).

The CGT discount will be available if the relevant ESN Shares have been held for at least 12 months.

Subject to the ESN Shareholder having any capital losses or net capital losses from previous income years, where the CGT discount is available, eligible ESN Shareholders which are individuals or trustees of trusts will reduce the nominal capital gain arising on the disposal of ESN Shares by one-half. For individuals, this reduced gain should be assessed at the shareholder's marginal tax rate. Trustees should seek specific advice regarding the tax consequences of distributions attributable to discounted capital gains.

Subject to the ESN Shareholder having any capital losses or net capital losses from previous income years, where ESN Shares are held by a complying superannuation entity and the CGT discount is available, the discount will reduce the nominal capital gain on the disposal of the shares by one-third.

The CGT discount is generally applied after taking into account any capital losses or net capital losses from previous income years. ESN Shareholders having any capital losses or net capital losses from previous income years should seek independent advice in relation to the potential availability of the CGT discount.

ESN Shareholders who are companies will not be entitled to the CGT discount.

- (g) Where the amount of capital proceeds received by a ESN Shareholder in respect of the disposal of his ESN Shares (that is, the market value of the MMZ Shares and / or cash received pursuant to the Offer for his ESN Shares) is less than the reduced cost base of those ESN Shares, then the shareholder should realise a capital loss for Australian CGT purposes.

In calculating the amount of capital loss realised, no adjustment is made to the cost base of ESN Shares for indexation during the holding period of ESN Shares regardless of when ESN Shares were acquired or for how long the shares were held.

## 2. Acceptance of the Offer where rollover relief is available and is elected

- (a) Australia-resident ESN Shareholders may be entitled to 'scrip for scrip' CGT rollover relief in respect of that portion of the consideration referable to MMZ Shares where the exchange of the shares would otherwise realise an assessable capital gain. Broadly speaking, rollover relief is available to shareholders who exchange shares in one company for shares in another company where the transaction is made pursuant to a takeover bid and provided certain qualifying conditions are satisfied.
- (b) In broad terms these qualifying conditions include the requirement that MMZ must make an offer to all shareholders in ESN to acquire their voting shares on substantially the same terms and MMZ must become the owner of at least 80% of the voting shares in ESN as a consequence of the Takeover Bid.
- (c) If the qualifying conditions are satisfied, those ESN Shareholders who elect for rollover relief to apply will not be required to include any amount of capital gain in their assessable income in respect of the disposal of their ESN Shares through acceptance of the Offer. For those ESN Shareholders, the cost base of the MMZ Shares acquired through accepting the Offer will equal the original cost base of the ESN Shares in respect of which the Offer has been accepted. Furthermore, the time of acquisition of the MMZ Shares will be deemed to be the time of acquisition of those ESN Shares. This is relevant in determining whether or not the MMZ Shares acquired pursuant to the Offer have been held for at least 12 months for CGT discount purposes.
- (d) ESN Shareholders who elect for rollover relief will retain the cost base of their ESN Shares as the cost base of their replacement MMZ Shares.

- (e) As discussed above, rollover relief will only be available if the qualifying conditions are satisfied and ESN Shareholders elect to apply for it. Further, rollover relief is not available if ESN Shareholders realise a capital loss on the disposal of their ESN Shares.
- (f) Given the complexity of the provisions governing rollover relief and the various qualifying conditions that need to be satisfied, ESN Shareholders should seek independent taxation advice regarding their particular circumstances.

### 3. GST

- (a) GST should not apply to the disposal of ESN Shares by ESN Shareholders, the issue of MMZ Shares to those shareholders, or any subsequent disposal of those MMZ Shares.
- (b) ESN Shareholders who are registered for GST purposes may not be entitled to full input tax credits for any GST incurred on costs associated with acquiring or disposing of shares in MMZ or ESN. ESN Shareholders should seek their own tax advice in this respect.