

10 January 2023

SECURITY MATTERS LIMITED

First Court Hearing- Scheme of Arrangement

**Approval of Scheme Booklet and Convening of Scheme Meeting and
Option Scheme Meeting, 1 February 2023**

Further to previous updates to the market, the Directors are pleased to update the market that, on 9 January 2023, the Federal Court made orders, inter alia:

1. Approving the distribution of a Scheme Booklet to shareholders and optionholders; and
2. Convening a meeting of shareholders and a separate meeting of optionholders, to vote on and approve respective schemes.

As previously noted, a General Meeting to ratify the proposed Scheme Of Arrangement has been called for 10.00AM Melbourne time, on 1 February 2023.

Timetable

The matter is due to return to court on 23 January 2023 for further orders, and a further hearing to approve the Schemes (if approved by scheme members and at the General Meeting) is set for 6 February 2023.

Notices to shareholders and optionholders are being dispatched today, in accordance with the court's orders, along with proxy forms.

Annexed to this announcement is a copy of the Scheme Booklet.

--Ends--

This announcement has been approved by release to ASX by the Chief Executive Officer.

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Security Matters Limited

ACN 626 192 998

SCHEME BOOKLET

For the recommended Scheme of Arrangement, Option Scheme of Arrangement and Capital Reduction between
Security Matters Limited ACN 626 192 998
and its shareholders and optionholders
in relation to the proposed acquisition by **Empatan PLC** of all the issued shares in
Security Matters Limited

Each Director recommends you **VOTE IN FAVOUR** of each of the Schemes and the Capital Reduction in the absence of a Superior Proposal.

The Independent Expert has concluded that the Scheme and Option Scheme are each in the best interest of SMX Shareholders and SMX Optionholders.

THIS IS AN IMPORTANT DOCUMENT AND REQUIRES YOUR IMMEDIATE ATTENTION
IF YOU HAVE ANY QUESTIONS IN RELATION TO THE SCHEME BOOKLET OR ANY OF THE SCHEME MEETINGS OR THE GENERAL MEETING PLEASE CONTACT YOUR LEGAL, INVESTMENT OR OTHER PROFESSIONAL ADVISER



Mann Lawyers

Legal Advisers

www.Mannlawyers.com.au

Important notices

The Scheme Booklet

This Scheme Booklet sets out details of the Scheme, Option Scheme and Capital Reduction, and constitutes the Explanatory Statement for the Schemes for the purposes of section 412(1) of the Corporations Act. It explains the effect of the Schemes between Security Matters Limited ACN 626 192 998 (**SMX** or **Company**) and the SMX Shareholders to be considered at the Scheme Meeting, the Option Scheme Meeting and the General Meeting.

You should read this Scheme Booklet in its entirety before making a decision as to how to vote on the resolutions to be considered at the Scheme Meeting, Option Scheme Meeting and General Meeting. If you are in doubt as to what you should do, you should consult your legal, investment or other professional adviser.

ASIC and ASX

A copy of this Scheme Booklet has been examined and registered by ASIC for the purposes of section 412(6) of the Corporations Act. ASIC has been requested to provide a statement, in accordance with section 411(17)(b) of the Corporations Act, that ASIC has no objection to the Scheme. If ASIC provides that statement, then it will be produced to the Court at the time of the Second Court Hearing to approve the Scheme and Option Scheme. Neither ASIC nor any of its officers take any responsibility for the contents of this Scheme Booklet.

A copy of this document has been lodged with ASX. Neither ASX nor any of its officers take any responsibility for the contents of this document.

Federal Court Notice

IMPORTANT NOTICE ASSOCIATED WITH COURT ORDER UNDER SECTION 411(1) OF THE CORPORATIONS ACT 2001

The fact that under section 411(1) of the Corporations Act the Court has ordered that a meeting be convened and has approved the explanatory statement required to accompany the notices of the meeting for each of the Scheme Meeting and the Option Scheme Meeting does not mean that the Court:

- (a) has formed any view as to the merits of the proposed schemes or as to how SMX Shareholders and SMX Optionholders should vote (on this matter members must reach their own decision); or
- (b) has prepared, or is responsible for, the content of the explanatory statement in each of the notices of meeting for the Scheme Meeting and the Option Scheme Meeting.

Notices of Scheme Meeting, Option Scheme Meeting and General Meeting

The Notice of each of the Scheme Meeting, Option Scheme and General Meeting is included in this Scheme Booklet as Annexure I, Annexure J and Annexure K respectively.

In accordance with rule 15.13 of the SMX Constitution, the Scheme Meeting, Option Scheme Meeting and General Meeting will each be held as virtual meetings commencing at 9.00AM on 1 February 2023. There will be no physical meeting

where SMX Shareholders and proxies can attend in person. A virtual Scheme Meeting and Option Scheme Meeting has been authorised by the Court at the First Court Hearing.

Notice of Second Court Hearing

On the Second Court Date, the Federal Court of Australia will consider whether to approve the Scheme and Option Scheme following the votes at the Scheme Meeting and Option Scheme Meeting. Any SMX Shareholder or SMX Optionholder may attend the hearing held on the Second Court Date, expected to be held on 6 February 2023 or such other time as is determined by the Court. It is possible that, because of restrictions imposed in response to the COVID-19 pandemic, that hearing will be conducted by remote access technology, including video or telephone conferencing. An SMX Shareholder or SMX Optionholder seeking to view the hearing should review the Federal Court of Australia list (available at <https://www.fedcourt.gov.au/court-calendar/daily-court-lists/vic> for details of the hearing and how to view it. The Court's list is usually available by 4.30pm on the day before the hearing. Any SMX Shareholder or SMX Optionholder who wishes to oppose approval of the Scheme or Option Scheme at the hearing on the Second Court Date may do so by filing with the Court and serving on SMX a notice of appearance in the prescribed form together with any affidavit that the SMX Shareholder or SMX Optionholder proposes to rely on.

Investment decisions

The information contained in this Scheme Booklet does not constitute financial product advice. This Scheme Booklet does not take into account the investment objectives, financial situation or particular needs of individual SMX Shareholders, SMX Optionholders or any other person. Independent financial and taxation advice should be sought before making any decision in relation to each of the Scheme or Option Scheme.

Responsibility statement

Except as provided below, the information in this Scheme Booklet has been prepared by SMX and its directors and is the responsibility of SMX. Neither Empatan PLC (registered number 722009) (**Empatan**), Lionheart III Corp (**Lionheart**) nor their respective directors, officers or advisers assume any responsibility for the accuracy or completeness of the SMX Information.

Empatan has provided and is responsible for the Empatan Information. SMX and its directors, officers and advisers do not assume any responsibility for the accuracy or completeness of the Empatan Information.

Lionheart has provided and is responsible for the Lionheart Information. SMX and its directors, officers and advisers do not assume any responsibility for the accuracy or completeness of the Lionheart Information.

Nexia Australia has prepared the Independent Expert's Report in Annexure B and is responsible for that report only. None of SMX or Empatan nor any of their respective affiliates, Subsidiaries, directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of the information contained in the Independent Expert's Report.

Forward looking statements

Certain statements in this Scheme Booklet relate to the future. Forward-looking statements can be identified by the use of forward looking words such as "may", "should", "expect", "anticipate", "estimate", "scheduled" or "continue," their negative equivalent, or comparable terminology. Such statements involve known and unknown risks, uncertainties, assumptions and other important factors that may cause the actual results, performance or achievements of SMX to be materially different from the results, performance or achievements expressed or implied by such statements. The operation and financial performance of SMX is subject to various risks and which may be beyond the control of SMX, Empatan or Lionheart. As a result, the actual results of SMX's operations and earnings following implementation of each of the Scheme and Option Scheme and the actual advantages of each of the Scheme and Option Scheme may differ from those that are anticipated or may not be achieved.

Any forward looking statements in this Scheme Booklet are made, and reflect views held, only as at the date of this Scheme Booklet. SMX, Empatan and Lionheart make no representation and give no assurance or guarantee that the occurrence of the events or the achievement of results expressed or implied in such statements will actually occur. You are cautioned not to rely on any forward-looking statement.

Privacy and personal information

SMX will need to collect personal information to implement each of the Scheme, Options Scheme and Capital Reduction. The personal information may include the names, contact details and details of shareholdings of SMX's Shareholders or SMX Optionholders, as the case may be, plus contact details of individuals appointed by SMX Shareholders or SMX Optionholders to act as proxies, corporate representatives or attorneys at the Scheme Meeting, Option Scheme Meeting and/or General Meeting. The primary purpose of the collection of personal information is to assist SMX in the conduct of each of the Scheme Meeting, Option Scheme Meeting and General Meeting, and to enable the Scheme, Option Scheme and Capital Reduction to be implemented. The collection of certain personal information is required or authorised by the Corporations Act.

SMX Shareholders, SMX Optionholders and other individuals in respect of whom personal information is collected, have certain rights to access the personal information collected about them and can contact the SMX Registry on +61 2 8023 5440 if they wish to exercise those rights.

Personal information may be disclosed to the share registrars of SMX or Empatan, print and mail service providers, authorised securities brokers, Related Bodies Corporate of SMX and to Empatan, and SMX and Empatan's advisers to the extent necessary to effect each of the Scheme, Option Scheme and Capital Reduction. If the information outlined above is not collected, SMX may be hindered in, or prevented from, conducting each or any of the Scheme Meeting, Option Scheme Meeting and/or General Meeting, or implementing each of the Scheme, Option Scheme or Capital Reduction effectively or at all. SMX Shareholders and/or SMX Optionholders who appoint a named person to act as their proxy, corporate representative or attorney at the Scheme Meeting, Option Scheme Meeting or General Meeting should ensure that they inform that person of the matters outlined above.

Notice to SMX Shareholders and/or SMX Optionholders in jurisdictions other than Australia, British Virgin Islands, Canada, France, Israel, Singapore, Luxembourg, Netherlands, United Kingdom and the United States

This Scheme Booklet has been prepared in compliance with the disclosure requirements of Australia which may be different from those in other jurisdictions. This Scheme Booklet, the Scheme and the Option Scheme do not in any way constitute an offer of securities or a solicitation of an offer to purchase securities in any place in which, or to any person to whom, it would not be lawful to make such an offer or solicitation. No action has been taken to register or qualify the New Empatan Shares or otherwise permit a public offer of such securities in any jurisdiction outside Australia.

Based on the information available to SMX as at the date of this Scheme Booklet, SMX Shareholders whose addresses are shown in the SMX Register on the Record Date as being in the following jurisdictions outside of Australia will be entitled to have New Empatan Shares issued to them pursuant to the Scheme subject to the qualifications, if any, set out below in respect of that jurisdiction:

- British Virgin Islands;
- Canada;
- France;
- Israel;
- Singapore;
- Luxembourg;
- Netherlands;
- United Kingdom;
- United States; and
- any other person or jurisdiction in respect of which SMX reasonably regards, after consulting with Empatan, that the laws of that place permit the offer and issue of New Empatan Shares to that SMX Shareholder and, is not unduly onerous, expensive or impracticable for Empatan to do so.

SMX Shareholders (including SMX Optionholders who become SMX Shareholders as a result of the implementation of the Option Scheme) who are Ineligible Foreign Holders will not be issued New Empatan Shares. Instead, the New Empatan Shares to which Ineligible Foreign Holders would otherwise be entitled to under the Scheme will be issued to the Sale Agent and sold through the Share Sale Facility, with the Share Sale Facility Proceeds being remitted to those SMX Shareholders. Refer to Section 11.5 for further details on the Share Sale Facility.

Notice to SMX Shareholders in the British Virgin Islands

The New Empatan Shares may not be offered in the British Virgin Islands unless Empatan or the person offering the New Empatan Shares on its behalf is licensed to carry on business in the British Virgin Islands. Given they will not be so licensed, the New Empatan Shares may be offered only to existing shareholders of SMX in the British Virgin Islands from outside the British Virgin Islands.

Notice to SMX Shareholders in Canada

The New Empatan Shares will be provided by Empatan in reliance upon exemptions from the prospectus and registration requirements of the applicable Canadian securities law in each province and territory of Canada. No

securities commission in Canada has reviewed or in any way passed upon this document or the merits of the Scheme or Option Scheme.

Notice to SMX Shareholders in France, Netherlands and Luxembourg

This Scheme Booklet is not a prospectus under Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union (the **Prospectus Regulation**). Therefore, the Scheme Booklet has not been, and will not be, registered with or approved by any securities regulator or supervisory authority in the European Union. Accordingly, this Scheme Booklet may not be made available, nor may the New Empatan Shares be offered for sale or exchange, in the European Union except in circumstances that do not require the obligation to publish a prospectus under the Prospectus Regulation. In accordance with Article 1(4) of the Prospectus Regulation, an offer of New Empatan Shares in each member state of the European Union is limited:

- to persons who are "qualified investors" (as defined in Article 2(e) of the Prospectus Regulation);
- to fewer than 150 other natural or legal persons; and
- in any other circumstance falling within Article 1(4) of the Prospectus Regulation.

Investors in the Netherlands should note: This investment falls outside AFM supervision. No prospectus required for this activity.

Notice to SMX Shareholders in Israel

An offer of New Empatan Shares has not been made, and may not be made, in Israel, except pursuant to an applicable exemption under the Israeli Securities Law 5728- 1968 (the **Israeli Securities Law**), from the requirement to publish a prospectus when offering securities to the public.

Article 15A to the Israeli Securities Law stipulates all the cases in which an offering or sale of securities is not made to the "public", and therefore does not require the publishing of a prospectus.

The information in this Scheme Booklet has been prepared on the basis that all offers of New Empatan Shares to Israeli residents or citizens, or other people to whom equity was offered or issued in Hebrew or with other significant relation to Israel (**Israeli People**) will be made pursuant to section 15A(a)(1) of Israeli Securities Law, according to which so long as all Israeli People to whom Empatan have offered or issued any equity during any period of 12 months is no more than 35, and therefore not made to the "public".

Notice to SMX Shareholders in Singapore

This Scheme Booklet and any other document relating to the Scheme, Option Scheme and Capital Reduction have not been, and will not be, registered as a prospectus with the Monetary Authority of Singapore and the Scheme is not regulated by any financial supervisory authority in Singapore.

Accordingly, statutory liabilities in connection with the contents of prospectuses under the Securities and Futures Act, Cap. 289 (the **SFA**) will not apply. This Scheme Booklet and any other document relating to the Scheme, Option Scheme or Capital Reduction may not be made the subject of an invitation for subscription, purchase or receipt, whether directly or indirectly, to persons in Singapore except pursuant to exemptions in Subdivision (4) Division 1, Part XIII of the SFA, including the exemption under section 273(1)(c) of the SFA, or

otherwise pursuant to, and in accordance with the conditions of, any other applicable provisions of the SFA. Any offer is not made to you with a view to Empatan Securities being subsequently offered for sale to any other party.

You are advised to acquaint yourself with the SFA provisions relating to on-sale restrictions in Singapore and comply accordingly. This Scheme Booklet is being furnished to SMX Shareholders and SMX Optionholders on a confidential basis and solely for their information and may not be reproduced, disclosed, or distributed to any other person. Any investment referred to in this Scheme Booklet may not be suitable for you and it is recommended that you consult an independent investment advisor if you are in doubt about such investment. Neither SMX nor Empatan is in the business of dealing in securities or holds itself out, or purports to hold itself out, to be doing so. As such, SMX and Empatan are neither licensed nor exempted from dealing in securities or carrying out any other regulated activities under the SFA or any other applicable legislation in Singapore.

Notice to SMX Shareholders in the United Kingdom

Neither this Scheme Booklet nor any other document relating to the each of the Scheme or the Option Scheme has been delivered for approval to the Financial Conduct Authority in the United Kingdom and no prospectus (within the meaning of section 85 of the Financial Services and Markets Act 2000, as amended (**FSMA**)) has been published or is intended to be published in respect of the Empatan Securities. This Scheme Booklet does not constitute an offer of transferable securities to the public within the meaning of the UK Prospectus Regulation or the FSMA. Accordingly, this Scheme Booklet does not constitute a prospectus for the purposes of the UK Prospectus Regulation or the FSMA. Any invitation or inducement to engage in investment activity (within the meaning of section 21 FSMA) received in connection with the issue or sale of the Empatan Securities has only been communicated or caused to be communicated and will only be communicated or caused to be communicated in the United Kingdom in circumstances in which section 21(1) FSMA does not apply to SMX or Empatan. In the United Kingdom, this Scheme Booklet is being distributed only to, and is directed at, persons (i) who fall within Article 43 (members of certain bodies corporate) of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005, or (ii) to whom it may otherwise be lawfully communicated (together "relevant persons"). The investments to which this Scheme Booklet relates are available only to, and any invitation, offer or agreement to purchase will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this Scheme Booklet.

References to time and currency

Unless otherwise stated, a reference to time in this Scheme Booklet is a reference to Australian Eastern Standard Time (**AEST**), or, where indicated and as the context requires, Australian Eastern Daylight Time (**AEDT**). References to (\$) or (A\$) dollars in this Scheme Booklet are to Australian dollars, unless otherwise stated.

Rounding

Certain financial figures in this Scheme Booklet have been rounded as applicable, unless otherwise stated. Such figures should be considered as approximate figures. Any discrepancies in any table between totals and sums of

amounts listed therein or to previously published financial figures are due to rounding.

Defined terms and interpretation

Capitalised terms used in this Scheme Booklet are defined either in the Glossary in Section 16 or in the body of this Scheme Booklet.

Unless otherwise stated or where the context otherwise requires, all data contained in this Scheme Booklet, including in charts, graphs and tables, are based on information available as at the Last Practicable Date.

Websites

Any references in this Scheme Booklet to any website are for information purposes only and no information contained on any website forms part of this Scheme Booklet.

Tax

A general guide to the taxation implications of the Scheme is set out in Annexure A. This guide is expressed in general terms only and SMX Shareholders should consult their tax adviser as to the applicable tax consequences of the Scheme.

If you have any questions

If after reading this Scheme Booklet in its entirety you do not fully understand it, you should consult an accountant, solicitor or other professional adviser for assistance.

This document is very important and should be read in its entirety.

Date

This Scheme Booklet is dated 3 January 2023.

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Letter from the SMX Chair



Dear SMX Shareholder and SMX Optionholder,

On behalf of the SMX Board, I am pleased to provide you with this Scheme Booklet that contains important information for your consideration about the proposed acquisition of SMX by Empatan PLC, a public limited company incorporated in Ireland with registered number 722009 (**Empatan**).

On 26 July 2022, SMX announced that it had entered into a Scheme Implementation Deed and Business Combination Agreement (**BCA**) with Lionheart III Corp (**Lionheart**) and Empatan, further details of which are set out below.

The Scheme and Capital Reduction in relation to SMX Shares

Under the Scheme Implementation Deed, it is proposed that all SMX Shares on issue will be cancelled and SMX will become a wholly owned subsidiary of Empatan by way of a Scheme of Arrangement, subject to approval by SMX Shareholders and the Court, and the satisfaction of certain other conditions (**Scheme**). On the Scheme Implementation Date, the SMX Board proposes to undertake an equal reduction of all of its share capital on issue as at the Record Date, subject to approval by the SMX Shareholders as at the Voting Eligibility Date (the **Capital Reduction**). SMX will then issue one (1) SMX Share to Empatan, making it the sole shareholder of SMX.

As at the date of this Scheme Booklet, in consideration for their SMX Shares being cancelled, SMX Shareholders are to receive 1 New Empatan Share for every 10.3207 SMX Shares held on the Record Date (**Scheme Consideration**) at an issue price of US\$10.00 per New Empatan Share. As this share ratio is not fixed, and is subject to any changes arising in SMX's capital structure up to the Scheme Record Date, the number of New Empatan Shares to be received by SMX Shareholders in the context of the Scheme may change up to the Scheme Record Date.

The Scheme Consideration values the equity of SMX at approximately US\$200 million. As a condition to implementation of the Scheme, Empatan is to seek approval for quotation on NASDAQ in relation to the Empatan Shares and Empatan Public Warrants. Following implementation of the Scheme, SMX will apply to be de-listed from the ASX with the exact de-listing date to follow implementation of the Scheme as agreed with ASX.

The Option Scheme in relation to SMX Options

In addition to the Scheme, and immediately prior to the Scheme Implementation Date, the SMX Board proposes that all SMX Options on issue will be exercised, by way of a scheme of arrangement, subject to approval by SMX Optionholders and the Court, and the satisfaction of certain other conditions (**Option Scheme**). In consideration for their SMX Options being exercised, SMX Optionholders are to be issued SMX Shares based on a Black Scholes Model (**BSM**) calculation for each tranche of relevant SMX Options (**Option Scheme Consideration**), which will subsequently be cancelled in consideration for shares in Empatan (**Cancellation Consideration**).

If the Option Scheme becomes Effective, on the Option Scheme Implementation Date, SMX Optionholders will be deemed to have exercised their SMX Options and, in consideration, will receive SMX Shares, which will be cancelled in consideration for Empatan shares. Each Option Scheme Participant, being a person who is registered as a SMX Optionholder on the Option Scheme Record Date, will be entitled to receive:

- (a) SMX Shares, and, in turn;
- (b) the Cancellation Consideration in respect of each of their Scheme Shares.

Business Combination in relation to the Lionheart merger

Lionheart is a SPAC, a blank cheque company, incorporated on 14 January 2021 in Delaware, United States, for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more businesses. Following completion of its initial public offering and listing on NASDAQ on 3 November 2021, Lionheart commenced a search for prospective businesses and assets to acquire. Please refer to Section 6 of this Scheme Booklet for further information in relation to Lionheart.

Under the Business Combination Agreement, a wholly owned subsidiary of Empatan (Merger Sub) will merge with and into Lionheart, with Lionheart surviving the merger as a wholly owned subsidiary of Empatan. As a result, existing Lionheart shareholders will receive New Empatan Shares in exchange for their existing Lionheart shares and Lionheart warrants will be automatically adjusted to become exercisable in respect of Empatan shares instead of Lionheart shares.

SMX Shareholders and SMX Optionholders will not be voting in relation to the Business Combination, however completion of each of the Scheme, Option Scheme, Capital Reduction and Business Combination are interdependent and conditional on each other. Following implementation of each of the Scheme, Capital Reduction, Option Scheme and Business Combination, the Merged Group will be formed.

Independent Expert

SMX has appointed Nexia Australia as the Independent Expert to prepare the Independent Expert's Report, including an opinion as to whether each of the Scheme and Option Scheme is in the best interest of SMX Shareholders. The Independent Expert, Nexia Australia, has concluded that each of the Scheme and Option Scheme is in the best interest of all SMX Shareholders and SMX Optionholders in the absence of a Superior Proposal.

A full copy of the Independent Expert's Report is included as Annexure B to this Scheme Booklet.

NASDAQ listing requirements and foreign private issuer status of the Merged Group

As a result of the Schemes, Capital Reduction and Business Combination outlined in this Scheme Booklet, Empatan Shares are intended to be quoted on the financial market operated by NASDAQ. Accordingly, the Merged Group will be required to comply with the listing rules of NASDAQ as they apply to the Merged Group.

As a foreign private issuer, Empatan will also be permitted to follow certain home country corporate governance practices instead of those otherwise required under the applicable rules of NASDAQ for domestic U.S. issuers. These circumstances are outlined throughout the NASDAQ listing rules and include:

- (a) the requirement to disclose third party director and nominee compensation set out in Rule 5250(b)(3) of the NASDAQ listing rules; and
 - (b) the requirement to distribute annual and interim reports set out in Rule 5250(d) of the NASDAQ listing rules,
- provided, however, that such a foreign private issuer comply with:
- (c) the Notification of Noncompliance requirement (Rule 5625), the Voting Rights requirement (Rule 5640)
 - (d) the Diverse Board Representation Rule (Rule 5605(f))
 - (e) the Board Diversity Disclosure Rule (Rule 5606)
 - (f) have an audit committee that satisfies Rule 5605(c)(3) of the NASDAQ listing rules; and
 - (g) ensure that such audit committee's members meet the independence requirement in Rule 5605(c)(2)(A)(ii) of the NASDAQ listing rules.

The NASDAQ listing rules provide that a foreign private issuer that follows a home country practice in lieu of one or more of the NASDAQ listing rules shall disclose in its annual reports filed with the Commission each requirement that it does not follow and describe the home country practice followed by the Company in lieu of such requirements.

Alternatively, a foreign private issuer that is not required to file its annual report with the Commission on Form 20-F may make this disclosure only on its website. A foreign private issuer that follows a home country practice in lieu of the requirement in Rule 5605(d)(2) of the NASDAQ listing rules to have an independent compensation committee must disclose in its annual reports filed with the Commission the reasons why it does not have such an independent committee.

Empatan does not currently envisage any specific circumstances whereby it will depart from the requirements of the NASDAQ listing rules.

SMX Board Recommendations

SMX Directors have considered the advantages and disadvantages of each of the Scheme, Option Scheme and Capital Reduction. Each Director recommends that SMX Shareholders and SMX Optionholders vote in favour of each the Scheme, Option Scheme and Capital Reduction (as the case may be) in the absence of a Superior Proposal. Each Director who holds SMX Shares or SMX Options intends to vote in favour of each of the Scheme, Option Scheme and Capital Reduction (as the case may be) in the absence of a Superior Proposal.

Please note that some directors of SMX will receive benefits conditional on or in connection with the Schemes and Capital Reduction becoming Effective.

- (a) Following the successful implementation of the Schemes, Capital Reduction and Business Combination, Mr Everardus Hofland will retire as a director of SMX. Accordingly, Mr Hofland is entitled to receive a termination payment equal to ILS264,000 (approximately US\$79,332). This will be subject to the Corporations Act provisions regarding termination payments and related party benefits under Chapter 2D and Chapter 2E at the time.
- (b) As the Schemes, Capital Reduction and Business Combination, when considered together, result in a change of control and capital raising of above US\$20 million in aggregate in a single transaction, Mr Everardus Hofland will be entitled to receive, prior to his retirement an increase of his base remuneration to ILS22,000 per month (ILS264,000 per year, equating to approximately US\$79,332 per year).
- (c) Mr Hofland is the holder of 167,000 SMX ESOP Options with an exercise price of \$0.70 and expiry date of 15-Aug-26. As a condition under the Scheme Implementation Deed, SMX and each holder of SMX ESOP Options (**SMX ESOP Optionholders**) must enter into option cancellation agreements in respect of the SMX ESOP Options. Accordingly, Mr Hofland will receive the 1 new option in Empatan (**New ESOP Option**) with a new exercise price of US\$5.12 and on the same terms as his SMX ESOP Options.
- (d) Mr Haggai Alon is the holder of 5,135,949 SMX Shares. Following the successful implementation of the Schemes, Capital Reduction and Business Combination, these shares will be converted to 496,275 Empatan's shares with expected valuation of US\$4.96 million.
- (e) Mr Haggai Alon is the holder of 500,000 SMX ESOP Options with an exercise price of \$0.70 and expiry date of 15-Aug-26. As a condition under the Scheme Implementation Deed, SMX and SMX ESOP Optionholder must enter into option cancellation agreements in respect of the SMX ESOP Options. Accordingly, Mr Alon will receive the 1 New ESOP Option with a new exercise price of US\$5.12 and on the same terms as his SMX ESOP Options. The benefit raised from the conversion of the options amounts to US\$ 235,771.
- (f) Furthermore, Mr Haggai Alon will be employed by Empatan as the Chief Executive Officer and an executive director. The compensation he is entitled to receive as Chief Executive Officer is ILS 960,000 per annum (approximately US\$295,000 per annum), which is ILS 480,000 (approximately US\$147,500) higher than his current salary, assuming that no Double Trigger Event occurs. Due to the Schemes, Capital Reduction and Business Combination, Mr Alon would have been entitled to an increase in his salary to ILS 780,000 per annum (approximately US\$219,889 per annum) absent any amendment to his employment terms. Mr Alon is not entitled to receive any payment as executive director. The remaining terms of Mr Alon's employment as Chief Executive Officer are on similar terms as his terms for his employment by SMX.
- (g) Following the successful implementation of the Schemes, Capital Reduction and Business Combination, the benefit (option and share scheme) received by Mr Alon will amount to US\$5.196 million.

Despite the interest in the outcome of the Schemes and the Capital Reduction, the directors consider that, given the importance of the Schemes and Capital Reduction to the successful implementation of the Scheme, and their role as directors of SMX, it is important and appropriate for them to provide a recommendation to shareholders in relation to voting on the Schemes and the Capital Reduction. The SMX Board notes that the appropriateness of New Empatan Shares for SMX Shareholders will depend on the characteristics and risk profile of individual SMX Shareholders, as well as the matters set out in the Scheme Booklet (including, without limitation, the Risk Factors set out in Section 10 of this Scheme Booklet). It is important that you carefully read the Risk Factors as there are risks involved in an investment in Empatan which differ from the risks associated with your current investment in SMX.

Scheme Meetings and General Meeting

The implementation of the Scheme, Option Scheme and Capital Reduction is conditional on approval from the SMX Shareholders and SMX Optionholders (as the case may be). SMX Shareholders' and SMX

Optionholders' votes are important as the resolutions at the Scheme Meeting, Option Scheme Meeting and General Meeting require a certain level of SMX Shareholder and SMX Optionholder support to be approved. I encourage you to read this Scheme Booklet carefully as it contains information that will assist in both your decision for voting, but also information on how to vote.

I encourage you to vote at the Scheme Meeting, Option Scheme Meeting and General Meeting (as applicable) to be held on 1 February 2023 either by personally participating in the virtual Scheme Meeting or by appointing a proxy, an attorney or, in the case of a SMX Shareholder, SMX Optionholder or proxy who is a corporation, a corporate representative to participate in the Scheme Meeting and vote on your behalf. Sections 3.7 and 3.8 of this Scheme Booklet contain further information regarding the virtual Scheme Meeting and your vote.

Further information

If you require further information after reading this Scheme Booklet in its entirety, please call SMX on +972 8 630 6336 (ISR), send an email to info@securitymattersltd.com or visit SMX's website at www.smx.tech. On behalf of the SMX Board, I thank you for your ongoing support and I look forward to your participation at the relevant Scheme Meeting.

Yours faithfully,

Everardus Hofland

Everardus Hofland
Chairman

Important Dates

Event	Date and time
Date and time for determining eligibility to vote at Scheme Meeting, Option Scheme Meeting and General Meeting (Voting Eligibility Date)	7PM on 30 January 2023
Latest date and time for lodgement of Proxy Forms or powers of attorney for (a) the Scheme Meeting, (b) Option Scheme Meeting and (c) General Meeting	9.00 AM on 30 January 2023
General Meeting to vote on the Capital Reduction to be held virtually	10.00AM on 1 February 2023
Option Scheme Meeting to vote on the Option Scheme Resolution to be held virtually	9.30AM on 1 February 2023
Scheme Meeting to vote on the Scheme Resolution to be held virtually	9.00AM on 1 February 2023
Second Court Date for approval of the Scheme and Option Scheme	To be held after the Scheme Meeting, Option Scheme Meeting and General Meeting and subject to the court's convenience, currently aimed at 3 February 2023
Effective Date – Court Order lodged with ASIC and announced to ASX	To be determined after the court sets a Second Court Date, currently anticipated to be 6 February 2023
Option Scheme Record Date for determining participants in the Option Scheme and entitlements to Option Scheme Consideration	Means 7pm on a date 2 business days after the Effective Date, currently set for 8 February 2023
Option Scheme Implementation Date – Scheme Options exercised under Cashless Exercise and SMX Shares issued to Option Scheme Participants	Means the 5 th Business Day after the Option Scheme Record Date, currently anticipated to be 15 February 2023
SMX Shares cease trading on ASX at close of trading	To occur on the Effective Date, currently set for 6 February 2023
Record Date for determining participants in the Scheme and entitlements to Scheme Consideration	Means 7pm (Melbourne Time) on the day 2 days after the Record Date, currently anticipated to be 6 February 2023

Scheme Implementation Date – Scheme Shares cancelled and Scheme Consideration provided to Scheme Participants

Means 5 Business Days after the Record Date, currently anticipated to be 15 February 2023

Dates may change

The timetable above is indicative only and certain dates and times are subject to receipt of all necessary approvals from SMX Shareholders, the Court and other regulatory authorities. SMX, in consultation with Empatan, may vary any or all of these dates and times, subject to Court approval where required.

Any changes to the above timetable will be published on SMX's website at www.smx.tech and announced to ASX, www.asx.com.au. The actual timetable will depend on factors outside the control of SMX and implementation of each of the Scheme and Option Scheme is subject to the satisfaction or, if applicable, waiver of each of the Scheme and Option Scheme Conditions (see Section 11.10 in relation to Scheme Conditions and 12.9 in relation to Option Scheme Conditions).

All references to time are to Australian Eastern Standard Time (AEST) or Australian Eastern Daylight Time (AEDT), as the context requires, unless otherwise stated.

1. Highlights of the Schemes and the Capital Reduction

1.1 Summary of reasons to vote in favour of or against the Schemes and the Capital Reduction

Reasons to vote in favour of the Schemes and the Capital Reduction

1	<p>The SMX Directors unanimously recommend that the SMX Shareholders and SMX Optionholders vote in favour of the Schemes and the Capital Reduction in the absence of a Superior Proposal and subject to the same qualification intend on voting all SMX Shares or SMX Options (as the case may be) held or controlled by or for them in favour of each of the Schemes and the Capital Reduction.</p> <p>Despite the interest in the outcome of the Schemes and the Capital Reduction, the directors consider that, given the importance of the Schemes and Capital Reduction to the successful implementation of the Scheme, and their role as directors of SMX, it is important and appropriate for them to provide a recommendation to shareholders in relation to voting on the Schemes and the Capital Reduction.</p>
2	<p>The Independent Expert has concluded that the Schemes are in the best interest of SMX Shareholders and SMX Optionholders, in the absence of a Superior Proposal. A copy of the Independent Expert's Report is set out in Annexure B of this Scheme Booklet.</p>
3	<p>No Superior Proposal has been received by SMX as at the date of this Scheme Booklet.</p>
4	<p>The Schemes represent an attractive premium for SMX Shareholders or SMX Optionholders (as the case relates) on the underlying value of the business. Empatan's offer for SMX represents a 383% premium to the 1-month VWAP and a premium of 448% to the 3-month VWAP, respectively, prior to the announcement of the Scheme,¹ and a premium of 850% to the share price of \$0.15 on the Last Practical Date of 3 January 2023.</p>
5	<p>A change in listing to the NASDAQ may increase the attractiveness of SMX to an equity market with a stronger interest in technology projects and SMX Shares may enjoy increased demand from US investing institutions with their deeper pools of capital, some of which do not invest in companies that are not SEC-registered. Capital markets of the US may provide SMX with an enlarged, more diverse market, the participants of which may be more inclined to invest directly in the Merged Group following implementation of the Schemes, Capital Reduction and Business Combination.</p>
6	<p>A listing on the NASDAQ may provide SMX with easier access to large US investment funds and improved liquidity for the benefit of the shareholders. Higher liquidity may enable SMX Shareholders to buy or sell holdings more readily without adversely affecting the share price and higher liquidity is generally associated with reduced volatility in share pricing, such that the movement in share pricing is more likely to reflect underlying business value.</p>
7	<p>The future growth and development of SMX may benefit from access to US capital markets which may provide funding in a more cost-effective way. The SMX Board is of the view that the Australian market does not provide access to the levels of investment capital that are available in the US. A listing on the NASDAQ exchange may potentially broaden and diversify SMX Group's shareholder base and enhance SMX's visibility in the US, where the SMX Board believes that there is greater interest. This may attract further investments and provide increased funding for projects on more attractive terms.</p>

¹ As of 26 July 2022 and based on the Empatan Share price of US\$10.00.

8	The Offer, compared to other available alternatives, represents in the SMX Board's view the most superior offer in terms of value and degree of certainty.
9	If the Scheme does not proceed and no Superior Proposal emerges, SMX may experience funding challenges and the SMX Shares may trade at a significantly lower price.

Reasons why you may choose to vote against the Schemes and the Capital Reduction

1	You may disagree with the SMX Directors' recommendation or the conclusion of the Independent Expert.
2	You may consider that there is the potential for a Superior Proposal to be made in the foreseeable future.
3	The tax consequences of the Scheme may not be suitable for you considering your individual circumstances.
4	You may wish to maintain an interest in a publicly listed investment with SMX's specific characteristics.
5	The Scheme may be subject to conditions that you consider unacceptable.
6	SMX Shareholders and SMX Optionholders located outside the US may not be as familiar with trading practices on the NASDAQ as they might be with trading practices on the ASX

See Section 4 for further details of the above summaries of the reasons to vote in favour of or against each of the Schemes and the Capital Reduction.

1.2 What is a De-SPAC Transaction and How Does it Relate to this Proposed Scheme of Arrangement?

- a. A special purpose acquisition company ("SPAC") is a company that is formed to raise capital in an initial public offering ("IPO") to finance a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more operating businesses, with the goal of taking the operating business public on a stock exchange. A De-SPAC transaction involves a SPAC acquiring a company to effectively list it on that exchange. The Scheme and the Option Scheme are part of the first De-SPAC transaction involving an Australian public company. The time frame to consummate a De-SPAC transaction is limited and shareholders have rights to redeem their shares rather than proceed with an investment.
- b. In this instance, Lionheart III is the relevant SPAC. It trades on a United States stock exchange, the NASDAQ. An IPO was held and funds raised specifically for consummating a business transaction. Those funds are held on trust and are separate to operational funds, provided by the Founders of the SPAC ("The Founders") who support the deal in exchange for stock. The funds raised from the IPO are held in a trust account that can be accessed solely to complete the business combination. Lionheart has raised over USD\$120 million. This money remains on trust for the purposes of the business combination.
- c. SPAC's, as noted, have limited time periods in which they must either successfully engage in a business combination, or liquidate. The Lionheart III SPAC has 12 months from the closing of its IPO to complete the Business Combination, but may extend the period of time by up to six additional months (in six, one-month extensions), for a total of 18 months to complete the Business Combination. Lionheart originally had until November 8, 2022 to complete a Business Combination. On November 8, 2022 and December 8, 2022, respectively, Lionheart caused USD \$412,500 on each such date to be deposited in the trust account to extend the date by which it

has to consummate the Business Combination to January 8, 2023 (or until May 8, 2023 if Lionheart extends the period of time to consummate the Business Combination pursuant to all further extension periods). Lionheart has obligated itself to also make a further payment in January and February if necessary to enable the consummation of this proposed transaction, but has not yet done so at the Last Practicable Date.

- d. At the consummation of the Business Combination, the funds in the trust account will be used to pay holders of the SPAC's shares who have exercised redemption rights and to pay fees and expenses incurred in connection with the Business Combination, with the remaining funds flowing to the post-combination company. If the Business Combination is not completed in the allotted time, the SPAC must liquidate and return the IPO proceeds to the SPAC's stockholders.
- e. This represents the first De-SPAC transaction with an Australian listed company. As such, there is an inherent uncertainty in the transaction, and increased execution risk compared to other transactions. The risks, process and procedures involved in both the Share Scheme and Optionholders Scheme are further set out in this Booklet.

1.3 Independent Expert's conclusion

Nexia Australia has been appointed as the Independent Expert by the SMX Board to prepare the Independent Expert's Report, including an opinion as to whether each of the Scheme and Option Scheme are in the best interest of SMX Shareholders and SMX Optionholders.

The Independent Expert has concluded that each of the Scheme Consideration and Option Scheme Consideration is in the best interest of the SMX Shareholders and / or SMX Optionholders in the absence of a Superior Proposal. A copy of the Independent Expert's Report can be found in Annexure B.

The Independent Expert's Report was provided and is dated 8 October 2022. SMX has engaged the Independent Expert to further consider both any developments in relation to Lionheart and also SMX's current finances and significant deals, and provide an updated report well prior to the Scheme Meeting, the Option Scheme Meeting and the General Meeting, all called for 1 February 2023. In addition, should there be developments in relation to redemption rates by Lionheart shareholders, which SMX anticipates would be known a number of days before the meetings, the Independent Expert will be asked to venture their opinion on this as well. Updates to the Expert's position and other information will be contained in supplementary scheme booklets once approved by the court. These will also be placed on the websites for the meetings, as detailed in the Notices sent to all Shareholders and Optionholders.

Shareholders should be conscious that the report is from October and that time has passed in which the company has continued to trade. The major developments in relation to SMX have been set out in the Scheme Booklet. However, shareholders and optionholders should take into consideration that the Expert Report annexed to this Scheme Booklet does not reflect any such changes in circumstances.

1.4 Conditions for each of the Schemes

(a) Scheme Conditions

The obligations of SMX and Empatan to complete the Scheme are subject to the Scheme Conditions which are discussed in further detail in Section 11.10. The Scheme Conditions are contained in clause 3.1 of the Scheme of Arrangement, as set out in Annexure G to this Scheme Booklet. For the Scheme to be implemented, all of the Scheme Conditions must be either satisfied or waived in accordance with the Scheme and the Scheme Implementation Deed (as applicable).

As at the date of this Scheme Booklet, SMX and Empatan are not aware of any circumstances which would cause the Scheme Conditions not to be satisfied or waived. An update as to the status of the Scheme Conditions will be provided at the Scheme Meeting.

(b) Options Scheme Conditions

The Option Scheme will not become Effective, and the obligations of each of SMX and Empatan to complete the Option Scheme, are subject to the Option Scheme Conditions, which are discussed in further detail in Section 12.9. The Option Scheme Conditions are contained in clause 3.1 of the Option Scheme, as set out in Annexure H to this Scheme Booklet. For the Option Scheme to be implemented, all of the Option Scheme Conditions must be either satisfied or waived in accordance with the Scheme and the Scheme Implementation Deed (as applicable).

As at the date of this Scheme Booklet, SMX and Empatan are not aware of any circumstances which would cause the Option Scheme Conditions not to be satisfied or waived. An update as to the status of the Scheme Conditions will be provided at the Option Scheme Meeting.

1.5 Consideration for each of the Schemes

(a) Scheme Consideration

As per the date of announcement of the Scheme, Scheme Participants were to be entitled to receive 1 New Empatan Share for every 10.2432 SMX Shares held on the Scheme Record Date.

As at the date of this Scheme Booklet, Scheme Participants will be entitled to receive 1 New Empatan Share for every 10.3207 SMX Shares held on the Scheme Record Date.

On account of the Standby Facility and Bridge Loan the ratio of New Empatan Shares that each Scheme Participants will be entitled to is likely to change based on the following formula:

$$NPS = \frac{N}{A + B + C}$$

where:

NPS is the number of New Empatan Shares per SMX Share;

A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and Employee Share Options);

B is the total number of Option Exercise Shares to be issued on exercise of all Scheme Options on a Cashless Exercise basis under this Option Scheme;

C is the total number of Employee Share Options on issue as at the Record Date; and

N is 20,000,000.

The Scheme Consideration represents a 383% premium to SMX's 1-month VWAP and a premium of 448% to the 3-month VWAP prior to the announcement of the Scheme of A\$0.2936 and A\$0.2585, respectively². It also represents a premium of 850% on the closing price at the Last Practicable Date, at which point SMX shares were trading at \$0.15 per share. SMX Shareholders who are Ineligible Foreign Holders will not be issued New Empatan Shares. Instead, the New Empatan Shares to which Ineligible Foreign Holders would otherwise be entitled to under the Scheme will be issued to the Sale Agent and sold through the Share Sale Facility, with the Share Sale Facility Proceeds being remitted to those SMX Shareholders based on the following formula:

$$A = \left(\frac{B}{C} \right) \times D$$

where

A is the amount to be paid to each relevant Ineligible Foreign Holder;

B is the number of New Empatan Shares that would have been issued to that Ineligible Foreign Holders had it not been an Ineligible Foreign Holder;

C is the total number of New Empatan Shares; and

D is the Proceeds.

Fractional entitlements will be rounded up or down to the nearest whole number (rounded up if the fractional entitlement is equal to or greater than one half, and rounded down if the

² As of 26 July 2022.

fractional entitlement is less than one half), but only after applying the Scheme Participant's entitlement (prior to rounding) to its entire holding of Scheme Shares.

The total Scheme Consideration is valued at \$200 million based on an issue price of US\$10.00 per New Empatan Share.

(b) Option Scheme Consideration

If the Option Scheme is approved and implemented, all of the SMX Options will be deemed to have been exercised as a Cashless Exercise and the SMX Optionholders will be issued with SMX Shares in accordance with a Black Scholes Model (**BSM**) calculation for each tranche of the relevant SMX Options, as outlined in Section 12.4.

Following the implementation of the Option Scheme, resulting in the conversion of SMX Options to SMX Shares, Option Scheme Participants will be entitled to the Cancellation Consideration, being New Empatan Shares in consideration for the cancellation of their SMX Shares by the calculation outlined in Section 1.5(a) above.

SMX Optionholders who are Ineligible Foreign Holders will not be issued New Empatan Shares. Instead, the New Empatan Shares to which Ineligible Foreign Holders would otherwise be entitled to under the Option Scheme will be issued to the Sale Agent and sold through the Share Sale Facility, with the Share Sale Facility Proceeds being remitted to those SMX Shareholders.

1.6 Scheme Meeting, Option Scheme Meeting and General Meeting for Capital Reduction

Each of the Scheme Meeting, Option Scheme Meeting and General Meeting will be held as a virtual meetings commencing at 9.00AM on 1 February 2023 with the Scheme Meeting, followed by the Option Scheme Meeting and 9.30AM and the General Meeting at 10.00AM. **There will be no physical meeting where SMX Shareholders and SMX Optionholders (and any proxies) can attend in person.** The Notice of each of the Scheme Meeting, the Option Scheme Meeting and the General Meeting convening each of the relevant meetings are included in Annexure I, Annexure J and Annexure K of this Scheme Booklet.

(a) Scheme Meeting and Option Scheme Meeting

For each of the Schemes to proceed, votes in favour of each of the Schemes must be received from both:

- (i) a majority in number (more than 50%) of SMX Shareholders or SMX Optionholders present virtually and voting at the Scheme Meeting or Option Scheme Meeting (whether personally or by proxy, attorney, or in the case of a SMX Shareholder or proxy who is a corporation, by corporate representative) (**Headcount Test**); and
- (ii) at least 75% of the total number of SMX Shares or SMX Options (determined by reference to the value of each of the SMX Options as further described in Section 3.6(b)) voted at the relevant Scheme Meeting by SMX Shareholders or Option Scheme Meeting by SMX Optionholders (personally or by proxy, attorney, or in the case of a SMX Shareholder or proxy who is a corporation, by corporate representative).

The passing of each of:

- (i) the Scheme Resolution approving the Scheme; and
- (ii) the Option Scheme Resolution approving the Option Scheme;

is a condition of each the Schemes becoming Effective and being implemented. If the necessary majorities of SMX Shareholders or SMX Optionholders, as the context requires, vote in favour of the relevant Scheme at the Scheme Meeting or the Option Scheme Meeting and all other Scheme Conditions and/or Option Scheme Conditions have been either satisfied or waived (if applicable), the Court will be asked to approve each of the Schemes.

The Court has the power to approve each of the Schemes even if the Headcount Test for each of the Scheme Meeting and Option Scheme Meeting has not been satisfied. The Court may, for example, approve the relevant Scheme if it finds that the vote was unfairly influenced by activities such as share splitting.

(i) Voting and attendance at the Scheme Meeting

Each person who is registered on the SMX Register as a SMX Shareholder as at 7.00PM (Sydney time) on 30 January 2023, is entitled to be present and vote at the virtual Scheme Meeting, either personally or by proxy, attorney, or in the case of a SMX Shareholder or proxy who is a corporation, by corporate representative. Registered transfers or transmission applications that are registered after this time will be disregarded in determining entitlements to vote at the Scheme Meeting.

(ii) *Voting and attendance at the Option Scheme Meeting*

Each person who is registered on the SMX Register as a SMX Optionholder as at 7.00PM (Sydney time) on 30 January 2023, is entitled to be present and vote at the virtual Option Scheme Meeting, either personally or by proxy, attorney, or in the case of a SMX Optionholder or proxy who is a corporation, by corporate representative.

(b) General Meeting - Capital Reduction

In addition to each of the Scheme Meeting and the Option Scheme Meeting, SMX proposes to undertake a General Meeting to approve the Capital Reduction.

For the Capital Reduction to proceed, it must be approved by a majority, being more than 50% of the votes cast on the resolution by eligible SMX Shareholders who are present and voting, either in person online or by proxy, by attorney or, in the case of a corporation, by its duly appointed corporate representative at the General Meeting.

Each person who is registered on the SMX Register as a SMX Shareholder as at 7.00PM (Sydney time) on 30 January 2023, is entitled to be present and vote at the virtual General Meeting, either personally or by proxy, attorney, or in the case of a SMX Shareholder or proxy who is a corporation, by corporate representative. Registered transfers or transmission applications that are registered after this time will be disregarded in determining entitlements to vote at the General Meeting.

1.7 Exclusivity and competing proposals

Under the terms of the Scheme Implementation Deed, SMX and Lionheart have agreed to certain exclusivity provisions which apply during the Exclusivity Period. Please refer to section **Error! Reference source not found.** of this Scheme Booklet for further details.

1.8 Break Fees

Under the terms of the Scheme Implementation Deed, SMX and Lionheart will be liable to pay a Break Fee of US\$2,000,000 (plus GST if applicable) to the other party in certain circumstances. Please refer to section 11.15 of this Scheme Booklet for further details and 15.10(c) as to the other fees incurred by SMX in relation to the transaction.

1.9 Lionheart Shareholder redemptions

On 8 November 2021, US\$126,250,000 of the gross proceeds from the Lionheart Public Offering and the sale of the Private Units was deposited in the Trust Fund with the Trustee. The trust proceeds are invested in US Treasury securities and accrue interest based upon the yield of such securities. The Lionheart Existing Charter requires Lionheart to provide all holders of shares of its Class A Common Stock with the opportunity to redeem all or a portion of their shares of Class A Common Stock upon the consummation of an initial business combination. Accordingly, if the Business Combination is approved by Lionheart's shareholders, the Public Shareholders may elect to redeem their shares of Class A Common Stock.

Upon redemption, each redeeming share is entitled to its pro rata portion of the proceeds of the trust. The remaining proceeds of the trust will be provided to Empatan, following the closing. The redemption rate will only be known on the date of the vote of the Lionheart stockholders which is expected to be held in January 2023.

If sufficient Lionheart Shareholders exercise their redemption rights in connection with the Business Combination and if the sale of some or all of the PIPE fails to close (see Section 1.10 below), Lionheart may lack sufficient funds to consummate the Business Combination.

For the avoidance of doubt, notwithstanding approval of the Schemes and Capital Reduction, if there are insufficient funds to consummate the Business Combination, the Business Combination will not proceed and SMX will continue to exist on the ASX.

1.10 PIPE Financing

Lionheart is actively pursuing to enter into subscription agreements with certain institutional and accredited investors (**PIPE Investors**), pursuant to which Lionheart will agree to issue and sell, in private placements to close immediately prior to the closing of the Business Combination, up to US\$25 million in the aggregate, in securities (**PIPE Financing**). The securities to be issued pursuant to the subscription agreements will not be registered under the Securities Act of 1933, as amended (the **US Securities Act**), in reliance upon the exemption provided in section 4(a)(2) of the Securities Act.

In the event of any such failure to fund, any termination of such funding obligations, or if any relevant condition is not satisfied and not waived, Lionheart may not be able to obtain additional funds to account for such shortfall on favourable terms or at all. If the sale of some or all of the PIPE fails to close and sufficient Lionheart Shareholders exercise their redemption rights in connection with the Business Combination, Lionheart may lack sufficient funds to consummate the Business Combination.

For the avoidance of doubt, notwithstanding approval of the Schemes and Capital Reduction, if there are insufficient funds to consummate the Business Combination, the Business Combination will not proceed and SMX will continue to exist on the ASX.

1.11 Cost contribution

SMX, Empatan and Lionheart agree to pay their own costs incurred in connection with preparing, negotiating and undertaking its obligations under the Scheme Implementation Deed, except that Lionheart agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with the Scheme Implementation Deed and each of the Schemes (including any fees, fines, penalties and interest in connection with any of those amounts).

1.12 Carefully read and consider this Scheme Booklet

The Scheme Booklet is designed to provide SMX Shareholders and SMX Optionholders with information to consider before voting on whether the each of the Scheme, Option Scheme and Capital Reduction should proceed at each of the Scheme Meeting, Option Scheme Meeting and General Meeting scheduled for 1 February 2023.

This is an important document. You should read the information in this Scheme Booklet in its entirety before making a decision on how to vote at the relevant Scheme Meeting or General Meeting. If you are in doubt as to what you should do, you should consult your legal, investment or other professional adviser. There is a "**Questions and Answers**" summary included in Section 2, to help answer any questions you may have. If you have any other questions, please call the SMX investor information line on +972 8 630 6336 (ISR).

2. Questions and answers

This Section answers some basic questions that you may have about the Scheme, Option Scheme or the Capital Reduction. The information in this Section is a summary only which you should read in conjunction with the entire Scheme Booklet (including the recommendation of the SMX Directors and the key reasons for those recommendations as set out in Section 4) before deciding how to vote on each of the Schemes and the Capital Reduction.

Questions	Answers
Questions about the Scheme	
What are the Schemes and the Capital Reduction?	<p>On 26 July 2022, SMX announced a proposal under which Empatan agreed to acquire all of the shares of SMX by way of a scheme of arrangement. Empatan will provide the Scheme Consideration to the Scheme Participants.</p> <p>There are three distinct and interrelated components to the proposed transaction relevant to SMX Shareholders and SMX Optionholders:</p> <ul style="list-style-type: none"> • Option Scheme; • Scheme; and • Capital Reduction. <p>In addition, it is proposed that Lionheart will become a wholly owned subsidiary of Empatan in accordance with the Business Combination Agreement. SMX Shareholders and SMX Optionholders will not be voting in relation to the Business Combination.</p> <p>Option Scheme</p> <p>The Option Scheme is between SMX and the SMX Optionholders in relation to the SMX Options and requires approval by both the SMX Optionholders and the Court.</p> <p>The Option Scheme is subject to a number of conditions, which are summarised in section 12.9.</p> <p>If the Option Scheme is approved and implemented:</p> <ul style="list-style-type: none"> • all SMX Options you own will be deemed to have been exercised on a Cashless Exercise basis; • on exercise of the SMX Options you will receive SMX Shares; and • those SMX shares will be cancelled in exchange for shares in Empatan, as outlined below. <p>Scheme and Capital Reduction</p> <p>The Scheme is between SMX and the SMX Shareholders in relation to the SMX Shares and requires approval by both the SMX Shareholders and the Court.</p> <p>The Scheme is subject to a number of Scheme Conditions which are summarised in Section 11.10.</p> <p>The Capital Reduction requires approval by SMX Shareholders.</p> <p>If the Scheme and Capital Reduction are approved and implemented:</p> <ul style="list-style-type: none"> • all SMX Shares you own will be cancelled; • you will become an Empatan Shareholder;

Questions	Answers
	<ul style="list-style-type: none"> • SMX will become a wholly owned Subsidiary of Empatan; and • SMX will be delisted from ASX.
<p>What is this Scheme Booklet for?</p>	<p>Each of the Schemes and the Capital Reduction will only proceed if it is approved by the necessary majorities of SMX Shareholders or SMX Optionholders at the Scheme Meeting, Option Scheme Meeting and General Meeting, which are scheduled to occur on 1 February 2023. This Scheme Booklet is designed to provide SMX Shareholders and SMX Optionholders with information to consider before they vote at the Scheme Meeting, Option Scheme Meeting or General Meeting on whether the Schemes and Capital Reduction should proceed.</p> <p>You should read this Scheme Booklet in its entirety before making a decision as to how to vote on the resolutions to be considered at each of the Scheme Meeting, Option Scheme Meeting and General Meeting.</p>
<p>What are the benefits of the Schemes and the Capital Reduction?</p>	<p>The SMX Board believes that the Schemes and Capital Reduction, when considered together, are the best opportunities to realise value currently available for SMX Shareholders and SMX Optionholders, in the absence of an SMX Superior Transaction.</p> <p>In forming that view, the SMX Board believes that the advantages of each of the Schemes and the Capital Reduction to SMX Shareholders and SMX Optionholders include the following:</p> <ul style="list-style-type: none"> • the Scheme Consideration represents an attractive premium to recent trading prices of SMX Shares, including as to the trading prices in the 3 months prior to the publication of the Scheme Booklet; details of the share price performance of SMX in the 3 months prior to publication of the Scheme Booklet are set out at 5.23 of the Booklet • the Scheme Consideration is approximately US\$200 million (in New Empatan Shares); • SMX Shareholders will receive shares in a larger NASDAQ-listed company with a stronger balance sheet and enhanced share trading liquidity. Additionally, with increased scale, resources and market capitalisation, the Merged Group is expected to have a greater ability to pursue strategic growth opportunities. <p>Further information regarding the advantages and reasons to vote in favour of each of the Schemes and the Capital Reduction is set out in Sections 4.2 and 4.3.</p>

Questions	Answers
<p>What are the disadvantages of voting in favour of the Schemes and the Capital Reduction?</p>	<p>The reasons why you may choose to vote against each of the Schemes and/or the Capital Reduction may include:</p> <ul style="list-style-type: none"> • you may disagree with the SMX Directors' recommendation or the conclusion of the Independent Expert; • you may consider that there is the potential for a SMX Superior Proposal to be made in the foreseeable future; • the tax consequences of either or both of the Schemes (which are outlined further in Annexure A) may not be suitable for you considering your individual circumstances; • you may wish to maintain an interest in a publicly listed investment with SMX's specific characteristics; and • the Schemes may be subject to conditions that you consider unacceptable. <p>Further information regarding the disadvantages and reasons to vote against the Schemes is set out in Section 4.4.</p>
<p>What are the risks of each of the Schemes and the Capital Reduction?</p>	<p>The risks to the Schemes and the Capital Reduction proceeding include:</p> <ul style="list-style-type: none"> • each of the Schemes and the Capital Reduction will not go ahead unless SMX Shareholders or SMX Optionholders, as the case may be, vote in favour of each of the Schemes and the Capital Reduction in the majorities described in Section 11.10 and 12; • each of the Schemes will not go ahead unless the Court approves; • each of the Schemes will not go ahead unless the relevant Scheme Conditions are satisfied or waived - see Section 11.10 and 12.9 for a summary of the Scheme Conditions for each of the Schemes; • the valuation of US\$200 million attributed to SMX is dependent on certain events occurring; and • implementation of the Business Combination is subject to the risks relating to Lionheart Shareholder redemptions and PIPE Financing as set out in Sections 10.7(b) and 10.7(c).

Questions	Answers
	<p>SMX Shareholders and SMX Optionholders should consider these risks as well as the risks outlined in Section 10 carefully before deciding how to vote on each of the Schemes and the Capital Reduction.</p>
<p>What will I receive if each of the Schemes and the Capital Reduction are implemented?</p>	<p>Option Scheme consideration</p> <p>If the Option Scheme is implemented, for each SMX Option you hold on the Option Scheme Record Date, you will be receive SMX Shares in accordance with a Black Scholes Model (BSM) calculation for each relevant tranche of SMX Options.</p> <p>Following the Cashless Exercise of the SMX Options and issue of SMX Shares, you will be entitled to receive the Cancellation Consideration as set out below.</p> <p>Further details of the Option Scheme Consideration, including information about the BSM calculation and how it applies to you, is set out in Section 12.4.</p> <p>Note: Option Scheme Participants will not be eligible to vote at the Scheme Meeting. However, Option Scheme Participants will be eligible to vote at the Option Scheme Meeting and subsequently to receive the Cancellation Consideration.</p> <p>Scheme and Capital Reduction consideration</p> <p>If the Scheme and Capital Reduction are implemented, for each SMX Share you hold on the Scheme Record Date you will be entitled to receive the Scheme Consideration (that is 1 New Empatan Share for every 10.3207 SMX Shares held, subject to adjustments as described at Section 11.4).</p> <p>SMX Shareholders who are Ineligible Foreign Holders will not be issued New Empatan Shares. Instead, the New Empatan Shares to which Ineligible Foreign Holders would otherwise be entitled to under the Scheme will be issued to the Sale Agent and sold through the Share Sale Facility, with the Share Sale Facility Proceeds being remitted to those SMX Shareholders.</p> <p>Further details of the Scheme Consideration is set out in Section 11.10 and 12.9.</p>
<p>What do the SMX Directors recommend?</p>	<p>The SMX Board unanimously recommends that all SMX Shareholders and SMX Optionholders vote in favour of each of the Schemes at the Scheme Meeting and Option Scheme Meeting and SMX Shareholders vote in favour of the Capital Reduction at the General Meeting, in the absence of an SMX Superior Proposal.</p>

Questions	Answers
How do the SMX Directors intend to vote in respect of their own SMX Shares and SMX Options?	<p>In the absence of an SMX Superior Proposal, each SMX Director who holds SMX Shares or SMX Options, or on whose behalf SMX Shares or SMX Options are held, intends to vote in favour of each of the Schemes at each of the Scheme Meeting and the Option Scheme Meeting and the Capital Reduction at the General Meeting.</p>
What is the opinion of the Independent Expert?	<p>The Independent Expert has considered each of the Schemes and the Capital Reduction and has concluded that the Scheme Consideration and the Option Scheme Consideration are in the best interests of SMX Shareholders and SMX Optionholders in the absence of a Superior Proposal.</p> <p>The Independent Expert's Report is set out in full in Annexure B.</p>
What happens if a Competing Proposal emerges?	<p>Until the Scheme is approved by the Court, other parties may make unsolicited proposals to acquire SMX. If during the Exclusivity Period under the Scheme Implementation Deed SMX is approached in relation to an actual or potential SMX Competing Transaction, it must notify Lionheart of the approach.</p> <p>If a SMX Competing Transaction is a SMX Superior Proposal, Lionheart will be given 5 Business Days to make a matching offer by proposing revisions to the Scheme Implementation Deed. If following receipt of proposed revisions to the Scheme Implementation Deed, the SMX Board that the SMX Competing Transaction would continue to constitute an SMX Superior Proposal if such revisions proposed by Lionheart were to be given effect, then SMX and Lionheart must use commercially reasonable endeavours to enter into an amended agreement giving effect to the proposed revisions within 10 Business Days.</p> <p>Further details regarding Lionheart's exclusivity rights under the Scheme Implementation Deed are set out in Section 4.4(j).</p>
How will the Schemes and the Capital Reduction be implemented?	<p>Each of the Schemes will be implemented by way of a scheme of arrangement between SMX and SMX Shareholders or SMX Optionholders, as the case may be, pursuant to which:</p> <ul style="list-style-type: none"> • under the Option Scheme, all Scheme Options will be exercised, eligible SMX Optionholders will be issued SMX Shares and will receive the Cancellation Consideration noted below; and • under the Scheme and Capital Reduction, all Scheme Shares will be cancelled, SMX will become a wholly owned subsidiary of Empatan

Questions	Answers
	<p>and Empatan will provide the Scheme Consideration (being New Empatan Shares) to those SMX Shareholders who are Scheme Participants.</p> <p>Further details on how the Scheme will be implemented are set out in Sections 11 and 12.</p>
<p>When will each of the Schemes become Effective?</p>	<p>Subject to satisfaction or waiver of any outstanding Scheme Conditions and the approval of the Court, it is expected that the Scheme will become Effective on 6 February 2023.</p> <p>Further details about the timetable are set out under the heading "Important Dates" at the front of this Scheme Booklet.</p>
<p>What happens if the Schemes and/or the Capital Reduction do not proceed?</p>	<p>If each of the Schemes and the Capital Reduction are not approved by the requisite majorities at each of the Scheme Meeting, Option Scheme Meeting and the General Meeting (or the Schemes are approved at the Scheme Meeting and Option Scheme Meeting but is not approved by the Court or the Scheme Conditions or Option Scheme Conditions are not satisfied or waived), then the Schemes and the Capital Reduction <u>will not be implemented.</u></p> <p>In this situation:</p> <ul style="list-style-type: none"> • material transaction costs and expenses incurred by SMX as part of implementing each of the Schemes and the Capital Reduction estimated at approximately US\$2.5 million will be indirectly borne by SMX Shareholders for no purpose; • the benefits of each of the Schemes and the Capital Reduction will not be realised, and the disadvantages of each of the Schemes and the Capital Reduction will not arise; • SMX Shareholders will not receive the Scheme Consideration and will retain their interests in SMX Shares (or SMX Options) and continue to collectively control SMX; • SMX will remain an independent company and focus on its current business and strategic plans; • SMX will continue to operate under the existing corporate structure including incurring ongoing costs involved in operating a listed public company; • the rights of SMX Shareholders and SMX Optionholders will remain unchanged; and

Questions	Answers
	<ul style="list-style-type: none"> • SMX would pay its remaining unpaid costs involved in the deal out of available cash reserves. <p>Further details are set out in Sections 4.3, 11.6(a) and 12.6.</p> <p>If the Schemes and the Capital Reduction do not proceed as a result of an SMX Competing Transaction being recommended by the SMX Board or where a member of the SMX Board withdraws or adversely modifies their recommendation or voting intention as outlined in Section 4.1 with respect to the Scheme or the Option Scheme (except in certain circumstances including if the Independent Expert changes its recommendation for any reason (other than because of an SMX Competing Transaction)), SMX will be liable to pay a Break Fee of US\$2,000,000 (plus GST if applicable) to Lionheart, in addition to the above consequences.</p>
<p>What will be the effect of the Schemes and the Capital Reduction on SMX Shareholders?</p>	<p>If the Schemes and Capital Reduction are implemented:</p> <ul style="list-style-type: none"> • all SMX Options will be exercised by a Cashless Exercise and SMX Optionholders will be issued SMX Shares; • SMX Shareholders (including new SMX Shareholders resulting from the Option Scheme) will have all their SMX Shares cancelled; • in consideration for the cancellation of their SMX Shares, each SMX Shareholder will receive the Scheme Consideration being New Empatan Shares and all Option Scheme Participants will receive the Cancellation Consideration, being New Empatan Shares; • SMX will become a Subsidiary of Empatan; • SMX Shares will cease to be quoted on ASX and SMX will be delisted. <p>Further details are set out in Sections 11.8 and 12.7.</p>
<p>What happens if the Schemes and /or the Capital Reduction are not approved by the requisite majorities?</p>	<p>The Schemes and Capital Reduction will not proceed.</p>
<p>Questions about Empatan and the Merged Group</p>	
<p>Who is the Bidder?</p>	<p>Empatan is a public limited company incorporated in Ireland on 1 July 2022 in accordance with the Irish Companies Act.</p>

Questions	Answers
	<p>In accordance with the Scheme Implementation Deed, Empatan will hold all of the shares in SMX following the implementation of the Scheme, including the Option Scheme and the Capital Reduction, issue the Scheme Consideration to the Scheme Participants and apply for listing on the NASDAQ. Empatan has not conducted and has no current intention to conduct any business other than entering into the Scheme Implementation Deed and entering into any documents and agreements and performing the acts which are detailed in this Scheme Booklet.</p> <p>Further details about Empatan is set out in Section 7.2.</p>
<p>How will the Merged Group be formed?</p>	<p>Subject to implementation of each of the Schemes, Capital Reduction and the Business Combination, the Merged Group will be formed as a result of:</p> <ul style="list-style-type: none"> • Empatan acquiring all of the share capital in SMX by way of the Schemes and Capital Reduction, resulting in SMX becoming a wholly owned subsidiary of Empatan; and • Lionheart and Merger Sub undergoing the Business Combination pursuant to which Merger Sub will merge with and into Lionheart, with Lionheart surviving the merger as a wholly owned subsidiary of Empatan. <p>As a result of the Schemes, Capital Reduction and Business Combination, the Merged Group will be formed. Further details in relation to implementation of the Schemes, Capital Reduction and Business Combination are set out in Section 11, 12 and 13.</p>
<p>Who will be the directors of Empatan following the implementation of the Schemes?</p>	<p>Following implementation of the Schemes, Empatan will have the following directors:</p> <p>Haggai Alon</p> <p>Ophir Sternberg</p> <p>Zeren Browne</p> <p>Pauline Khoo</p> <p>Amir Bader</p> <p>Tom Hawkins</p> <p>Roger Meltzer</p> <p>Further details about the intended directors of Empatan following the implementation of the Schemes, Capital Reduction and Business Combination are set out in Section 8.11.</p>

Questions	Answers
What are the intentions of the Empatan Board in relation to the business and assets of SMX?	<p>Subject to Empatan conducting an operational review of SMX post-Implementation and as otherwise set out in this Scheme Booklet, it is the current intention of Empatan that:</p> <ul style="list-style-type: none"> the business of SMX will continue in the same manner as at the date of this Scheme Booklet; there will be no major changes to the SMX business; and there will be no redeployment of the fixed assets of SMX. <p>Further details about Empatan's intentions concerning SMX and its business are set out in Section 8.2.</p>
What are the intentions of the Empatan Board in relation to the employees of SMX?	<p>Subject to Empatan conducting an operational review of SMX post-Implementation and as otherwise set out in this Scheme Booklet, Empatan intends to continue the employment of current SMX employees.</p> <p>The senior management team of the Merged Group is expected to consist of the following members: Chief Executive Officer – Haggai Alon Chief Financial Officer– Limor Lotker</p> <p>Further details about Empatan's intentions concerning SMX and its business are set out in Section 8.2.</p>
Will there be changes to the strategy of Empatan following the implementation of the Schemes and Capital Reduction?	<p>Empatan intends to apply the current strategy of SMX in relation to the Merged Group following implementation of the Schemes, Capital Reduction and Business Combination, as set out in Section 5.5.</p> <p>Further details about Empatan's strategy for the Merged Group is set out in Section 8.2.</p>
Questions about your entitlement	
Who is entitled to receive the Scheme Consideration or the Cancellation Consideration?	<p>Only Scheme Participants, being persons registered as holders of SMX Shares on the Record Date (currently anticipated to be 7.00PM (Melbourne Time) on 8 February 2023), will be entitled to receive the Scheme Consideration.</p> <p>Only Option Scheme Participants, being persons registered as holders of SMX Options on the "Option Scheme Meeting Record Date" (which will be a date determined by the Court), will be entitled to receive the Cancellation Consideration.</p>
What if I am an Ineligible Foreign Holder	<p>Empatan will not issue New Empatan Shares to Ineligible Shareholders, being SMX Shareholders who have an</p>

Questions	Answers
	<p>address outside Australia, British Virgin Islands, Canada, France, Israel, Singapore, Luxembourg, Netherlands, United Kingdom and United States, unless SMX is satisfied acting reasonably (after consulting with Empatan), that the laws of that place permit the offer and issue of the New Empatan Shares to that SMX Shareholder and it is not unduly onerous, expensive or impracticable for Empatan to do so.</p> <p>New Empatan Shares that cannot be issued to Ineligible Foreign Holders will be issued to the Sale Agent and sold under the Share Sale Facility. The Share Sale Facility Proceeds will be distributed to the relevant Ineligible Foreign Holders.</p> <p>See Section 11.17 and 12.11 of this Scheme Booklet for further information.</p>
<p>Why has the exchange ratio of New Empatan Shares for every SMX Shares held been selected?</p>	<p>The ratio has been selected by SMX and Empatan having regard to:</p> <ul style="list-style-type: none"> • the recent share trading price of Lionheart Shares on the NASDAQ and the SMX Shares on the ASX up until the announcement of the Scheme; and • inherent value of the assets and potential of each of Empatan, Lionheart and SMX; and • the benefits (including expected synergies) of combining the businesses. <p>On account of the Standby Facility and Bridge Loan, the ratio of New Empatan Shares that each Scheme Participants will be entitled to is likely to change based on the following formula:</p> $NPS = \frac{N}{A + B + C}$ <p>where:</p> <p>NPS is the number of New Empatan Shares per SMX Share;</p> <p>A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and Employee Share Options);</p> <p>B is the total number of Option Exercise Shares to be issued on exercise of all Scheme Options on a Cashless Exercise basis under the Option Scheme;</p> <p>C is the total number of Employee Share Options on issue as at the Record Date; and</p> <p>N is 20,000,000.</p> <p>The Scheme Consideration represents a 383% premium to SMX's 1-month VWAP and a premium of 448% to the 3-month VWAP prior to the announcement of the</p>

Questions	Answers
	Scheme of A\$0.2936 and A\$0.2585, respectively ³ . It also represents a premium of 850% on the closing price at the Last Practicable Date, at which point SMX shares were trading at \$0.15 per share
Are there any differences between my SMX Shares and the New Empatan Shares I will receive?	<p>Yes, there are certain important differences between the rights attaching to the New Empatan Shares and the SMX Shares.</p> <p>Section 7.9 includes a summary of the rights and liabilities attaching to the New Empatan Shares.</p>
Will I be required to pay broker fees or stamp duty?	<p>Subject to the approval of the Irish Revenue Commissioners (IRC), you should not incur any broker fees or stamp duty in respect of the implementation of the Scheme, the Option Scheme or the Capital Reduction.</p> <p>However, this will depend on how the shares are to be held (ie in or out of a DTC) and whether IRC approval is obtained. See Annexure A for more details regarding the tax treatment and stamp duty treatment.</p> <p>Furthermore, if you are an Ineligible Foreign Holder, brokerage fees will be deducted from the sale proceeds of the New Empatan Shares sold through the Share Sale Facility by the Sale Agent. See Section 11.5 for further details regarding the Share Sale Facility.</p>
When will I receive my Scheme Consideration or the Cancellation Consideration?	<p>On the Scheme Implementation Date, Empatan will issue the Scheme Consideration (being the New Empatan Shares) to the Scheme Participants.</p> <p>Empatan will ensure that the New Empatan Shares issued:</p> <ul style="list-style-type: none"> • rank equally with all Empatan Shares then on issue; • be duly and validly issued in accordance with applicable laws and the Empatan Constitution; and • be issued fully paid and free from all encumbrances and interests of third parties. <p>In the case of joint holders of Scheme Shares, the Scheme Consideration will be issued and registered in the names of the joint holders.</p> <p>Statements detailing your holding of the New Empatan Shares are expected to be despatched within 2 Business Days after the Scheme Implementation Date.</p>

³ As of 26 July 2022.

Questions	Answers
	<p>The Scheme Implementation Date is currently expected to be 15 February 2023.</p> <p>See Sections 1.5 and 11.6(i) for further details.</p>
<p>What is the Share Sale Facility?</p>	<p>Following the Scheme Implementation Date, the Sale Agent will sell under the Share Sale Facility the New Empatan Shares that would have otherwise been issued to Ineligible Foreign Holders.</p> <p>Interest will not be paid on any Share Sale Facility Proceeds.</p> <p>There is no guarantee that there will be a liquid market for the New Empatan Shares. Prices for Empatan Shares may rise and fall during the sale period and will depend on many factors, including the demand for and supply of Empatan Shares.</p> <p>Please see Section 11.5 of this Scheme Booklet for more information.</p>
<p>Can I sell my SMX Shares now?</p>	<p>If the Scheme becomes Effective, SMX Shares will cease trading on ASX at the close of trading on the Effective Date, currently expected to be 6 February 2023. Accordingly, you can sell your SMX Shares on market at any time before the close of trading on the Effective Date. If the Scheme becomes Effective, no transfers of SMX Shares will be registered after the Scheme Record Date, expected to be 8 February 2023, other than to Empatan on the Scheme Implementation Date.</p> <p>See Section 11.17 for further details.</p>
<p>What are the tax implications of each of the Schemes?</p>	<p>The general taxation implications of each of the Schemes for SMX Shareholders and SMX Optionholders who are residents in Australia and Israel are set out in Annexure A.</p> <p>This Scheme Booklet does not contain a discussion of the taxation consequences of the Schemes for SMX Shareholders or SMX Optionholders outside Australia or Israel.</p> <p>It is recommended that you consult with your financial, legal, taxation or other professional adviser prior to making a decision on how to vote on the Scheme. Your decision should be based on your own investment objectives, financial situation, taxation position and particular needs.</p>

Questions	Answers
	<p>Annexure A also discusses the taxation implications of holding Empatan Shares following the implementation of the Schemes under Irish law.</p>
<p>What is the Proxy Form enclosed with this Scheme Booklet?</p>	<p>If you wish to vote at either of the Scheme Meeting and Option Scheme Meeting but will be unable to participate at the virtual Scheme Meeting and Option Scheme Meeting, you should complete and return the enclosed Proxy Form. You do not need to complete the Proxy Form if you intend to vote personally or by attorney, or in the case of a SMX Shareholder, by corporate representative at the virtual Scheme Meeting and Option Scheme Meeting.</p> <p>For further details regarding proxy voting and submitting the Proxy Form for the Scheme Meeting, Option Scheme Meeting or General Meeting or see Section 3 and the Notices of Meetings in Annexures I, J and K.</p>
<p>Questions about conditions to be satisfied to allow the Scheme to proceed</p>	
<p>What are the key conditions to be satisfied before the Schemes can proceed?</p>	<p>There are a number of outstanding Scheme Conditions set out in the Scheme Implementation Deed that will need to be satisfied or waived before the Scheme and Option Scheme can be completed.</p> <p>These key conditions include:</p> <ul style="list-style-type: none"> • SMX Shareholders approving the Scheme at the Scheme Meeting and the Capital Reduction at the General Meeting; • SMX Optionholders approving the Option Scheme at the Option Scheme Meeting; • no SMX Material Adverse Effect occurring between 26 July 2022 and 8.00am on the Second Court Date;

Questions	Answers
	<ul style="list-style-type: none"> • no SMX Prescribed Event occurring between 26 July 2022 and 8.00am on the Second Court Date; • each of the SMX Warranties, the Lionheart Warranties and Empatan Warranties is true and correct in all material respects on the date those representations and warranties are given; and • the Court approving the Scheme and the Option Scheme. <p>In addition to the above conditions of the Scheme Implementation Deed, each of the Schemes and the Capital Reduction will be conditional on shareholder approval of the Business Combination by Lionheart Shareholders. The conditions for the Business Combination are set out in Section 13.4.</p> <p>These are not the only conditions. The conditions that must be satisfied or waived are discussed in Section 11.10 and set out in full in the Scheme Implementation Deed which is reproduced in Annexure D.</p>
What other information is available?	<p>This Scheme Booklet provides detailed information in relation to the Scheme that all SMX Shareholders should read.</p> <p>If you have any questions or require further information, please call SMX on +972 8 630 6336 (ISR)</p>
Questions about the Scheme Meeting, Option Scheme Meeting and General Meeting and voting	
When and where will the Scheme Meeting, Option Scheme Meeting and General Meeting be held?	<p>The Scheme Meeting, Option Scheme Meeting and General Meeting will be held, from 9.00AM on 1 February 2023.</p> <p>In accordance with the Corporations Act and the SMX Constitution, the Scheme Meeting, Option Scheme Meeting and General Meeting will each be held as a virtual meeting.</p> <p>SMX Shareholders or SMX Optionholders, as the case may be, wishing to vote, or their attorneys or in the case of a SMX Shareholder or SMX Optionholder or proxy which is a corporation, corporate representatives, can participate in the relevant virtual meeting by logging in online at:</p> <ul style="list-style-type: none"> • Scheme Meeting - https://www.votingonline.com.au/smxsharescheme ;

Questions	Answers
	<ul style="list-style-type: none"> • Option Scheme Meeting - https://www.votingonline.com.au/smxoptionscheme ; and • General Meeting - https://www.votingonline.com.au/smxgm2023 . <p>Note, if you have appointed a proxy and subsequently wish to attend the meeting yourself, the proxy will retain your vote and you will be unable to vote yourself unless you have notified the registrar of the revocation of your proxy appointment before the commencement of the meeting.</p> <p>There will be no physical meeting where SMX Shareholders, SMX Optionholders and proxies can attend in person.</p>
<p>What will the SMX Shareholders and SMX Optionholders be asked to vote on at each of the Option Scheme Meeting, Scheme Meeting and General Meeting?</p>	<p>Option Scheme Meeting</p> <p>At the Option Scheme Meeting, SMX Optionholders will be asked to vote on whether to approve the Option Scheme by voting on the Option Scheme Resolution.</p> <p>The Option Scheme Resolution is set out in the Notice of the Option Scheme Meeting attached in Annexure J.</p> <p>Scheme Meeting</p> <p>At the Scheme Meeting, SMX Shareholders will be asked to vote on whether to approve the Scheme by voting on the Scheme Resolution.</p> <p>The Scheme Resolution is set out in the Notice of the Scheme Meeting attached in Annexure I.</p> <p>General Meeting</p> <p>At the General Meeting, SMX Shareholders will be asked to vote on whether to approve the Capital Reduction by way of voting on the Capital Reduction Resolution.</p> <p>The Capital Reduction Resolution is set out in the Notice of General Meeting attached in Annexure K.</p>
<p>Who is entitled to vote at the General Meeting, Option Scheme Meeting and Scheme Meeting?</p>	<p>Option Scheme Meeting</p> <p>SMX Optionholders on the SMX Register at 9.00AM on 30 January 2023 will be entitled to vote at the Option Scheme Meeting. Further details about voting rights and procedures are set out in Section 3 and in the Notice of Option Scheme Meeting in Annexure J.</p> <p>Scheme Meeting and General Meeting</p>

Questions	Answers
	<p>SMX Shareholders on the SMX Register at 9.00AM on 30 January 2023 will be entitled to vote at the Scheme Meeting and General Meeting. Further details about voting rights and procedures are set out in Section 3 and in the Notice of Scheme Meeting in Annexure I and Notice of General Meeting in Annexure K.</p>
<p>What approvals are required at the Scheme Meeting, Option Scheme Meeting and General Meeting?</p>	<p>Scheme Meeting and Option Scheme Meeting</p> <p>For each of the Schemes to be approved, votes in favour of the Scheme and Option Scheme must be received from both:</p> <ul style="list-style-type: none"> • a majority in number (more than 50%) of SMX Shareholders or SMX Optionholders present and voting (whether personally or by proxy, attorney, or in the case of a SMX Shareholder, SMX Optionholder or proxy who is a corporation, by corporate representative) at the Scheme Meeting or Option Scheme Meeting; and • at least 75% of the total number of SMX Share or SMX Options (determined by reference to the value of each of the SMX Options as further described in Section 3.6(b)) voted at the Scheme Meeting or Option Scheme Meeting (whether personally or by proxy, attorney, or in the case of a SMX Shareholder, SMX Optionholder or proxy who is a corporation, by corporate representative). <p>General Meeting</p> <p>For the Capital Reduction to be approved, it must be approved by a majority, being more than 50% of the votes cast on the resolution by eligible SMX Shareholders who are present and voting, (whether personally or by proxy, attorney, or in the case of a SMX Shareholder or proxy who is a corporation, by corporate representative) at the General Meeting.</p>
<p>Is voting compulsory?</p>	<p>No, voting is not compulsory. However, your vote is important. If you cannot attend the Scheme Meeting, Option Scheme Meeting or General Meeting, you should complete and return the relevant Proxy Form enclosed with the Scheme Booklet. For further details regarding proxy voting and submitting the Proxy Form for the Scheme Meeting, Option Scheme Meeting and General Meeting, see Section 3.</p>
<p>Will I be bound by the Scheme even if I vote against the Scheme?</p>	<p>If the Scheme and Option Scheme become Effective, they will bind all SMX Shareholders and SMX Optionholders, including those who voted against them and those who did not vote at all.</p>

Questions	Answers
<p>How can I vote if I cannot participate in the Scheme Meeting, Option Scheme Meeting or General Meeting?</p>	<p>If you would like to vote but cannot participate in the Scheme Meeting, Option Scheme Meeting or General Meeting, you can vote by submitting your proxy online at via the relevant link for either of the Scheme Meeting, Option Scheme or General Meeting, at:</p> <p>Shareholder Scheme Meeting: https://www.votingonline.com.au/smxsharescheme Optionholder Scheme Meeting: https://www.votingonline.com.au/smxoptionscheme General Meeting: https://www.votingonline.com.au/smxgm2023 and following the instructions in the relevant enclosed Proxy Form. You will require the information on your Proxy Form to lodge your Proxy Form through the website;</p> <ul style="list-style-type: none"> • by mailing a completed Proxy Form to the SMX Registry at Boardroom Pty Limited, GPO Box 3993, Sydney NSW 2001; • appointing an attorney to participate in the Scheme Meeting, Option Scheme Meeting or General Meeting and vote on your behalf; or • appointing a corporate representative if that option is applicable to you. <p>For details on how to vote please refer to Sections 3.7 and 3.8 of this Scheme Booklet and the Virtual Meeting Online Guide contained in Annexure L of this Scheme Booklet.</p>
<p>When will the results of the Scheme Meeting be known?</p>	<p>The results of the Scheme Meeting are expected to be available shortly after the conclusion of the meeting and will be announced to ASX (www.asx.com.au) once available.</p> <p>Even if the Scheme is approved by the requisite majority at the Scheme Meeting, the Scheme is still subject to the approval of the Court (as well as other Scheme Conditions).</p>

3. What to do and how to vote

3.1 Carefully read and consider this Scheme Booklet

This is an important document. You should read the information in this Scheme Booklet in its entirety before making a decision on how to vote at each of the Scheme Meeting, Option Scheme Meeting and General Meeting. If you are in doubt as to what you should do, you should consult your legal, investment or other professional adviser.

3.2 Consider the reasons to vote in favour of each of the Schemes and the Capital Reduction, the disadvantages of voting in favour of each of the Schemes and the Capital Reduction, and the risks of each of the Schemes and the Capital Reduction

Refer to Section 4.2 for a discussion of the reasons to vote in favour of each of the Schemes and the Capital Reduction, Section 4.4 for a discussion of the disadvantages of voting in favour of each of the Schemes and the Capital Reduction, and Section 4.3 for a discussion of the consequences if each of the Schemes and the Capital Reduction do not proceed.

3.3 Consider the recommendation of the SMX Directors' and the opinion of the Independent Expert

The SMX Board unanimously recommends that, in the absence of a Superior Proposal, you vote in favour of each of the Schemes at the Scheme Meeting and Option Scheme Meeting and the Capital Reduction at the General Meeting. Each SMX Director who holds SMX Shares, or on whose behalf SMX Shares are held, intends to vote in favour of the Scheme at the Scheme Meeting, and the Option Scheme at the Option Scheme Meeting, in the absence of a Superior Proposal.

With respect to the recommendations of Messrs Alon and Hofland, SMX Shareholders and SMX Optionholders should have regard to the fact that, if the Schemes and Capital Reduction become Effective, Messrs Alon and Hofland will receive certain benefits. With respect to Mr Alon, these benefits include incentives under his employment with Empatan, including an increase in his salary as set out in Section 8.11(b)(i) in addition to payment of the Scheme Consideration for the SMX Shares (and the Cancellation Consideration for the SMX Options which convert to SMX Shares as a result of the Option Scheme). With respect to Mr Hofland, these benefits include incentives resulting from the operation of his employment agreement with SMX, including an increase in his salary as set out in Section 15.4(c)(i) and 15.4(a).

The Independent Expert has concluded that the Scheme Consideration is in the best interest of SMX Shareholders in the absence of a Superior Proposal.

3.4 Scheme Meeting, Option Scheme Meeting and General Meeting

Each of the Scheme Meeting, Option Scheme Meeting and the General Meeting will be held as virtual meetings at the following times:

- (a) the Scheme Meeting to resolve to proceed with and implement the Scheme will be held virtually at 9.00AM on 1 February 2023
- (b) the Option Scheme Meeting to resolve to proceed with and implement the Option Scheme will be held virtually at 9.30AM on 1 February 2023; and
- (c) The General Meeting to resolve to proceed with the Capital Reduction will be held virtually at 10.00AM on 1 February 2023.

There will be no physical meeting where SMX Shareholders or SMX Optionholders, as the case may be, and proxies can attend in person. A virtual meeting for the Scheme and the Option Scheme has been authorised by the Court at the First Court Hearing. A virtual meeting for the General Meeting is authorised under rule 15.3 of the SMX Constitution.

Please refer to Sections 3.7 and 3.8 below for further details on how to participate in the Scheme Meeting, Option Scheme Meeting and the General Meeting.

The Notices convening each of the Scheme Meeting, Option Scheme Meeting and General Meeting are contained in Annexure I, Annexure J and Annexure K. A personalised Proxy Form is also enclosed with this Scheme Booklet.

(a) Scheme Meeting and Option Scheme Meeting

For each of the Scheme and the Option Scheme to proceed, votes in favour of the relevant Scheme must be received from both:

- (i) a majority in number (more than 50%) of SMX Shareholders or SMX Optionholders, as the case may be, present and voting at the Scheme Meeting or Option Scheme Meeting (whether personally or by proxy, attorney, or in the case of a SMX Shareholder, SMX Optionholder or proxy who is a corporation, by corporate representative) (**Headcount Test**); and
- (ii) at least 75% of the total number of SMX Shares or SMX Options (determined by reference to the value of each of the SMX Options as further described in Section 3.6(b)), as the case may be, voted at the Scheme Meeting or Option Scheme Meeting by SMX Shareholders or SMX Optionholders (personally or by proxy, attorney, or in the case of a SMX Shareholder or SMX Optionholder, or proxy who is a corporation, by corporate representative).

The Court has a statutory discretion to disregard the Headcount Test for the purposes of the Scheme Meeting and Option Scheme Meeting.

The passing of the resolutions approving the Scheme and Option Scheme is a condition of the Scheme and Option Scheme becoming Effective and being implemented.

(b) General Meeting

In addition to the Scheme Meeting and Option Scheme Meeting, SMX proposes to hold a General Meeting to approve the Capital Reduction.

For the Capital Reduction to proceed, it must be approved by a majority, being more than 50% of the votes cast on the resolution by eligible SMX Shareholders who are present and voting, either in person online or by proxy, by attorney or, in the case of a corporation, by its duly appointed corporate representative at the General Meeting.

3.5 Vote on the Schemes and the Capital Reduction in person online or by proxy

Your Directors urge all SMX Shareholders or SMX Optionholders to vote on the Scheme, Option Scheme or the Capital Reduction, as applicable, at each of the Scheme Meeting, Option Scheme Meeting and General Meeting. Each of the Schemes and the Capital Reduction affects your SMX Shares of SMX Options and your vote at the Scheme Meeting, Option Scheme Meeting and/or the General Meeting is important in determining whether each of the Schemes and the Capital Reduction proceed. Voting entitlements and how to vote instructions follow in Sections 3.6, 3.7 and 3.8 below.

3.6 Voting entitlements

(a) Scheme Meeting

Each person who is registered on the SMX Register as a SMX Shareholder as at 7.00PM (Sydney time) on 30 January 2023, is entitled to attend and vote at the Scheme Meeting, either by personally participating in the virtual Scheme Meeting or by appointing a proxy, an attorney or, in the case of a SMX Shareholder or proxy who is a corporation, a corporate representative to participate in the Scheme Meeting and vote on your behalf.

Registered transfers or transmission applications that are registered after this time will be disregarded in determining entitlements to vote at the Scheme Meeting.

Voting at the Scheme Meeting will be by poll.

The Notice convening the Scheme Meeting is contained in Annexure I. A Proxy Form for the Scheme Meeting is also enclosed with this Scheme Booklet.

If more than one SMX Shareholder votes in respect of jointly held SMX Shares, only the vote of the SMX Shareholder whose name appears first in the SMX Register will be counted whether the vote is given personally, by attorney or proxy.

(b) Option Scheme Meeting

Each person who is registered on the SMX Register as a SMX Optionholder as at 7.00PM (Sydney time) on 30 January 2023, is entitled to attend and vote at the Option Scheme Meeting, either by personally participating in the virtual Option Scheme Meeting or by appointing a proxy, an attorney or, in the case of a SMX Optionholder or proxy who is a corporation, a corporate representative to participate in the Option Scheme Meeting and vote on your behalf.

As discussed above, for the Option Scheme to proceed, votes in favour of the Option Scheme must be received from both:

- (i) a majority in number (more than 50%) of SMX Optionholders present and voting at the Option Scheme Meeting (whether personally or by proxy, attorney, or in the case of a SMX Optionholder or proxy who is a corporation, by corporate representative); and
- (ii) at least 75% of the total number of SMX Options (determined by reference to the value of each of the SMX Options) voted at the Option Scheme Meeting by SMX Optionholders (personally or by proxy, attorney, or in the case of a SMX Optionholder, or proxy who is a corporation, by corporate representative).

As there are a number of tranches of SMX Options on issue with differing exercise prices and expiry dates (as set out in Section 5.17(c)), SMX Optionholders voting entitlements for the purposes of the Option Scheme Meeting will be determined by reference to the value of the relevant SMX Options, calculated in accordance with a Black Scholes Model.

Voting at the Option Scheme Meeting will be by poll.

The Notice convening the Option Scheme Meeting is contained in Annexure J. A Proxy Form for the Option Scheme Meeting is also enclosed with this Scheme Booklet.

If more than one SMX Optionholder votes in respect of jointly held SMX Options, only the vote of the SMX Optionholder whose name appears first in the SMX Register will be counted whether the vote is given personally, by attorney or proxy.

(c) General Meeting - Capital Reduction

Each person who is registered on the SMX Register as a SMX Shareholder as at 7.00PM (Sydney time) on 30 January 2023, is entitled to attend and vote at the General Meeting for the Capital Reduction, either by personally participating in the virtual General Meeting or by appointing a proxy, an attorney or, in the case of a SMX Shareholder or proxy who is a corporation, a corporate representative to participate in the General Meeting and vote on your behalf.

Registered transfers or transmission applications that are registered after this time will be disregarded in determining entitlements to vote at the General Meeting.

Voting at the General Meeting will be by poll.

The Notice convening the General Meeting is contained in Annexure K. A Proxy Form for the General Meeting is also enclosed with this Scheme Booklet.

If more than one SMX Shareholder votes in respect of jointly held SMX Shares, only the vote of the SMX Shareholder whose name appears first in the SMX Register will be counted whether the vote is given personally, by attorney or proxy.

3.7 Voting at the Scheme Meeting

(a) Voting in person virtually

SMX Shareholders and SMX Optionholders wishing to vote, or their attorneys or in the case of a SMX Shareholder, SMX Optionholder or proxy which is a corporation, corporate representatives, can participate in the virtual Scheme Meeting, virtual Option Scheme Meeting and virtual General Meeting by logging in online at:

Meeting	Accessible virtual link
Scheme Meeting	https://www.votingonline.com.au/smxsharescheme
Option Scheme Meeting	https://www.votingonline.com.au/smxoptionscheme
General Meeting	https://www.votingonline.com.au/smxgm2023

SMX Shareholders, SMX Optionholders, their attorneys or in the case of SMX Shareholders, SMX Optionholders or proxies which are corporations, corporate representatives, who plan to participate in the virtual Scheme Meeting, virtual Option Scheme Meeting or virtual General Meeting should log in online 15 minutes prior to the time designated for the commencement of each of the relevant meeting, if possible, to register and to obtain a voting card.

(b) Voting by proxy

SMX Shareholders or SMX Optionholders wishing to appoint a proxy to vote on their behalf at the Scheme Meeting, Option Scheme Meeting or General Meeting must either complete and sign or validly authenticate the personalised Proxy Form which accompanies this Scheme Booklet or lodge their proxy online. A person appointed as a proxy may be an individual or a body corporate.

Proxies participating in the virtual Scheme Meeting, virtual Option Scheme Meeting or virtual General Meeting will receive an email from the SMX Registry prior to the relevant meeting containing details of their proxy number which they will need to use for the online registration process. Proxies are asked to log in online 15 minutes prior to the time designated for the commencement of the relevant meeting, if possible, to register and to obtain a voting card.

Completed Proxy Forms must be delivered to the SMX Registry by 9.00AM on 30 January 2023 in any of the following ways:

- (i) **By mail** in the enclosed reply-paid envelope (or the self-addressed envelope, for SMX Shareholders whose registered address is outside Australia) mailed to the SMX Registry at Boardroom Pty Limited, GPO Box 3993, Sydney NSW 2000.
 - (ii) **By fax** to the SMX Registry on + 61 2 9290 9655;
 - (iii) **Online** if you wish to appoint your proxy online, you should do so by visiting www.votingonline.com.au/smxswharescheme and following the instructions in the enclosed Proxy Form. Online appointments of proxies must be done by 9.00AM on 30 January 2023.
 - (iv) **By hand** to Boardroom Pty Limited, Level 12, 225 George Street, Sydney NSW 2000
- Note that in accordance with SMX's Constitution, If a SMX Shareholder is present either in person or by its corporate representative, and a person appointed by that SMX Shareholder as proxy is also present at that meeting, that person may not exercise the rights conferred by the instrument of proxy while the SMX Shareholder is present.

(c) Undirected proxies

If a SMX Shareholder or SMX Optionholder nominates the Chair of any of the Scheme Meeting, Option Scheme Meeting or General Meeting as that SMX Shareholder's or SMX Optionholder's proxy, the person acting as Chair of the relevant meeting must act as proxy under the appointment in respect of any or all items of business to be considered at the relevant meeting.

If a proxy appointment is signed or validly authenticated by that SMX Shareholder or SMX Optionholder but does not name the proxy or proxies in whose favour it is given, the Chair of the relevant meeting will act as proxy in respect of any or all items of business to be considered at the relevant meeting.

Proxy appointments in favour of the Chair of the relevant meeting, the company secretary or any SMX Director which do not contain a direction as to how to vote will be voted in favour of the relevant resolution(s) at the each of the Scheme Meeting, Option Scheme Meeting and General Meeting, as the case may be (in the absence of a SMX Superior Proposal from another party prior to the date of the relevant meeting).

The Chair intends to vote undirected proxies of which he is appointed as proxy in favour of the resolutions to approve each of the Scheme, Option Scheme and Capital Reduction, as the case may be (in the absence of a SMX Superior Proposal from another party prior to the date of the relevant meeting).

(d) Voting by attorney

If a SMX Shareholder executes, or proposes to execute any document, or do any act, by or through an attorney which is relevant to that SMX Shareholder's shareholding or SMX Optionholder's options in SMX, that SMX Shareholder or SMX Optionholder, as the case relates, must deliver the instrument appointing the attorney to the SMX Registry for notation.

SMX Shareholders or SMX Optionholders wishing to vote by attorney at any of the Scheme Meeting, Option Scheme Meeting and/or the General Meeting must, if they have not

already presented an appropriate power of attorney to SMX for notation, deliver to the SMX Registry (at the address, email or facsimile number provided in Section 3.7(b) of this Scheme Booklet) the original instrument appointing the attorney or a certified copy of it by 9.00AM on 30 January 2023.

Any power of attorney granted by a SMX Shareholder or SMX Optionholder will, as between SMX and that SMX Shareholder or SMX Optionholder, continue in force and may be acted on, unless express notice in writing of its revocation or the death of the relevant SMX Shareholder or SMX Optionholder is lodged with SMX.

(e) Voting by corporate representative

To vote at the Scheme Meeting, Option Scheme Meeting and/or the General Meeting, a SMX Shareholder, SMX Optionholder or proxy which is a corporation may appoint an individual to act as its representative.

To vote by corporate representative at the Scheme Meeting, Option Scheme Meeting and/or the General Meeting, a SMX Shareholder, SMX Optionholder or proxy which is a corporation should obtain a Certificate of Appointment of Corporate Representative from the SMX Registry, complete and sign the form in accordance with the instructions on it. The completed appointment form should be lodged with the SMX Registry (at the address, email or facsimile number provided in Section 3.7(b) of this Scheme Booklet) by 9.00AM on 30 January 2023.

The appointment of a representative may set out restrictions on the representative's powers.

The original form of appointment of a representative, a certified copy of the appointment, or a certificate of the body corporate evidencing the appointment of a representative is prima facie evidence of a representative having been appointed.

The Chair of the relevant meeting may permit a person claiming to be a representative to exercise the body's powers even if they have not produced a certificate or other satisfactory evidence of their appointment.

3.8 Guide to participating in the virtual Scheme Meeting, Option Scheme Meeting and General Meeting

In order to watch and participate in the virtual Scheme Meeting, Option Scheme Meeting and/or the General Meeting, please follow the steps outlined in the Virtual Meeting Online Guide contained in Annexure L of this Scheme Booklet.

3.9 If you have any further queries

If you require further information on the voting procedures and details of the relevant resolutions to be voted on at each of the Scheme Meeting, Option Scheme Meeting and General Meeting, please refer to:

Meeting	Annexure
Scheme Meeting	Annexure I
Option Scheme Meeting	Annexure J
General Meeting	Annexure K

The results of each of the Scheme Meeting, Option Scheme Meeting and General Meeting will be available online during the relevant meeting and will be announced to ASX shortly after the conclusion of the relevant meeting.

If you have any questions in relation to the Scheme, Option Scheme or Capital Reduction the Scheme Booklet, any of the Scheme Meeting or Option Scheme Meeting or the General Meeting after reading this Scheme Booklet, please contact your legal, investment or other professional adviser or contact SMX on +972 8 630 6336 (ISR)

If you would like more information about SMX, you can visit the SMX website at www.smx.tech.

If you would like more information about Empatan, you can visit the Empatan website at <https://smx.tech/>.

If you would like more information about Lionheart, you can visit the Lionheart website at <https://lheartcapital.com/our-companies/lionheart-iii/>.

4. Assessment of the Scheme, Option Scheme and Capital Reduction and the reasons it is being proposed

4.1 SMX Board's recommendation⁴

The SMX Board unanimously recommends that, in the absence of an SMX Superior Proposal, you vote in favour of each of the Scheme, Option Scheme and Capital Reduction at the Scheme Meeting, Option Scheme Meeting and General Meeting (as applicable).

Each SMX Director who holds SMX Shares or SMX Options, or on whose behalf SMX Shares or SMX Options are held, intends to vote in favour of the Scheme, Option Scheme and Capital Reduction at each of the Scheme Meeting, Option Scheme Meeting and General Meeting, in the absence of a Superior Proposal.

In making this recommendation, the SMX Board have, among other things, considered:

- (a) the reasons SMX Shareholders and SMX Optionholders should vote in favour of the Scheme, Option Scheme and Capital Reduction as set out in Section 4.2;
- (b) the consequences if each of the Scheme, Option Scheme and Capital Reduction do not proceed as set out in Section 4.3; and
- (c) the disadvantages of voting for each of the Scheme, Option Scheme and Capital Reduction as set out in Section 4.4;

The SMX Board may change its recommendation if a Superior Proposal is made. In certain circumstances, a change in recommendation will trigger a Break Fee – see Section 4.4(n) below.

4.2 Why SMX Shareholders and SMX Optionholders should vote in favour of each of the Schemes and the Capital Reduction

The SMX Board believes SMX Shareholders and SMX Optionholders should vote in favour of each of the Schemes and the Capital Reduction at the Scheme Meeting, Option Scheme Meeting and General Meeting, for the following reasons:

- (a) **Attractive premium for SMX Shareholders:** The Scheme Consideration represents a significant premium to SMX's recent share trading history up until the announcement of the Scheme and the share issue price for its recent capital raising. The Scheme Consideration represents a:
 - (i) 383% premium to SMX's 1-month VWAP prior to the announcement of the Scheme of A\$0.2936⁵.
 - (ii) 448% premium to SMX's 3-month VWAP prior to the announcement of the Scheme of A\$0.2585.
 - (iii) 850% premium to the trading price as at the Last Practicable Date, of \$0.15
- (b) **Greater scale and financial strength:** On implementation of each of the Schemes and the Capital Reduction, SMX Shareholders and SMX Optionholders will receive shares in a larger company with a stronger balance sheet and enhanced share trading liquidity. Additionally, with increased scale, resources and market capitalisation, the Merged Group is expected to have a greater ability to pursue strategic growth opportunities.
- (c) **Best interest of SMX Shareholders:** The Independent Expert regards each of the Schemes to be fair to SMX Shareholders and SMX Optionholders. The Independent Expert has assessed the fair value of the equity of SMX to lie in the range of A\$24.377 million to A\$36.928 million on a minority basis, which equates to an assessed value per SMX Share of between A\$0.15 and A\$0.22 on a minority basis. The Independent Expert implies a value of the New

⁴ With respect to the recommendations of Messrs Alon and Hofland, SMX Shareholders and SMX Optionholders should have regard to the fact that, if the Schemes and Capital Reduction become Effective, Messrs Alon and Hofland will receive certain benefits. With respect to Mr Alon, these benefits include incentives under his employment with Empatan, including an increase in his salary as set out in Section 8.11(b)(i) in addition to payment of the Scheme Consideration for the SMX Shares (and the Cancellation Consideration for the SMX Options which convert to SMX Shares as a result of the Option Scheme). With respect to Mr Hofland, these benefits include incentives resulting from the operation of his employment agreement with SMX, including an increase in his salary as set out in Section 15.4(c)(i) and 15.4(a).

⁵ As of 26 July 2022 and based on the New Empatan Share price of US\$10.00.

Empatan Shares to be received by SMX Shareholders as part of the Scheme Consideration, to be in the range of A\$3.12 to A\$6.72 per share on a minority basis. Please refer to Annexure B of this Scheme Booklet which contains the Independent Expert Report and further details of the Independent Expert's assessment.

- (d) **Improved valuation of securities:** Capital markets of the US may provide SMX with an enlarged, more diverse market, the participants of which may be more inclined to invest directly in the Merged Group following implementation of the Schemes, Capital Reduction and Business Combination. A change in listing to the NASDAQ may increase the attractiveness of SMX to an equity market with a stronger interest in technology projects and SMX Shares may enjoy increased demand from US investing institutions with their deeper pools of capital, some of which do not invest in companies that are not SEC-registered. Companies with similar assets to SMX that are SEC-registered may trade on higher valuations than SMX currently commands, however no assurance is made that the same valuations will apply to SMX.
- (e) **Improved liquidity and reduced volatility:** As a condition to implementation of the Schemes, Capital Reduction and Business Combination, Empatan will apply for listing on the NASDAQ. NASDAQ offers a liquid market within which shares may be traded and the SMX Board considers it would be beneficial to have NASDAQ as SMX's home exchange. The NASDAQ exchange provides technology and IP companies access to institutional investors comfortable with high-growth, innovative companies. A listing on the NASDAQ may provide SMX with easier access to large US investment funds and improved liquidity for the benefit of the shareholders. Higher liquidity may enable SMX Shareholders to buy or sell holdings more readily without adversely affecting the share price and higher liquidity is generally associated with reduced volatility in share pricing, such that the movement in share pricing is more likely to reflect underlying business value.
- (f) **Accessing greater capital:** The future growth and development of SMX may benefit from access to US capital markets which may provide funding in a more cost-effective way. The SMX Board is of the view that the Australian market does not provide access to the levels of investment capital that are available in the US. A listing on the NASDAQ exchange may potentially broaden and diversify SMX Group's shareholder base and enhance SMX's visibility in the US, where the SMX Board believes that there is greater interest. This may attract further investments and provide increased funding for our projects on more attractive terms.

4.3 If the Schemes and the Capital Reduction do not proceed

If each of the Schemes and the Capital Reduction are not implemented:

- (a) while the SMX Directors are unable to predict the price at which SMX Shares will trade in the future, the price of SMX Shares may fall in the absence of a SMX Superior Proposal;
- (b) material transaction costs and expenses relating to each of the Schemes and the Capital Reduction will be incurred by SMX for no purpose (estimated at US\$ 2,500,000);
- (c) the potential benefits of the Scheme will not be realised;
- (d) SMX Shareholders will retain their interests in SMX Shares and continue to collectively control SMX;
- (e) SMX Optionholders will retain their interests in SMX Options;
- (f) SMX will remain an independent company listed on the ASX;
- (g) SMX will continue to operate under the existing corporate structure including ongoing costs involved in operating a listed public company;
- (h) the rights of SMX Shareholders and SMX Optionholders will remain unchanged;
- (i) trading in SMX Shares could remain relatively illiquid;
- (j) to enable growth, additional funding via debt and a discounted equity raising will likely be required which is unlikely to be achieved without the risk of dilution or impact to current SMX Shareholders;
- (k) depending on the reasons each of the Schemes and the Capital Reduction do not proceed, SMX or Lionheart may also be liable to pay a Break Fee to the other. Details of the Break Fee and the circumstances in which it may become payable are set out in Section 4.4(n); and

- (l) SMX Shareholders and SMX Optionholders may not, in the near term, realise a price for their SMX Shares which is equivalent to or greater than the implied value of the Scheme Consideration.

4.4 Disadvantages of voting in favour of each of the Schemes and the Capital Reduction

Disadvantages each of the Schemes and the Capital Reduction to SMX Shareholders and SMX Optionholders include:

- (a) You may believe that each of the Schemes and the Capital Reduction are not in the best interests of SMX Shareholders and/or SMX Optionholders.
- (b) You may wish to maintain a direct interest in SMX as an ASX listed company. If each of the Schemes and the Capital Reduction are implemented you will no longer be able to participate in any value offered by a direct investment in SMX.
- (c) You may consider that there is the potential for a SMX Superior Proposal to be made to SMX. No proposal superior to each of the Schemes and the Capital Reduction, when considered as occurring together, has emerged as at the date of this Scheme Booklet.
- (d) The tax consequences or implications (if any) of transferring your SMX Shares may not be suitable to your financial position. The general tax implications for SMX Shareholders and SMX Optionholders are described in Annexure A to this Scheme Booklet but you should obtain advice about your personal circumstances.
- (e) There is a risk that the New Empatan Shares may trade at a price which is lower than the Scheme Consideration after the Scheme Implementation Date.
- (f) SMX Shareholders located outside the US may not be as familiar with trading practices on NASDAQ as they might be with trading practices on the ASX. Some SMX Shareholders, particularly those resident in Australia, may not be familiar with trading and settlement practices on NASDAQ, which may influence them to divest their holdings in SMX. Following the implementation of the Schemes, Capital Reduction and Business Combination, and the successful listing of Empatan on the NASDAQ, Empatan Shares will be quoted on a US exchange and US\$ and foreign exchange implications will become an additional variable for Australian-resident SMX Shareholders and SMX Optionholders to consider. Australian-resident SMX Shareholders may seek to sell their Empatan Shares on NASDAQ as soon as Empatan is listed which may incur higher dealing costs and foreign exchange losses for those shareholders and adversely impact the share price of Empatan.
- (g) Following the implementation of the Scheme, SMX shareholders' interest in the underlying operations will reduce. The level of ongoing ownership that SMX shareholders will have will be dependent on the level of Lionheart shareholders that exercise their redemption rights. Based on the redemption assumptions applied in the Independent Expert's determination of the fair value of Empatan after the implementation of the Scheme of 85% to 23%, SMX Shareholders will retain an interest of 67% to 48%, respectively.
- (h) SMX Shareholders and Optionholders would become exposed to risks arising from, or common to, De-SPAC transactions. These include:
 - (i) The exercise of discretion by directors and officers of SMX in agreeing to changes to the terms of or waivers of closing conditions in the Business Combination Agreement and the Scheme Implementation Deed may result in a conflict of interest when determining whether such changes to the terms or waivers of conditions are appropriate and in the best interests of SMX stockholders;
 - (ii) Exposure to Lionheart, and the potential that, as a result or following the Business Combination, Lionheart may be required to take write-downs or write-offs, restructuring and impairment or other charges that could have a significant negative effect on Lionheart's financial position; depending on the nature and level of redemptions, the exposure to Lionheart's obligations to pay costs on closing could have an impact on the value and premium.
- (i) General risks may also include:
 - (i) The trading price of the shares in Lionheart may be volatile, and shareholders may sustain losses.

- (ii) Lionheart and Empatan could be targets of securities class action and derivative lawsuits which could result in substantial costs and may delay or prevent the transaction from being completed.
- (iii) Empatan's management has limited experience in operating a public company in the United States.
- (iv) There can be no assurance that we will be able to comply with the continued listing standards of Nasdaq.
- (v) The Company has identified material weaknesses in its internal control over financial reporting. These material weaknesses could continue to adversely affect its ability to report its results of operations and financial condition accurately and in a timely manner. We may identify additional material weaknesses in the future that may cause us to fail to meet our reporting obligations or result in material misstatements in our financial statements. If we fail to remediate our material weaknesses, we may not be able to report our financial results accurately or to prevent fraud.
- (vi) Internal control over financial reporting may not be effective and our independent registered public accounting firm may not be able to certify as to their effectiveness, which could have a significant and adverse effect on our business and reputation.
- (vii) The Company's stockholders may be held liable for claims by third parties against the Company to the extent of distributions received by them.

(j) Exclusivity and competing proposals

Under the Scheme Implementation Deed, each of Lionheart and SMX represent and warranted and represented to each other that:

- (i) at the date of Scheme Implementation Deed, they are not a party to any agreement or arrangement with any person entered into in relation to, or for the purposes of facilitating a Competing Transaction;
- (ii) at the date of the Scheme Implementation Deed, neither party is directly or indirectly participating in any discussions or negotiations with a person in relation to, or with a view to, or that might reasonably be expected to encourage or lead to, a Competing Transaction; and
- (iii) both parties will terminate any due diligence access granted to a person for the purpose of the person making, formulating, developing or finalising a Competing Transaction and each party will promptly request the return of all confidential information of SMX or Lionheart, as the case relates, from any such party and terminate its access to any such confidential information on an ongoing basis. Each of SMX and Lionheart agreed not waive, and to enforce, any standstill obligations owed to either SMX or Lionheart, as the case relates.

(k) No-shop

During the Exclusivity Period, SMX and Lionheart must ensure that neither it nor any of their Representatives and SMX must ensure that neither Empatan nor any of its Representatives, directly or indirectly:

- (i) solicits, invites, facilitates, encourages or initiates any enquiries, negotiations or discussions; or
- (ii) communicates any intention to do any of these things, with a view to obtaining any offer, proposal or expression of interest from any person in the case of SMX or Empatan, in relation to a Competing Transaction.

(l) No-talk

During the Exclusivity Period, SMX and Lionheart must ensure that neither they nor any of its Representatives, and SMX must ensure that neither Empatan nor any of its Representatives:

- (i) negotiate or enter into negotiations or discussions regarding; or
- (ii) participates in negotiations or discussions with any other person regarding, a Competing Transaction or any agreement, understanding or arrangement that could be reasonably expected to lead to a Competing Transaction even if the Competing Transaction

was not directly or indirectly solicited, invited, encouraged or initiated by any of SMX, Empatan or Lionheart (as the case may be) any of their Representatives or the person has publicly announced the Competing Transaction.

(m) Lionheart matching right

- (i) SMX must promptly notify Lionheart of any approach or request for information in connection with a current or future SMX Competing Transaction and must provide to Lionheart the identity of the person who made the approach or request and the material terms of the SMX Competing Transaction.
- (ii) The exclusivity provisions do not apply to the extent that they restrict SMX and the SMX Board from taking or refusing to take any action with respect to a genuine SMX Competing Transaction (which was not solicited or invited by SMX or its Representatives and was not otherwise brought about as a result of any breach of the exclusivity provisions) provided that the SMX Board, acting in good faith (after consulting with their legal and financial advisers), have determined, that:
 - (A) the SMX Competing Transaction is a SMX Superior Proposal, or has reasonable prospects of becoming a Superior Proposal; and
 - (B) failing to respond or taking or refusing to take that action in respect of that Competing Proposal would be reasonably likely to involve a breach of the fiduciary or statutory duties or obligations owed by any of the SMX Board.
- (iii) If a SMX Competing Transaction is a SMX Superior Proposal, Lionheart will be given 5 Business Days to make a matching offer by proposing revisions to the Scheme Implementation Deed. If following receipt of proposed revisions to the Scheme Implementation Deed, the SMX Board that the SMX Competing Transaction would continue to constitute an SMX Superior Proposal if such revisions proposed by Lionheart were to be given effect, then SMX and Lionheart must use commercially reasonable endeavours to enter into an amended agreement giving effect to the proposed revisions within 10 Business Days.

(n) Break Fee

Under the terms of the Scheme Implementation Deed, SMX and Lionheart will be liable to pay a Break Fee of US\$2,000,000 (plus GST if applicable) to the other party in certain circumstances. Please refer to section 11.15 of this Scheme Booklet for further details.

(o) Lionheart Shareholder Redemptions

Lionheart closed its IPO offering on 8 November 2021, whereby 12,500,000 Lionheart Public Units were issued in a fully subscribed IPO. Each Public Unit consists of one share of class A Common Stock and one-half of one redeemable Public Warrant, each whole Public Warrant entitling the holder thereof to purchase one share of Class A Common Stock at an exercise price of US\$11.50 per share. The Lionheart Public Units were sold at a price of US\$10.00 per Public Unit, generating gross proceeds to Lionheart of US\$125,000,000. Lionheart incurred US\$2,500,000 of underwriting fees and US\$4,375,000 of deferred underwriting fees in connection with the IPO.

Lionheart, simultaneously to its IPO, also completed the private sale (**Private Placement**) of 2,000,000 Private Warrants at a price of US\$1.00 per Private Warrant and the sale of 400,000 Lionheart Private Units in a private placement, generating gross proceeds of \$6,000,000. The Lionheart Private Units are identical to the Lionheart Public Units sold in the Public Offering, and the Private Warrants are largely identical to the Public Warrants. On 8 November 2021, US\$126,250,000 of the gross proceeds from the Public Offering and the sale of the Private Units was deposited in the Trust Fund with the Trustee. The trust proceeds are invested in US Treasury securities and accrue interest based upon the yield of such securities.

The Lionheart Existing Charter requires Lionheart to provide all holders of shares of its Class A Common Stock with the opportunity to redeem all or a portion of their shares of Class A Common Stock upon the consummation of an initial business combination. Accordingly, if the Business Combination is approved by Lionheart's shareholders, the Public Shareholders may elect to redeem their shares of Class A Common Stock.

Upon redemption, each redeeming share is entitled to its pro rata portion of the proceeds of the trust. The remaining proceeds of the trust will be provided to Empatan, following the closing.

The redemption rate will only be known on the date of the vote of the Lionheart stockholders which is expected to be held in January 2023.

If sufficient Lionheart Shareholders exercise their redemption rights in connection with the Business Combination and if the sale of some or all of the PIPE fails to close (see Section 4.4(p) below), Lionheart may lack sufficient funds to consummate the Business Combination.

(p) PIPE Financing

Lionheart is actively pursuing to enter into subscription agreements with certain institutional and accredited investors (**PIPE Investors**), pursuant to which Lionheart will agree to issue and sell, in private placements to close immediately prior to the closing of the Business Combination, up to US\$25 million in the aggregate, in securities (**PIPE Financing**). The securities to be issued pursuant to the subscription agreements will not be registered under the Securities Act of 1933, as amended (the **US Securities Act**), in reliance upon the exemption provided in section 4(a)(2) of the Securities Act.

The closing of any PIPE Financing would be subject to customary conditions for a financing of this nature, including the completion of the Business Combination (**Closing**). The subscription agreements are expected to provide that Lionheart will provide the PIPE Investors customer registration rights with respect to any securities issued to such investors in connection with any PIPE Financing following the Closing.

The PIPE Investor's obligations to purchase the PIPE securities are subject to termination if the Business Combination is not consummated on or before 8 January 2023 as such date may be further extended in one-month increments until May 8, 2023, as permitted under Lionheart's governing documents. Lionheart has provided an assurance that it will exercise a further extension for the 8 January period and to facilitate the holding of the Scheme Meeting, Optionholders Meeting and General Meeting. Additionally, the PIPE Investor's obligations to purchase the PIPE Securities are subject to fulfillment of customary closing conditions, including that the Business Combination must be consummated substantially concurrently with, and immediately following, the purchase of the PIPE Securities.

In the event of any such failure to fund, any termination of such obligation, or if any such condition is not satisfied and not waived, Lionheart may not be able to obtain additional funds to account for such shortfall on favourable terms or at all. If the sale of some or all of the PIPE fails to close and sufficient Lionheart Shareholders exercise their redemption rights in connection with the Business Combination, Lionheart may lack sufficient funds to consummate the Business Combination.

5. Overview of SMX

5.1 Business overview and history

(a) Overview

SMX provides one solution to solve both authentication and track and trace challenges to producers of goods in order to uphold supply chain integrity and provide quality assurance and brand accountability. Its technology works as a track and trace system using a marker, a reader and an algorithm to identify embedded sub-molecular particles in order to track and trace different components along a production process (or any other marked good along a supply chain) to the end producer.

Its proprietary marker system embeds a permanent or removable (depending on the needs of the customer) mark on solid, liquid or gaseous objects or materials. Each marker is comprised of a combination of marker codes such that each marker is designed to be unique and unable to be duplicated. The marker system is coupled with an innovative patented reader that responds to signals from the marker and, together with a patented algorithm, captures the details of the product retrieved and stored on a blockchain digital ledger. Each marker can be stored, either locally on the reader and on private servers, cloud servers or on a blockchain ledger, to protect data integrity and custody.

(b) History

SMX Israel was incorporated in 2014 to provide brand protection and supply chain integrity solutions to businesses. It provides these solutions through the commercialization of the initial technology of tracking and tracing materials by observing and identifying markers (the **Source IP**). SMX's Source IP was initiated from the Soreq Nuclear Research Center, an Israeli government research and development institute for nuclear and photonic technologies under the Israeli Atomic Energy Commission (**Soreq**).

In January 2015, SMX Israel entered into the Isorad License Agreement with Isorad Ltd. (an IP holding company of Soreq) to license the Source IP and develop and commercialize the technology (the **Isorad License Agreement**). Under the Isorad License Agreement, as amended, the Source IP can be utilized in almost any industry and with any product.

In 2018, SMX Israel was acquired by SMX, a company incorporated in Australia, becoming a wholly owned subsidiary of SMX, which subsequently listed on the Australian Stock Exchange under the symbol "ASX: SMX."

5.2 Corporate structure

SMX is a public limited liability company, domiciled in Australia and listed on the Australian Securities Exchange (ASX: SMX) on 15 October 2018.

At the date of this Scheme Booklet, SMX had 167,854,581 shares on issue, 32,422,957, SMX options, 13,410,782 SMX ESOP Options and 828,240 SMX Convertible Notes. See Section 5.17 for a detailed breakdown of the securities on issue in SMX.

SMX has the following related entities:

Entity	% of shares held by SMX Group
Security Matters France Ltd (French business number 900404104) (SMX France)	100%
Security Matters Canada Ltd (BC1294203) (SMX Canada)	100%
Security Matters Ltd. (Israeli company 51-512577-1) (SMX Israel)	100%
SMX Beverages Pty Ltd (ACN 637 440 272) (SMX Beverages)	100%

Yahaloma Technologies Inc. (British Columbia Canada number BC1219747) (Yahaloma)	50%
True Gold Consortium Pty Ltd (ACN 641 483 374) (trueGold)	44.8%

(a) Security Matters France

Security Matters France was founded in June 2021 for commercializing the group's activity in Europe. During the period SMX France has not yet started its operations.

(b) Security Matters Canada Ltd (SMX Canada)

SMX Canada was incorporated in British Columbia, Canada, on 12 March 2021.

(c) Security Matters Ltd (SMX Israel)

SMX Israel was incorporated in 2014 in Israel. In 2018, SMX Israel was acquired by SMX, a company incorporated in Australia, becoming a wholly owned subsidiary of SMX, which subsequently listed on the Australian Stock Exchange under the symbol "ASX: SMX."

(d) SMX Beverages

On 10 February 2020 SMX signed an agreement with Global BevCo Pty Ltd, an Australian company, for the commercialization of Security Matters trace technology in the alcoholic beverages industry. Under the terms of the agreement, SMX and Global BevCo established a new private entity (SMX Beverages or "SMX-B"), which was equally held by the above two mentioned groups. As a result of the transaction, SMX had the exclusive rights and responsibility to commercialize intellectual property assets in the area of alcoholic beverages.

SMX has since acquired all of the shares in SMX Beverages, making SMX Beverages a wholly owned subsidiary of SMX.

(e) Yahaloma Technologies Inc. (Yahaloma)

On April 30, 2019, SMX signed an agreement with Trifecta Industries Inc. ("Trifecta"), a Canadian company (and affiliate of Crossworks) for the commercialization of SMX's trace technology in the diamonds and precious stone industry.

Under the terms of the agreement, Security Matters Ltd and Trifecta established a new entity - Yahaloma Technologies Inc. (**Yahaloma**), which is equally held by SMX and Trifecta. Yahaloma has the exclusive rights and responsibility to commercialize SMX's intellectual property in the area of diamonds or precious stones. As initial working capital for Yahaloma, Trifecta committed to invest US\$500,000 for the completion of development milestones, out of which US\$250,000 is equity and US\$250,000 is a shareholder loan. SMX transferred its relevant IP to Yahaloma, at cost of US\$250,000. Both parties committed to additional working capital if required.

The transfer of the relevant Security Matters IP from SMX to Yahaloma resulted in a gain on sale of IP of US\$36,043 in 2019.

At the time of purchase, management of SMX assessed the transaction and reached the conclusion that the new entity is jointly controlled by Security Matters Ltd and Trifecta and further determined that the contractual arrangement provides the parties to the joint arrangement with rights to the net assets of the arrangement. The contractual arrangement establishes each party's share in the profit or loss relating to the activities of the arrangement. The arrangement is a joint venture and the Company's interests in this joint venture is accounted for using the equity method of accounting.

During the period ended 31 December 2021, Yahaloma continued the development of the SMX technology for the diamonds and precious stones sector. In 2021 the Company recognized equity loss from Yahaloma's activity at the amount of USD\$101,660. As at 31 December 2021, the carrying amount of the JV in Security Matters' accounts is A\$112,297. As at 30 June 2022, the net P&L activity for Yahaloma was zero, with the costs incurred in the previous year and research ongoing.

(f) True Gold Consortium Pty Ltd (trueGold)

On July 29, 2020, SMX signed a shareholders' agreement with W.A. Mint Pty Ltd and True Gold Consortium Pty Ltd (**trueGold**).

The purpose of the agreement is to set the framework for trueGold's activity. trueGold's goal is to establish an industry standard with the development of an innovative system that can mark (at a molecular level), track and trace gold bars and gold through every stage of the supply chain with blockchain technology.

Under the terms of the agreement, trueGold will be equally held by the above two mentioned groups, with the goal of adding other shareholders.

Management has assessed the transaction and reached the conclusion that the new entity is jointly controlled by SMX and W.A. Mint Pty Ltd. Management has further determined that the contractual arrangement provides the parties to the joint arrangement with rights to the net assets of the arrangement. The contractual arrangement establishes each party's share in the profit or loss relating to the activities of the arrangement. The arrangement is a joint venture and the Company's interests in this joint venture is account for using the equity method of accounting.

5.3 Business model

SMX's business model targets leading brands and manufacturers (as opposed to directly targeting consumers) in order to create a new market standard for circular economy solutions, brand authentication and supply chain integrity. SMX offers both business-to-business sales and "white label" solutions, depending on the needs of customers and the ultimate end use based on either a fixed fee or volume based revenue model (or both).

SMX may work directly with the manufacturer of the products or through the manufacturer's raw material supplier so that the manufacturer is not required to change (or is required to make no more than minimal changes to) its manufacturing process in order to implement SMX technology in the production process. Gaining the trust of raw material producers is the first stage, which in turn allows for credibility and trust when supplying solutions to brand owners, manufacturers and suppliers, which is a key step for its success.

5.4 Products and applications

(a) Products

SMX provides a solution comprised of three components: (1) a physical or chemical marker system coupled with (2) a reader and connected to (3) a blockchain digital platform.

(i) Markers

Markers are embedded sub-molecular particles applied to a solid, liquid or gas. SMX uses various building blocks, comprised of a variety of molecules, to serve as markers for materials and products. For each project, its team selects a combination of molecules based on the specification of the customer and marked material (for example, the marked medium, the production process, the end use of the product and regulatory requirements, among others). The SMX innovative reader can identify the marker and identify a response at a sub molecular building block level, designed to make the marker identification more accurate.

The ability to more accurately identify the concentration level of a marker allows SMX to use numerous markings from a variety of different molecules. This enables it to not only identify the marker, but also identify the concentration within a product within a pre-defined range and "read" whether the marked material was diluted (authenticating not only the marked goods but also identifying the quantity).

Based on the specifications of the marked product, SMX can mark materials based on several techniques, allowing its solution to be implemented across materials and processes. Markers can carry information denoting the origins of manufacture, product provenance, date of production and many other types of data, depending on customer needs.

SMX can produce either permanent or removable markers that can be applied either topically or internally to material in any state of matter (solid, liquid or gas) to form an "Intelligence on Things," or "IOT2" marking system. The IOT2 concept involves marking products during or after the manufacturing process by inserting or applying

materials to the products and encoding information through this process, namely by the treatment of materials or affixing and embedding product authentication security devices. The IOT2 concept allows for materials in a wide variety of products to be protected against counterfeiting, tampering, and diversion, and to help ensure the integrity of genuine products and manage the supply chain and logistics processes.

The marker supports invisible, indelible, and non-damaging tracking of distinctive molecules designed to ensure uniqueness and prevent duplication or counterfeiting. The marker is designed to not in any way affect the properties of the material it is applied to – it simply becomes a part of that material. The molecules are designed to be inert, inactive, and invisible to the human eye.

(ii) Readers

Markers are embedded in the material and can only be detected or "read" by designated readers. A reader scans for the existence of markers. If the reading satisfies a pre-determined condition set by SMX (which can be programmed), the reader identifies the marked product and conveys information about such product to the customer.

SMX currently utilizes an x-ray wave reader that is modified according to its specifications to allow it to scan its proprietary markers. The reader and SMX's algorithm are designed to make its detection method unique and prevent duplication or interference with its markers. The reader is available as a hand-held device or industrial apparatus for large-scale applications, with the ability to read the embedded material data from a physical or chemical marker without requiring lengthy and expensive laboratory testing for confirmation.

(iii) Platform

Blockchain technology is a ledger of records, which are linked and designed to be secured using cryptography from third party infrastructure and SMX's architecture. SMX can record a marker manifestation on the blockchain and store this information in cloud computing data storage. It has developed an algorithm designed to securely connect its reader to an existing platform (licensed from a SaaS provider) and record changing ownership and other information to the blockchain. Once SMX's blockchain solution is implemented, a marked good or material is scanned in order to identify the marker, the results can be verified on the blockchain in order to confirm the data embedded in it, such as the identity of the producer, date of production, supplier and past owners. During the same scan, the reader can record to the blockchain a change of location or ownership of the marked product or material.

The IOT² concept mentioned above also refers to the retrieving, analyzing and processing of encoded information embedded on products and product components and uploading such information to a cloud computing system or to a distributed blockchain system, creating a digital twin to a physical product for the purpose of product authentication, brand protection, tracking and tracing products and product components, supply chain management, and logistical processes.

(b) Applications

SMX's solution offers the following applications across industries:

(i) Process tracing

Process tracing involves the upstream marking of raw material and blockchain-backed scanning throughout processing stages to allow for full traceability of raw material across its life cycle. Manufacturers are under increasing consumer and regulatory pressure to prove material provenance in order to be able to certify compliance with environmental, social and governance, or ESG, sourcing practices and carbon content of finished goods. Through upstream marking of raw material and blockchain-backed scanning throughout the processing stages, SMX's technology enables real tracking and tracing of materials, including the source of those materials. Additionally, SMX's technology enables manufacturers to know

whether any used items are theirs and enables them to pay third parties to collect their used products, creating a market for collecting used products and selling them to other manufacturers.

(ii) Authentication

Manufacturers can validate product authenticity to their customers by marking final products or prime components and scanning the marker at a retail location or as part of the process of recycling their products. Growing concerns about component tampering along high security or critical infrastructure product supply chains and increasing counterfeit issues for high value density products are also issues that SMX's marking and authenticating process is designed to address.

(iii) Sustainability and circular economics

The end-to-end technology solution covers three product lifecycles to enhance the circular economy from raw material to manufacturing/production, packaging, and end-of-life, enabling it to re-enter the economy for recycling or reuse. By marking upstream raw material and later scanning recycled content at waste collection points, an advanced sorting of materials is enabled which can increase the value of recycled content and in turn help to increase global recycling rates and recycled content certification.

5.5 Business strategy

SMX's roadmap for entry into markets it identifies is as follows:

- (a) **Market leader adoption** - adoption of the solution by a market leader that provides a "seal of approval" that the technology is valid for the industry and generates added value.
- (b) **Becoming an industry standard** - leveraging the market leader's position in the market to increase adoption by other companies along the value chain.
- (c) **Regulator adoption** - In the future, SMX aims to become the preferred solution by regulators and professional associations in each industry.

5.6 Research and development

Given the varied needs of different industries, SMX's research and development processes are divided according to industry.

(a) Plastics, rubber and other materials

Earlier this year, SMX completed a successful trial of marking recycled plastics by studying the impact of gravimetric and volumetric feeding methods on final Post Consumer Recycled, or PCR, readings. The compounding master batch and extrusion processes of these trials were performed on a pilot scale in a fully commercial and industrial facility. SMX's team demonstrated its ability to manage the process remotely, indicating the viability of industrial scale adoption.

The successful trial provides plastic manufacturer and importing companies with a proof of concept, enabling them to more accurately identify and audit, via an automated transparent reporting system, the polymer type, number of loops and the amount of recycled content despite the size and color of the plastic. As a result, SMX is positioning itself to be able to offer plastic manufacturing and importing companies the ability to promote their operations as being sustainable and environmentally friendly. Combined with its ability to digitally certify the materials, SMX is also positioning itself to offer these companies the ability to avoid human/manual-paper auditing and use technology/automated auditing, which helps to reduce the potential for human errors and can provide for cost savings.

(b) Gold and other metals

Gold

SMX formed a joint initiative with Perth Mint to develop a mine-to-marketplace ethical gold supply chain technology solution. Since the incorporation of True Gold Consortium Pty Ltd (**trueGold**) in June 2020, this research and development project aims to promote a 'mine to product' transparency solution dedicated to responsible mining of materials. SMX's track & trace technology provides information on the origin of the materials and how they move across production and distribution chains towards recycling and back to refining.

SMX has a license agreement in place with trueGold, under which trueGold, subject to the terms of the license agreement, was granted an exclusive, worldwide, perpetual license to use Security Matters' technology for the purpose of commercializing it within the industry comprising gold as a precious metal. SMX owns any development of its intellectual property and, while True Gold owns all generated data it creates, trueGold granted SMX a free non-exclusive, irrevocable, perpetual, royalty free license to use the generated data, subject to regulatory requirements and to the extent that it relates to the Isorad License Agreement technology or SMX's technology. SMX's CEO, Mr. Haggai Alon, provides CEO services to trueGold and is a board member of trueGold.

Non-Ferrous Metals

On 29 November 2022, SMX signed a products distribution and SAAS reseller agreement with Sumitomo Corporation, a Japanese corporation. Under such agreement, SMX appointed Sumitomo to act as SMX's exclusive, worldwide distributor to market and sell markers, readers and SMX services to customers for application in the Non-Ferrous Metals Market (as defined below) only subject to the customer entering into with SMX its standard product license agreement. The "Non-Ferrous Metals Market" is defined as all supply chain market segments of the industry for aluminum; copper; lead; nickel; zinc; molybdenum; cobalt; lithium; and tin.

The price at which SMX will sell products to Sumitomo and the license fee at which SMX shall license SMX products and SMX service to Sumitomo will be at a discount to the invoices issued to the customers.

The agreement shall remain in effect for an initial term of five years from the effective date of first commercial sale by SMX to Sumitomo of any products. The companies have agreed that over the coming years there is a target to reach US\$35 million in sales.

Silver

On 27 November 2022, SMX signed a termsheet for distribution and SAAS reseller agreement, which is still subject to negotiation of the definitive documentation and final internal corporate and regulatory approvals. Under such termsheet, SMX appointed an exclusive, worldwide distributor to market and sell markers, readers and SMX services to customers for application in the silver market only, subject to the customer entering into with SMX its standard product license agreement.

The price at which SMX shall sell products to the distributor and the license fee at which SMX shall license SMX products and SMX service shall in be a discount of the invoices issued to the customers.

The agreement shall remain in effect for an initial term of ten years subject to the achievement by the distributor of reasonable metrics and/or conditions which shall be included in the definitive agreements.

(c) Diamonds and precious stones

SMX entered into an agreement with Trifecta Industries Inc., a Canadian corporation, in which the parties incorporated Yahaloma Technologies Inc., a Canada corporation (**Yahaloma**), with the goal of commercializing SMX's intellectual property portfolio through various applications in the diamond and precious stones industry. The parties seek to create a solution for the track and trace of diamonds and precious stones from the mine to the end consumer or user. Both parties covenanted not to pursue the use of SMX's technology for diamonds and precious stones, or any other venture related to the testing of the origin of diamonds or precious stone, other than through Yahaloma. Additionally, in agreement with Isorad, all rights in and to any intellectual property related to the diamonds and precious

stones industry that is developed by or for Yahaloma is jointly owned in equal parts by the SMX, Yahaloma and Soreq.

(d) Electronics

SMX has joined an alliance formed by six founding partners, among them the World Business Council for Sustainable Development, to set a shared vision for a circular economy for electronics, called the Circular Electronics Partnership. This group of global companies has been brought together to reduce e-waste and to commit to a roadmap for a circular economy for electronics by 2030.

(e) Fashion

In December 2020, SMX announced that it had launched a Fashion Sustainability Competence Centre to enable fashion brands globally, to transition successfully to a sustainable circular economy by being able to identify the origination of their raw materials and hence, recycle their own unsold and/or end-of-life merchandise (garments, footwear and accessories including sunglasses) back into new high-quality materials and new fashion merchandise. SMX's technology is applicable across a range of materials including leather, silk, cotton, wool, coated canvas, vegan leather, polyesters, cashmere, metals (e.g., gold & metallic parts) and plastics; and its applications encompass finished leather goods, shoes, garments, and accessories. SMX is also collaborating with several luxury fashion conglomerates on R&D projects to trace the origin of raw materials used in their supply chain and is in commercial negotiations regarding the implementation of its solution with partners in the industry.

5.7 Intellectual Property

The ability of SMX to develop and maintain proprietary IP is crucial to our success. Since 2015, SMX technology has been protected by more than 20 patent families and more than 100 patents filed around the world in various stages with respect to our marking and reading technologies.

5.8 Marketing and sales

(a) Overview

SMX intends to concentrate its market penetration efforts into the U.S. market, including recruitment of sales and marketing personnel, either located in the U.S. or with U.S. orientation, participation in various professional expos, conventions and exhibitions and entering into agreements or arrangements with distributors in the U.S. markets and commencing collaborative relationships with commercial entities for the development of new customized products. Moreover, SMX intends to continue to invest significant resources in research and development in order to improve and build on its array of existing solutions and strive to develop new innovative products in sync with new market technological developments. SMX plans to further advance its innovative technology and commercialization efforts by:

- (i) engaging with additional suppliers and service providers in order to improve and streamline its product development process and supply chain;
- (ii) increasing marketing and sales activities, concentrating on specific target markets;
- (iii) increasing participation in professional expos, conventions and exhibitions; and
- (iv) establishing partnerships and collaborations with strategic customers and entities in the segments relevant to its technology.

SMX's pricing is based on the perceived value proposition of its solution for its customers. The pricing model is expected to be comprised of three components:

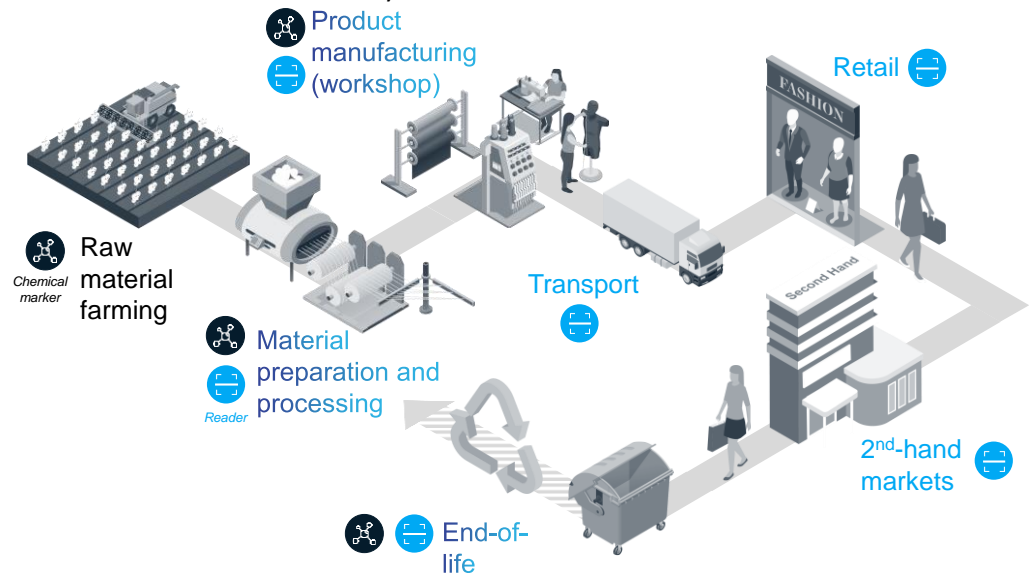
- (i) set-up fee (for initial consultations);
- (ii) marker implementation fee (typically on a per item or per kg basis) and sale or lease of readers; and
- (iii) service fee (for reading, blockchain services and other support services).

Pricing may also include an annual license fee, payment of royalties, pay-per-read, or other models.

(b) Target Industries

(i) Fashion

For the fashion industry, SMX's technology enables authentication from raw materials to retail stores and beyond:

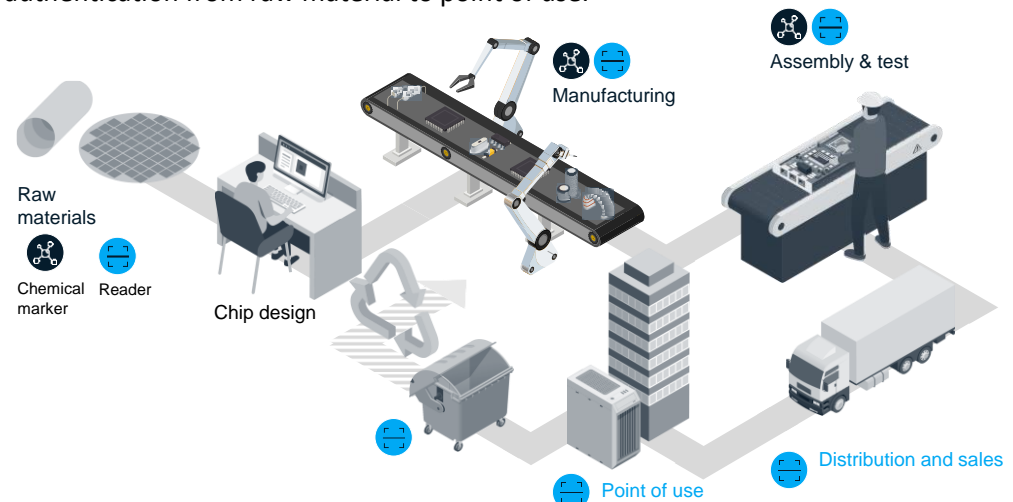


Its technology targets the luxury fashion industry by enabling high-end brands to:

- (A) verify the origin of raw materials to prevent fraud;
- (B) control material usage during the manufacturing process;
- (C) track a product's journey from the first point of manufacturing to delivery to customers.
- (D) share information on product traceability with customers to prevent fraud in returned products;
- (E) generate secondary and reseller demand by demonstrating product authenticity; and
- (F) improve upcycling and recycling processes through material recognition, grading, and recycled content certification.

(ii) Electronics

For the electronics industry, SMX's technology enables end-to-end traceability and authentication from raw material to point of use.

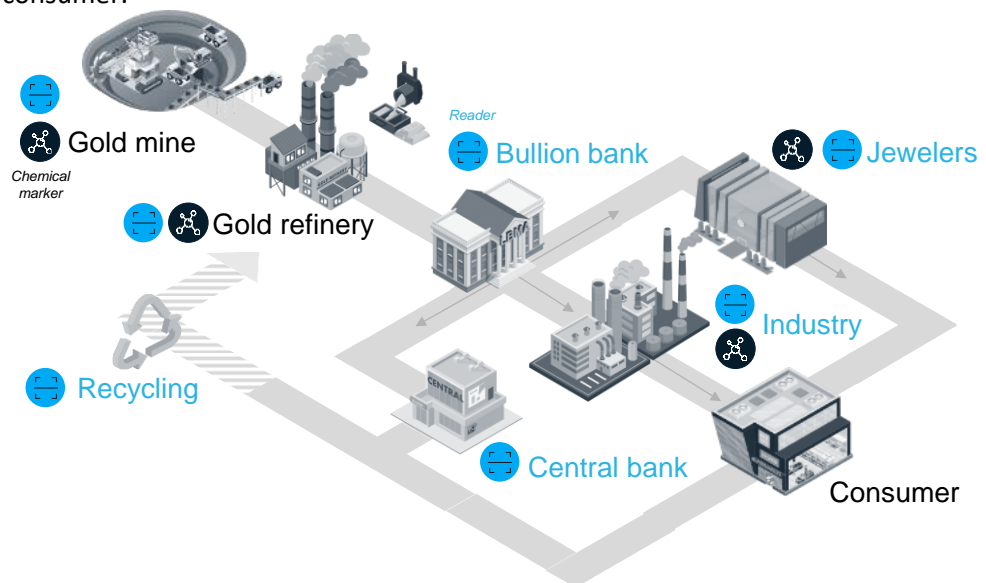


Its technology targets semiconductor manufacturers enabling a manufacturer to:

- (A) verify the origin of raw material;
- (B) control material usage;
- (C) demonstrate product authenticity along its supply chain;
- (D) detect tampering during use (e.g., when giving products off-premises for maintenance or other reasons); and
- (E) implement upcycling and/or recycling programs through material recognition, grading, and recycled content certification.

(iii) **Gold and other metals**

SMX's technology allows for the tracing of gold or other metals from mine to consumer.

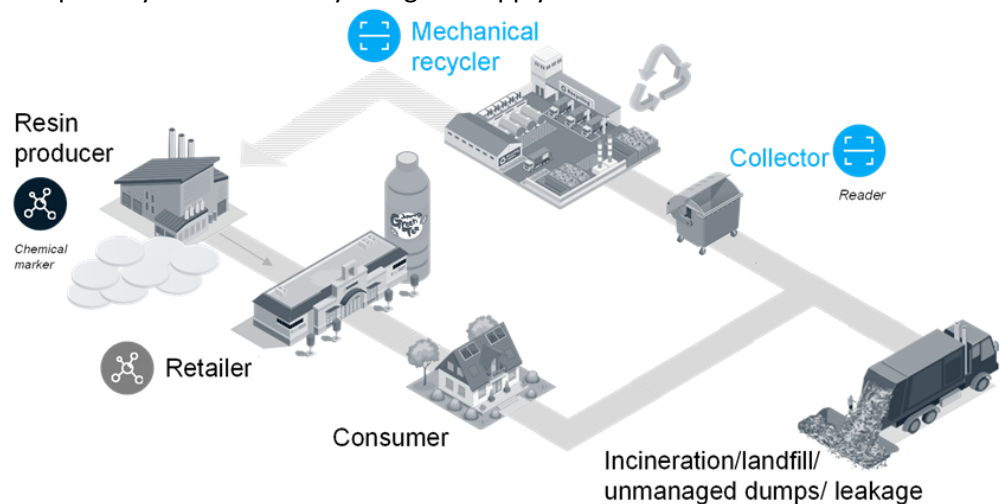


Its technology enables gold refineries, mining companies, and bullion banks to:

- (A) prove the origin and mine location of the gold;
- (B) facilitate the sale or trading of gold from ESG-compliant mines; and
- (C) demonstrate that their products are ESG-compliant to customers and end-users.

(iv) **Plastics, rubber and other materials**

Given the challenges around mechanical recycling, chemical recycling is emerging as a promising solution to help tackle the global challenge associated with single use plastic waste. An embedded chemical marker allows for better tracking, monitoring and sorting of post-consumer plastic with the circular value chain approach. SMX's technology is applicable throughout the life cycle of the material or product, from raw material to production to recycling. Its technology enables plastic footprint transparency and traceability along the supply chain.



Its digital twin technology can address a key challenge of the first step to identify, track and trace commodities produced in emerging countries for use in the developed countries, such as rubber or food commodities (e.g., cocoa, soy, and palm oil). The creation of a digital twin for each physical good enables participants in the value chain to come together and form the global ledger for the goods. As a number of industries and sectors are increasing their commitments to recycling, many companies are realizing the need for sustainability and circular economies.

5.9 Competitive advantage

Armed with its various products and designs, SMX believes it possesses a unique combination of knowledge and features. It has established an innovative, cross-segment technology, developed over several years by an experienced and dedicated team of scientists, which it believes creates a barrier to entry to its competitors.

SMX's product is currently undergoing pilot projects with customers with strong international presence. The customizable nature of its technology allows SMX to embed the technology in multiple products, from silk to rubber to diamonds to gold to plastics, across multiple segments. SMX is constantly striving to improve its competitive status in the market by:

- (a) entering into agreements or arrangements with large and high-profile customers in the industry, which it believes enhances its status and reputation in multiple markets and provides opportunities to enter into new agreements or arrangements with new customers;
- (b) entering into agreements or arrangements with strategic partners in order to strengthen its position to become the new industry standard; and
- (c) Providing high level development and support services to customers, to promote customer retention, and encourage its customers to rely on SMX to use its technologies for future projects.

5.10 Property and real estate

SMX's main operational activities are conducted at its headquarters in central Israel. It leases 363 square meters of office space at this location under a lease until 31 May 2027, with an option to SMX to extend the lease for an additional rental fee of 10% for an additional 5 years.

SMX also leases an additional adjacent building of 146 square meters where it conducts research and development activities. SMX has the option to exit the lease in March 2023. The lessor (who represented that it is not aware of any such impending circumstances) has a right to shorten the lease with 90 days notice if it is demanded by a government entity to evacuate the premises, to change the agreement or to pay fine due to the agreement.

SMX believes that its current facilities are suitable and sufficient to meet its anticipated needs for the foreseeable future.

5.11 Government royalty obligations and regulations

(a) Israeli R&D Law

The Government of Israel encourages research and development projects oriented towards products for export or projects which will otherwise benefit the Israeli economy. This is conducted by the Israel Innovation Authority (IIA), which replaced the former Office of the Chief Scientist (OCS).

Under Israeli laws with respect to research and development, which is referred to as R&D Law, a royalty of between 3% to 5% applies to the net sales of products developed from a project funded by the IIA, beginning at the commencement of sales of products developed with grant funds and ending when a dollar-linked amount equal to 100% of the grant plus interest at LIBOR has been repaid. The terms of the R&D Law also place restrictions on the location of the manufacturing of products developed with government grants, which, in general, must be performed in Israel, and on the transfer to third parties of technologies developed through projects in which the government participates. SMX's research and development team will remain in Israel and all funds previously received by way of a grant from IIA have been invested in Israel.

The IIA has published a directive incorporating most of the former provisions, including those with respect to transfer of manufacturing rights, transfer of know-how and others. These provisions include limitations and requirements for payment with respect to outsourcing or transferring development or manufacturing activities with respect to any product or technology outside of Israel, and change in control in companies which received government funding from the OCS or IIA, which may impair ability to sell technology assets outside of Israel or to outsource, transfer develop or manufacture with respect to any product or technology that received government funding under the R&D Law outside of

Israel, or consummate a change in control in the Company, all without prior approval of the IIA.

In May 2017, the IIA published the Rules for Granting Authorization for Use of Know-How Outside of Israel, or the Licensing Rules. The Licensing Rules enable the approval of licensing arrangements and other arrangements for granting of an authorization to an entity outside of Israel to use know-how developed under research and development programs funded by the IIA. Subject to payment of a license fee to the IIA, at a rate that will be determined by the IIA in accordance with the Licensing Rules, the IIA may now approve arrangements for the license of know-how outside of Israel. This allows companies that have received IIA support to commercialize know-how in a manner which was not previously available. In addition, the IIA has recently published a directive incorporating most of the former provisions, including those with respect to transfer of manufacturing rights, transfer of know-how and others.

SMX had one approved project with the IIA (project number 55715, approved on November 23, 2015) of a 40% grant out of a project of up to approximately US\$400,000 under which it received US\$196,000 in prior years. SMX passed a final review by the IIA and no additional funding is expected to be received under the project.

SMX is obligated to pay 3% of its relevant revenues for the first three years, and 4% of the relevant revenues for further years, until repayment of the entire grant, being ILS 609,865 (equivalent to approximately US\$196,000). To date SMX paid about US\$1,000 out of such amount.

(b) Approved enterprise

The Israeli Encouragement of Capital Investments Law, 1959, is intended to encourage investment in industry in Israel in national priority areas, to promote economic initiatives while giving preference to advanced and innovative industries, and to strengthen development areas. Based on the Investment Law, the Investment Center may, on application, grant the status of "Approved Enterprise" for Capital Investments in industry and tourism. Certificates of approval are issued and such approval entitles the project to receive substantial support from the State. The support may be in the form of reduced taxation, investment grants or other benefits specifically designed to encourage capital investment in Israel. Such State support is conditional on certain restrictions on the activities of a supported company, which restrictions may not easily be alleviated.

In December 2016, SMX received approval as an Approved Enterprise (File 24638, Plan 429, Motion 120941) for the building of a factory for the marking of materials with an investment of ILS 3,700,000, provided that at least 24% of the investment will be financed by the issuance of new shares. Due to changes in our activity plans, we did not pursue such project and did not take any funds under such Approved Enterprise.

(c) Isorad licence agreement

Under the Isorad License Agreement (as amended), SMX received from Isorad an exclusive, worldwide, royalty-bearing license, to make use of (including, without limitation, to develop, manufacture, use, market, offer for sale, sell, export and import in the field of marking methods) US patent number 8158432 B2 and the technology derived from it can be utilised in almost any industry and with any product. Additionally, any uses for the Israeli security forces and/or its purposes will be conducted via SMX at a "cost plus" price to be agreed. While Isorad and Soreq reserve the right to freely continue to research and develop the technology, SMX has a right of first offer to any newly developed technology. If the Source IP is developed further by Soreq and Soreq wishes to commercialize the new technology, then Soreq must offer the right to commercialize the new technology to SMX in the first instance.

SMX and its affiliate are to pay Isorad royalties for 25 years as of 1 January 2020 in the amount of 2.2% of all gross sales by the Company, our affiliates or sublicensees and after 25 years the license becomes royalty-free. Gross sales are defined under the Isorad License Agreement to include the total amount invoiced or received by SMX and/or its affiliates, including, without limitation, for sale of products and provision of services. If SMX charges a

fee for sublicensing or an option for a sublicense, for which it does not pay the 2.2% royalty described above, such income will be subject to royalty payment of 15% of the amounts received. The royalties for revenues from sub-licensing the technology are payable as of 1 January 2020.

Upon the occurrence of the first M&A event (as such event is defined in such agreement to include mergers, sale of all or substantially all the assets of ours and similar event) after the closing of the event described in this Scheme Booklet Combination, SMX is to pay a cash amount equal to 1.5% of the amount received or transferred. Additionally, Isorad was issued 864,000 options to purchase shares of SMX and 1% of any amount actually received against equity or other funding convertible into equity at the closing of the transaction and any amount actually received against equity or other funding during a period of 13 months thereafter (to be paid after reaching an aggregated received amount of USD 27 million, or at the end of such 13 months, the earlier thereof). This will not apply to any future offer of shares, merger or sale of assets thereafter.

Under the Isorad License Agreement, Isorad can only refuse to approve a sublicense based on governmental defense, security, governmental policy, political and other official State of Israel policy considerations. A sublicensee cannot further grant, directly or indirectly, to any third party any sublicense or rights to the technology and cannot further assign the sublicense agreement.

Specifically as to Yahaloma, the royalty rate on gross sales of Yahaloma, to be paid by Yahaloma, is 4.2% (and not 2.2% that applies solely to SMX and its other affiliates). Upon the occurrence of an M&A event (as such event is defined in such agreement to include mergers, sale of all or substantially all the assets of Yahaloma and similar event), Isorad is entitled to a fee equal to 1% of the total consideration paid to, received by, or distributed to, Yahaloma and/or its shareholders and/or its affiliates in connection with the event, including, without limitation, all cash, securities or other property which is received by Yahaloma and/or its shareholders in connection with such event or two such events (i.e. twice) at its choice.

The Isorad License Agreement will continue in full force and effect until terminated pursuant to its terms. If either party does not remedy a material breach of its obligations within 180 days of notice of the material breach, the non-defaulting party may terminate the Isorad License Agreement immediately. Isorad may terminate the agreement by providing 30 days prior written notice if the royalties payable to Isorad are \$nil in any semi-annual report and we have breached other certain obligations (such as a failure to maintain a patent or patent application in the previous semi-annual review period).

SMX has provided broad indemnities to Isorad and Soreq and their related parties under the terms of the Isorad License Agreement. The Isorad License Agreement is governed by the laws of Israel.

(d) Safety certifications and permits

SMX is accredited under ISO 9001:2015 standard for quality management and quality assurance. The ISO organization promotes worldwide proprietary, industrial and commercial standards. SMX is audited annually to verify that it complies with the ISO standards of excellence, safety, quality, process management and risks management.

Under the provisions of the Israeli Non Ionizing Radiation Law, and the work safety regulations (regarding employment safety and health of those working with non-ionizing radiation), the Company is required to hold a valid license for operations involving non ionizing radiation as well as employ a safety expert with qualifications as defined by the law. As of 8 May 2022, SMX has a valid license for operations involving non ionizing radiation and employs a safety expert as required by law. Additionally, the import and use of its readers may be subject to regulatory and other licensing requirements in certain jurisdictions, which requirements may differ from one jurisdiction to another.

5.12 SMX's directors and executive team

(a) Directors

As at the date of this Scheme Booklet, the SMX Board is comprised of the following directors:

Name	Current position
Haggai Alon	Executive director / Chief Executive Officer
Amir Bader	Non-executive independent director
Jovanka Naumoska	Non-executive independent director
Kathryn Davies	Non-executive independent director
Everardus Hofland	Executive Chairman

(i) Haggai Alon - Executive director / Chief Executive Officer

Haggai Alon is the founder of Security Matters (SMX) and has over 18 years of experience in commercializing technology. Mr Alon also serves as CEO and a board member of trueGold.

He has commercialized technology out of the Ministry of Defense in Israel as well as in the private sector. Haggai Alon held several roles during his time at the Ministry of Defense and was the CEO of an economic consulting firm focusing on M&A. He has a masters degree out of Tel Aviv and Haifa Universities in international relations and political science and will soon complete his Ph.D.

Out of a total of 27 patent families filed in the name of SMX, Haggai Alon is a named inventor on 26 of them. Most of the applications that are part of these patent families are under examination, many are still unpublished. In 7 families of the 26 families Haggai Alon is a named inventor, the patents have been issued in a variety of jurisdictions. Presently, Haggai Alon is a named inventor on 19 patents, all of which are in the public domain.

He has also published a white paper - New Plastic Economic Order: To regulate the entire value chain, not just the product, which calls for a transition to a new regulatory approach by the EU over plastics.

(ii) Everardus (Ed) Hofland - Executive Chairman

Ed Hofland is a business leader that has brought in multi-million dollar investments to the Arava Desert region of Israel. He serves on the board of ASX: SMX since going public in 2018 as a non-executive chairman of the board.

Ed Hofland is the chairman of leading industry, technology and agriculture companies in Israel, such as:

- (A) Chairman of Arava Power Company, Israel's leading solar power company;
- (B) Chairman of Algatech, micro-algae producer that markets its products worldwide, including Japan, India, New Zealand and Europe; and
- (C) Chairman and CEO of Ardag Fish Farm that produces fish and caviar.

(iii) Jovanka Naumoska - Non-executive director

Jovanka Naumoska is a corporate lawyer with ASX board-level experience.

Jovanka Naumoska has served as senior corporate lawyer specialising in intellectual property for 20 years, and currently works as a corporate counsel for an Australian government research agency, holding the position of Senior Commercial & Strategic Projects Counsel at such agency.

Jovanka Naumoska holds Bachelor of Science (Hons) and Bachelor of Law (Hons) degrees and a Graduate Diploma of Legal Practice from the University of Wollongong. Jovanka Naumoska also holds a Graduate Diploma in Applied Corporate Governance from the Governance Institute of Australia.

Ms Naumoska is currently a non-executive director of ASX-listed Imagion Biosystems Ltd, as well as non-executive director of the National Accreditation Authority for Translators and Interpreters.

(iv) Amir Bader - Non-executive director

Amir Bader brings to the Company extensive experience in the management of agricultural businesses.

Amir Bader is currently the manager of one of Israel's largest dairy farms, and has more than 24 years of experience at managerial positions in dairy farms and other agricultural projects in Israel and Europe.

Amir Bader also served as Kibbutz Degania A's business manager for five years, during that period he served as the board member of several subsidiaries and companies related to the Kibbutz.

(v) Kathryn Davies - Non-executive director

Ms Davies is an experienced executive across technology, mining, oil and gas and healthcare groups. She has significant international commercial and corporate experience having worked as a Director, Chief Financial Officer and/or Company Secretary for a number of ASX200 and dual-listed companies. Her experience includes negotiating and delivering on multi-jurisdiction transactions, international stakeholder management and cross-border long term contracts. She holds a Bachelor of Business, is a CPA and a graduate of the Australian Institute of Company Directors.

Ms Davies is currently an Executive Director of ASX listed Golden Rim Resources Ltd.

(b) Executive Team

As at the date of this Scheme Booklet, SMX's executive team is comprised of the following members:

Name	Current position
Haggai Alon	Executive Director / Chief Executive Officer
Limor Lotker	Chief Financial Officer

(i) Haggai Alon - Chief Executive Officer

Please see section 5.12(a)(i) above.

(ii) Limor Moshe Lotker, CPA - Chief Financial Officer

Limor Moshe Lotker, CPA, was appointed as Chief Financial Officer of SMX in 2021.

Ms. Lotker is a qualified Israel chartered public accountant with over 20 years' experience. She has previously held a financial leadership role in a company with global operations in the electronic industry.

Ms. Lotker is highly experienced in financial and operational aspects of the business controllership and leading finance and investing processes. She has vast experience with publicly traded companies.

(c) Employees

As at 10 August 2022, SMX has 28 employees, of which 26 full time employees and 2 part time employees located in Israel. SMX also has two employees in Australia and one in France.

None of SMX's employees are members of a union or subject to the terms of a collective bargaining agreement. In Israel, SMX is subject to certain Israeli labor laws, regulations and Labor Court precedent rulings, as well as certain provisions of collective bargaining agreements applicable to SMX by virtue of extension orders issued in accordance with relevant labor laws by the Israeli Ministry of Economy and Industry, and which apply such agreement provisions to SMX employees even though they are not part of a union that has signed a collective bargaining agreement.

All of SMX's employment and consulting agreements include standard non-compete and intellectual property assignment provisions, as well as strict confidentiality obligations. The enforceability of non-compete provisions may be limited by Israeli law.

SMX has a diversity policy in effect, last updated and approved by the board on 7 February 2021, according to which the Company is committed to gender diversity across its Board of Directors, senior management team and across its entire workforce.

5.13 Relevant Interests in SMX held by SMX Directors

As at the Last Practicable Date, the SMX Directors held the following Relevant Interests in SMX securities.

Name	SMX Shares	SMX Options
Haggai Alon	5,135,949 SMX Shares ¹	500,000 SMX Options 5,000,000 Legacy Performance Options ²
Everardus (Ed) Hofland	Nil	167,000 SMX Options 5,000,000 Legacy Performance Options ²
Amir Bader	324,135 SMX Shares	Nil
Kathryn Davies	174,728 SMX Shares	Nil
Jovanka Naumoska	89,370 SMX Shares	Nil

Notes:

¹Held by a related party of Haggai Alon, being Benguy Escrow Company Ltd.

²Legacy Performance Options were issued indirectly to Haggai Alon (through Benguy Escrow Company Ltd) and Everardus (Ed) Hofland at the time of the IPO of Security Matters Limited. The Legacy Performance Options held by or on behalf of Haggai Alon and Everardus (Ed) Hofland were cancelled on or around 15 August 2022. The cancellation of the Legacy Performance Options is conditional on the Schemes, Capital Reduction and Business Combination being implemented.

5.14 Legal proceedings

From time to time, SMX may become involved in legal proceedings or may be subject to claims arising in the ordinary course of our business. As at the date of this Scheme Booklet, so far as the Directors of SMX are aware, there is no current or threatened civil litigation, arbitration proceedings or administrative appeals, or criminal or governmental prosecutions of a material nature in which the Company is directly or indirectly concerned which is likely to have a material adverse impact on the business or financial position of the Company.

5.15 SMX historical financial information

(a) Introduction

This Section contains the historical financial information for SMX (**SMX Historical Financial Information**) comprising:

- (i) the historical consolidated statements of profit or loss and other comprehensive income for the years ended 31 December 2020 and 31 December 2021 and for the half year ended 30 June 2022;
- (ii) the historical consolidated statements of financial position as at 31 December 2020 and 31 December 2021 and as at 30 June 2022; and
- (iii) the historical consolidated statements of cash flows for the years ended 31 December 2020 and 31 December 2021 and for the half year ended 30 June 2022.

(b) Basis of Preparation

The SMX Historical Financial Information set out in this Section is prepared for the purposes of this Scheme Booklet and its preparation and presentation is the responsibility of the SMX Board.

The SMX Historical Financial Information as at and for the years ended 31 December 2020, 31 December 2021 and for the half year ended 30 June 2022 and has been derived from SMX's financial statements for the respective periods which were audited or reviewed by BDO Audit Pty Ltd in accordance with Australian Auditing Standards. BDO Audit Pty Ltd issued unqualified audit opinions on the 31 December 2020 and 31 December 2021 financial statements and an unqualified review opinion on the 30 June 2022 half year financial accounts.

The SMX Historical Financial Information is presented in an abbreviated form and does not contain all the disclosure, presentation, statement or comparatives that are usually provided in an annual financial report prepared in accordance with the Corporations Act and IFRS. The SMX Historical Financial Information should be read in conjunction with the full financial statements of SMX, for the respective periods, including a description of the accounting policies contained in the financial statements and notes to those financial statements.

Full financial statements for SMX for the years ended 31 December 2020, 31 December 2021 and for the half year ended 30 June 2022, were lodged with ASX and are available free of charge at <http://www.asx.com.au/> under ASX code 'SMX' or from SMX's website (www.smx.tech).

The SMX Historical Financial Information has been prepared in accordance with the recognition and measurement principles contained in AAS, issued by the Australian Accounting Standards Board (AASB) which are consistent with International Financial Reporting Standards (IFRS).

The significant accounting policies adopted by SMX in the preparation of the SMX Historical Financial Information are consistent with those disclosed in SMX's financial statements for the respective periods.

(c) SMX Historical Consolidated Profit or Loss and Other Comprehensive Income Statement

Set out below are the audited consolidated financial results of SMX for the years ended 31 December 2020 and 2021.

	US\$ <u>31 Dec 2021</u>	US\$ <u>31 Dec 2020</u>
Revenue	--	13,447
Cost of sales	--	(10,324)
Gross profit	--	3,123
Research and development expenses	(2,038,916)	(1,689,266)
Selling and marketing expenses	(453,330)	(427,530)
General and administrative expenses	(2,481,740)	(3,894,142)
Operating Loss	(4,973,986)	(6,007,815)
Finance expenses	(101,082)	(79,132)
Finance income	237,842	66,276
Share of net loss of Joint Ventures	(101,660)	(344)
Loss before income tax	(4,938,886)	(6,021,015)
Income tax	--	--
Loss after income tax for the year attributable to the owners of Security Matters Limited	(4,938,886)	(6,021,015)
Other comprehensive income, net of tax		
<i>Items that may be reclassified subsequently to profit or loss</i>		
Foreign currency translation	(51,561)	388,330

**Total comprehensive income for the year
attributable to the owners of Security Matters
Limited**

(4,990,447)

(5,632,685)

Set out below are the unaudited consolidated financial results of SMX for the half years ended 30 June 2021 and 2022.

	30 June 2022	30 June 2021
	US\$	US\$
Research and development expenses	(932,920)	(885,035)
Selling and marketing expenses	(377,755)	(197,342)
General and administrative expenses	(1,200,520)	(1,337,836)
Operating Loss	(2,511,195)	(2,420,213)
Finance expenses	(36,149)	(5,305)
Finance income	104,991	45,521
Loss before income tax	(2,442,353)	(2,379,997)
Income tax	-	-
Loss after income tax for the period attributable to owners of Security Matters Limited	(2,442,353)	(2,379,997)
Other comprehensive income, net of tax <i>Items that may be reclassified subsequently to profit or loss</i>		
Foreign currency translation	(638,909)	(178,740)
Comprehensive income for the period attributable to the owners of Security Matters Limited	(3,081,262)	(2,558,737)

(d) Management discussion and analysis of financial performance

Please refer to the commentary provided within the Directors' Reports contained within the 31 December 2020 and 2021 Annual Reports and the 30 June 2022 half year report.

(e) SMX Historical Consolidated Statement of Financial Position

Set out below are the audited consolidated statements of financial position of SMX as at 31 December 2020 and 2021.

	US\$ 31 Dec 2021	US\$ 31 Dec 2020
<u>Current Assets</u>		
Cash at bank	4,171,125	4,340,733
Trade receivables	--	6,346
Other receivables	920,506	438,605
Total current assets	5,091,631	4,785,684
<u>Non-current assets</u>		
Property and equipment	1,191,965	950,991
Intangible assets	3,908,289	2,100,807
Investment in joint venture	146,612	248,272
Total non-current assets	5,246,866	3,300,070
Total assets	10,338,497	8,085,754
<u>Current Liabilities</u>		
Trade payables	916,522	515,041

Lease liability	37,553	52,650
Other payables	672,877	553,252
Borrowings from related parties	269,311	279,939
Total current liabilities	1,896,263	1,400,882
<u>Non-Current Liabilities</u>		
Lease liability	465,812	485,155
Provisions	--	--
Other Liabilities	84,858	88,990
Total non-current liabilities	550,670	574,145
Total liabilities	2,446,933	1,975,027
Net Assets	7,891,564	6,110,727
<u>Equity</u>		
Issued capital	28,221,177	21,880,805
Share based payment reserve	4,730,781	4,299,869
Foreign currency translation reserve	223,026	274,587
Accumulated losses	(25,283,420)	(20,344,534)
Total Equity	7,891,564	6,110,727

Set out below is the reviewed consolidated statement of financial position of SMX as at 30 June 2022 with the audited consolidated statement of financial position as at 31 December 2021 shown alongside for comparative purposes.

	30 June 2022	31 December 2021
	US\$	US\$
<u>Current Assets</u>		
Cash and Cash Equivalents	858,259	4,171,125
POC receivables	1,039,344	116,051
Other receivables	1,416,031	804,455
Total Current Assets	3,313,634	5,091,631
<u>Non-Current Assets</u>		
Property and equipment, Net	1,082,009	1,191,965
Intangible assets	4,855,749	3,908,289
Investment in joint venture	116,679	146,612
Total Non-Current Assets	6,054,437	5,246,866
Total Assets	9,368,071	10,338,497
<u>Current Liabilities</u>		
Trade payables	1,615,376	916,522
Lease liability	28,460	37,553
Other payables	676,353	672,877
Convertible Notes	569,228	-
Borrowings from related parties	164,954	269,311

Total Current Liabilities	3,054,371	1,896,263
<u>Non-Current Liabilities</u>		
Other Liabilities	105,765	84,858
Lease liability	457,664	465,812
Total Non-Current Liabilities	563,429	550,670
Total Liabilities	3,617,800	2,446,933
Net Assets	5,750,271	7,891,564
<u>Equity</u>		
Issued capital and additional paid in capital	28,736,631	28,221,177
Share based payment reserve	3,708,025	3,283,510
Foreign currency translation reserve	(415,883)	223,026
Accumulated losses	(26,278,502)	(23,836,149)
Total Equity	5,750,271	7,891,564

(f) **SMX Historical Consolidated Statement of Cash Flows**

Set out below are the audited consolidated statements of cashflows of SMX for the years ended 31 December 2020 and 2021.

	US\$	US\$
	31 Dec 2021	31 Dec 2020
<u>Cash flows from operating activities:</u>		
Loss before tax for the year	(4,938,886)	(6,021,015)
Share based compensation	430,912	1,965,605
(Increase)/decrease in other trade receivables	6,346	(6,346)
Increase in Trade receivables	(481,901)	(156,035)
Depreciation and amortization	314,655	219,205
Increase in trade payables	401,481	322,728
Increase in other payables	119,625	149,687
Decrease in provision	--	(6,553)
(Decrease) in other liabilities	(4,132)	(14,992)
Provision of borrowing to related parties	89,337	--
Share in the losses of joint venture, net	101,660	344
Net cash flow used in operating activities	(3,960,903)	(3,547,372)
<u>Cash flows from investing activities:</u>		
Purchase of property, plant and equipment	(297,475)	(234,913)
Purchase of intangible assets	(1,468,310)	(722,038)

Net cash flow used in investing activities	(1,765,785)	(956,951)
<u>Cash flows from financing activities:</u>		
Payments of borrowings to related parties	(103,532)	(144,259)
Payment of principal portion of lease liabilities	(50,964)	16,765
Proceeds from issuance of shares, net	6,340,372	6,857,348
Net cash flow from financing activities	6,185,876	6,729,854
Increase/ (Decrease)/ in cash and cash equivalents	459,188	2,225,531
Cash and cash equivalents at beginning of year	4,340,733	1,707,768
Exchange rate differences (including translation)	(628,796)	407,434
Cash and cash equivalents at end of year	4,171,125	4,340,733

Set out below are the reviewed consolidated statements of cashflows of SMX for the half years ended 30 June 2021 and 2022.

	30 June 2022	30 June 2021
	US\$	US\$
<u>Cash flows from operating activities:</u>		
Loss for the period	(2,442,353)	(2,379,997)
Share based compensation	164,833	256,482
Depreciation and amortization	175,941	138,457
Increase in other receivables	(616,941)	(221,562)
(Increase) / Decrease in Trade receivables	(1,110,431)	(109,705)
(Decrease) / Increase in trade payables	831,469	(59,597)
(Decrease) / Increase in other payables	110,488	(49,744)
Decrease in lease liability	38,127	(33,110)
(Decrease) / Increase in other liabilities	32,476	(340)
Provision of borrowing to related parties	(89,374)	-
Issuance of shares for directors	53,712	23,244
Cash used in operating activities	(2,852,053)	(2,435,872)
<u>Cash flows from investing activities:</u>		
Purchase of property, plant and equipment	(183,206)	(90,803)
Purchase of intangible assets and capitalized development cost	(782,833)	(810,564)
Cash used in investing activities	(966,039)	(901,367)
<u>Cash flows from financing activities:</u>		
Proceeds from issuance of shares, net	-	4,110,185
Exercise of options	-	328,638
Proceeds from issuance of Convertible Notes	580,821	-

Cash provided from financing activities	580,821	4,438,823
Increase (decrease) in cash and cash equivalents	(3,237,271)	1,101,584
Cash and cash equivalents at beginning of period	4,171,125	4,340,733
Exchange rate differences on cash and cash equivalent	(75,595)	(182,605)
Cash and cash equivalents at end of period	858,259	5,259,712

5.16 Material changes in SMX's financial position since 30 June 2022

The last financial statements presented to SMX Shareholders in a general meeting, in accordance with section 314 or 317 of the Corporations Act, were the audited financial statements for the year ended 31 December 2021 as lodged with ASX on 28 March 2022.

Reviewed financial statements for the half year ended 30 June 2022 were lodged with ASX on 7 September 2022.

Since completion of its last financial statements for the half year ended 30 June 2022, the following material changes have occurred:

- (a) On July 26, 2022, the Company and Lionheart III Corp ("Lionheart"), a publicly traded special purpose acquisition company (SPAC), entered into a business combination agreement ("BCA") and accompanying scheme implementation deed ("SID") pursuant to which the Company will list on NASDAQ via a newly-formed Irish company to be named "SMX Public Limited Company." Under the BCA, a wholly-owned subsidiary of Empatan will merge with and into Lionheart, with Lionheart surviving the merger as a wholly-owned subsidiary of Empatan, and existing Lionheart stockholders receiving Empatan Shares and warrants in exchange for their existing Lionheart Shares and Lionheart Warrants. Under the SID, the Company has agreed to propose a scheme of arrangement under Part 5.1 of the Australian Corporations Act and capital reduction which will result in all shares in the Company being cancelled in return for the issuance of Empatan shares to existing SMX Shareholders, with the Company then issuing one share to Empatan (resulting in the Company becoming a wholly-owned subsidiary of Empatan), subject to the satisfaction of various closing conditions, including: receipt of required regulatory approvals, the approval of shareholders of both the Company and Lionheart, no material adverse effect, prescribed events or breaches of representations and warranties, interdependence of the SID and BCA completing successfully and other customary conditions to a scheme of arrangement, such as Australian court approval and an independent expert confirming that the transaction is in the best interests of the Company's shareholders.
- (b) In August 2022, the Company has fully repaid the related parties' loan. In addition, the Company signed an addendum to the Loan agreement that reduces the amount of the Bonus payment for both lenders to a total fixed amount of ILS 2.5 million (\$770 thousand), that will be paid upon the completion of the Business Combination. If the Business Combination will not be completed, the terms of the Bonus payment will return as were prior to the recent signed addendum.
- (c) On July 23, 2022 the conversion rights of the convertible note were amended which altered the conversion terms of the notes and set a fixed number of shares. The classification as liability at reporting date will change to equity at conversion date.
- (d) On August 24, 2022, SMX and Empatan entered into a binding term sheet with a private investor who has agreed to lend the Company and Empatan US\$1,000,000, for 10% interest per annum (paid quarterly in arrears), 50% of the loan to be repaid on August 26, 2023 and 50% on the earlier of (i) August 26, 2024, and (ii) a "change of control" event, but does not include the Business Combination). It has also been agreed that the investor will receive

warrants to subscribe for Empatan Shares and a first priority security interest in the shares of the Company in trueGold.

- (e) In August 2022, the Company entered a Standby Facility to raise up to \$ 1.4 million (AU\$ 2 million), for the period until October 31, 2022. Under the Agreement, SMX retains full control of the subscription process, with the discretion as to whether to request share placements, the timing of the share placements and the maximum number of shares to be requested to be issued under each placement; the purchase price per Share is of 91.5% of the of the volume weighted average price of Shares during the relevant Valuation Period with a floor price of A\$0.17.
- (f) Since 30 June 2022, additional Bridge Loans were taken out by the Company, as described in section 5.20 below.
- (g) SMX successfully completed an industrial scale readiness trial in a facility marking recycled plastics, which will help SMX customers to identify evidence of 30% recycled plastic and the number of loops counts the plastic has gone through, making it easier and potentially cheaper [for manufacturers/recyclers] to comply with plastic packaging legislation.
- (h) SMX expands its North American presence by joining NextCycle Michigan, an initiative aimed at transforming the recycling practices for one of the world's biggest automotive industrial regions.
- (i) SMX targeted the superfood industry after successfully developing the first product ensuring the provenance of oysters, providing an opportunity to add value in this large international market within the superfood industry.

Financial

Since its last audited financial statements for the year ended 31 December 2021, the following material changes have occurred:

- (a) The total amount of invoices issued in H1 2022 reached to US\$1,020,491.
- (b) The remuneration paid to the Directors during the half year to 30 June was US\$71,270.

The Company has also produced, and disclosed to the market, its most recent financial results, in the form of a 4C statement. The 4C can be located here: https://cdn-api.markitdigital.com/apiman-gateway/ASX/asx-research/1.0/file/2924-02591489-3A606089?access_token=83ff96335c2d45a094df02a206a39ff4

Other than the items discussed above and disclosed in this Scheme Booklet, to the knowledge of the SMX Directors at the date of this Scheme Booklet and as detailed in the consolidated financial statements for the half year ended 30 June 2022, the financial position of SMX has not materially changed since 30 June 2022, being the date of the SMX financial report for the half year ended 30 June 2022 (released to the ASX on 7 September 2022).

5.17 SMX securities on issue

(a) SMX Shares

As at the Last Practicable Date, SMX has a total of 167,854,581 ordinary shares on issue, held by approximately 850 SMX Shareholders.

(b) Twenty largest quoted equity security holders

As at the Last Practicable Date, the names of the twenty largest holders of SMX's quoted securities were:

Ordinary Shares		
Shareholder	Number held	% of issued shares
HSBC CUSTODY NOMINEES (AUSTRALIA) LIMITED - A/C 2	21,531,752	12.828%
IBI TRUST MANAGEMENT <ENERGY	17,804,623	10.607%

KETURA COOP A/C>		
IBI TRUST MANAGEMENT <DEGANIA A BUSINESS A/C>	10,374,617	6.181%
CITICORP NOMINEES PTY LIMITED	8,896,663	5.300%
HSBC CUSTODY NOMINEES (AUSTRALIA) LIMITED	6,997,140	4.169%
BNP PARIBAS NOMS PTY LTD <DRP>	6,594,710	3.929%
J P MORGAN NOMINEES AUSTRALIA PTY LIMITED	5,986,168	3.566%
IBI TRUST MANAGEMENT <BENGUY ESCROW CO LTD A/C>	5,135,949	3.060%
IBI TRUST MANAGEMENT <MENACHEM ELIYAHU HARAM A/C>	3,766,362	2.244%
IBI TRUST MANAGEMENT <PINI MEIDAN A/C>	3,766,362	2.244%
IBI TRUST MANAGEMENT <AARON LEV A/C>	3,423,966	2.040%
CAPE BOUVARD EQUITIES PTY LTD	3,350,000	1.996%
DAVFT PTY LTD <DAVENPORT FAMILY A/C>	2,972,270	1.771%
JAMPLAT PTY LTD	2,900,000	1.728%
IBI TRUST MANAGEMENT <KIBBUTZ KEFAR GLIKSON A/C>	2,655,530	1.582%
INVIA CUSTODIAN PTY	2,609,805	1.555%

LIMITED <HAROLD CHARLES MITCHELL A/C>		
IBI TRUST MANAGEMENT <KIBBUTZ MAGEN ACS A/C>	2,124,815	1.266%
IBI TRUST MANAGEMENT <KIBBUTZ YIZRAEL HOLDINGS A/C>	2,124,815	1.266%
RENTUK SHORE PTY LTD	2,026,316	1.207%
IBI TRUST MANAGEMENT <KIBBUTZ KETURA ACS A/C>	1,765,788	1.052%
Total	116,807,651	69.59%

(c) **SMX Options**

As at the Last Practicable Date, SMX has on issue at total of 32,422,957 unlisted options in the following tranches (**SMX Options**):

ASX code	Exercise Price (\$)	Expiry Date	Number of options
SMXAAK	\$0.20	1-Jun-25	2,500,000
SMXAT	\$0.20	14-Oct-23	1,698,829
SMXAAY	\$0.28	18-Jan-25	300,000
SMXAO	\$0.310	5-Jun-24	125,000
SMXAAT	\$0.35	10-Dec-23	1,150,000
SMXAK	\$0.36	25-Oct-25	100,000
SMXAZ	\$0.39	28-Jan-25	150,000
SMXAAZ	\$0.40	25-Mar-27	8,000,001
SMXAAW	\$0.50	31-Dec-24	100,000
SMXAA	\$0.60	9-Jul-24	1,000,000
SMXAAC	\$0.60	27-Nov-23	1,000,000
SMXAAG	\$0.60	4-Jan-24	500,000
SMXAAJ	\$0.60	27-Nov-23	500,000
SMXAP	\$0.60	12-Mar-23	4,926,466
SMXAQ	\$0.60	25-Mar-23	1,391,255
SMXAR	\$0.60	29-May-23	3,250,000
SMXAU	\$0.60	23-Nov-23	3,089,591
SMXAAE	\$0.70	29-Dec-23	1,341,815
SMXAAI	\$0.70	4-Jan-24	1,000,000
Total			32,122,957

Under the terms of the Scheme Implementation Deed, SMX must propose the Option Scheme, as a creditors' scheme of arrangement, to be conducted concurrently with the Scheme under which:

- (i) all of the Scheme Options will be deemed to have been exercised on the basis of a Cashless Exercise without any further act by any Option Scheme Participant (other than acts performed as attorney and agent for Option Scheme Participants under the Option Scheme); and
- (ii) all of the SMX Shares issued to each Option Scheme Participant as Option Exercise Shares will be cancelled in accordance with the Capital Reduction Resolution without any further act by any Option Scheme Participant (other than acts performed as agent of attorney for Option Scheme Participants under the Option Scheme) in

consideration for the issue of the Scheme Consideration in accordance with the Scheme.

Please see Section 12 of this Scheme Booklet for further details.

(d) SMX Convertible Notes

As at the Last Practicable Date, SMX has a total of A\$828,240 of SMX Convertible Notes on issue, held by approximately 2 SMX Convertible Noteholders.

Under the terms of the Scheme Implementation Deed, SMX must use reasonable best efforts to procure that as soon as reasonably practicable, and in any event within 10 Business Days after the date of the Scheme Implementation Deed, each holder of SMX Convertible Notes has entered into the SMX Convertible Note Amendment Agreement with SMX.

Each of the Convertible Noteholders have entered into an agreement to cancel their Convertible Notes with effect on and from the earlier of the maturity date and the Business Day after the Scheme becomes Effective in consideration for the issue of a total of 1,000,000 SMX Shares. The offers are conditional on:

- (i) the ASX granting Security Matters such waivers of the ASX Listing Rules as Security Matters considers necessary in order to give effect to the treatment of the Convertible Notes; and
- (ii) the Scheme becoming Effective.

SMX Convertible Noteholders will then be eligible to participate in the Scheme.

Please see Section 11 of this Scheme Booklet for further details.

(e) Employee, service provider and founder options

As at the Last Practicable Date, SMX has a total of 13,050,114 options issued under employee incentive programs of the SMX Group (**SMX ESOP Options**).

As a condition under the Scheme Implementation Deed, SMX and each holder of SMX ESOP Options (**SMX ESOP Optionholders**) must enter into option cancellation agreements in respect of the SMX ESOP Options.

Each of the SMX ESOP Optionholders have entered into an agreement to cancel their SMX ESOP Options in consideration for 1 new option in Empatan (**New ESOP Options**) as outlined in the table below. The New ESOP Options will be issued on fundamentally the same terms as the SMX ESOP Options, except for a change in the exercise price, which reflects the uplift in price associated with the Schemes.

ASX code	Grant date	Exercise price (\$A)	New exercise price (\$US)	Expiry date	No. of options
SMXAAY	17-Aug-22	\$0.12	US\$0.88	16-Aug-27	150,000
SMXABI	25-Aug-22	\$0.19	US\$1.43	24-Aug-27	250,000
SMXAAA	1-Jan-20	\$0.36	US\$2.61	31-Dec-24	25,000
SMXAAB	27-May-19	\$0.31	US\$2.26	28-Jan-24	600,000
SMXAAN	22-Mar-21	\$0.36	US\$2.60	22-Mar-26	250,000
SMXAAN	22-Mar-21	\$0.36	US\$2.60	22-Mar-26	250,000
SMXAAO	18-Jul-21	\$0.35	US\$2.56	18-Jul-26	150,000
SMXAAO	18-Jul-21	\$0.35	US\$2.56	18-Jul-26	600,000
SMXAAP	15-Aug-21	\$0.70	US\$5.11	15-Aug-26	167,000
SMXAAP	15-Aug-21	\$0.70	US\$5.11	15-Aug-26	500,000
SMXAAQ	27-Sep-21	\$0.35	US\$2.57	27-Sep-26	100,000
SMXAAR	27-Sep-21	\$0.70	US\$5.11	27-Sep-26	50,000
SMXAAV	1-Jun-21	\$0.35	US\$2.57	1-Jun-26	200,000
SMXAAX	21-Jan-22	\$0.70	US\$5.11	21-Jan-27	100,000

SMXAAY	18-Jan-22	\$0.28	US\$2.05	18-Jan-25	300,000
SMXABA	25-Mar-22	\$0.70	US\$5.11	25-Mar-27	100,000
SMXABB	25-Mar-22	\$0.26	US\$1.90	25-Mar-27	500,000
SMXABD	27-Jun-22	\$0.20	US\$1.46	25-Jun-27	200,000
SMXABE	30-Jun-22	\$0.70	US\$5.11	29-Jun-27	500,000
SMXABF	27-Jun-22	\$0.20	US\$1.46	25-Jun-27	250,000
SMXABG	24-Jul-22	\$0.12	US\$0.88	24-Jul-27	200,000
SMXAE	31-Mar-20	\$0.34	US\$2.48	26-Mar-25	125,000
SMXAE	31-Mar-20	\$0.34	US\$2.48	26-Mar-25	125,000
SMXAE	31-Mar-20	\$0.34	US\$2.48	26-Mar-25	150,000
SMXAF	31-Mar-20	\$0.60	US\$4.38	26-Mar-25	100,000
SMXAS	11-Jan-18	\$0.20	US\$1.46	1-Sep-23	773,366
SMXAS	18-Jun-17	\$0.20	US\$1.46	1-Sep-23	829,507
SMXAS	4-Apr-17	\$0.20	US\$1.46	1-Sep-23	945,226
SMXAS	15-Mar-18	\$0.20	US\$1.46	1-Sep-23	975,586
SMXAT	8-Oct-18	\$0.20	US\$1.46	14-Oct-23	1,610,365
SMXAT	8-Oct-18	\$0.20	US\$1.46	14-Oct-23	1,974,064
Total ESOP Options					13,050,114

In relation to the cancellation of the SMX ESOP Options, ASX has provided a waiver from compliance with Listing Rule 6.23.2 and Listing Rule 6.23.4, which would ordinarily prevent options from being cancelled for consideration without SMX obtaining the approval of its shareholders in a general meeting.

5.18 Legacy Performance Options

SMX has on issue the following Legacy Performance Options which were granted at the time of the SMX IPO in October 2018:

- (a) 5,000,000 issued by SMX to a related party of Haggai Alon, being Benguy Escrow Company Ltd; and
- (b) 5,000,000 issued by SMX to a related party of Everardus (Ed) Hofland, being Kibbutz Ketura ACS Ltd.

(together, the **Legacy Performance Optionholders**)

SMX and each Legacy Optionholders and Empatan have agreed to cancel the Legacy Performance Options held by each of the Legacy Performance Optionholders, subject to the Scheme becoming Effective, in consideration for nominal consideration of A\$10.00 in total to each of the two Legacy Performance Optionholders.

As the consideration for the cancellation of the Legacy Performance Options is significantly nominal, being approximately \$0.000002 per Legacy Performance Option, on 3 January 2023 the ASX granted to SMX relief by way of waivers from compliance with Listing Rule 6.23.2, which would ordinarily prevent options from being cancelled for consideration without SMX obtaining the approval of its shareholders in a general meeting.

5.19 Related party transactions

(a) Kamea Loan

In 2015, Security Matters Ltd. (**Security Matters Israel**) (a wholly owned subsidiary of SMX) signed an agreement to receive a loan of ILS 2 Million (US\$512,558 at 2015) from Kibbutz Ketura, an entity associated with Mr. Hofland, and Kibbutz Degania A, an entity associated with Mr. Bader on back-to-back terms from a third party (the **Kamea Loan**).

The Kamea Loan bears an interest at an annual rate of 4%. The Kamea Loan was fully repaid in August 2022. The balance as of 31 December 2021 was US\$269,311 (including provision for bonus at the amount US\$87,311), as of December 31, 2020 was US\$279,939 and as of 31 December 2019 was US\$405,093. The balance includes interest and there was no change in the interest rate.

In consideration with providing the funding, Security Matters Israel agreed to provide, as additional consideration, a bonus payment on the occurrence of an exit or major liquidity event. The bonus payment is capped at ILS 3 Million (approximately US\$965,000) per each of Kibbutz Ketura and Kibbutz Degania A (together, the **Bonus Payments**). The Bonus Payments are intended to operate in one of the two trigger events:

- (i) dividend distributions by Security Matters Israel; or
- (ii) the sale of shares by either Kibbutz Ketura and Kibbutz Degania A in Security Matters Israel (either in the event of a takeover or otherwise).

Only if the aggregate amounts of one of the two trigger events exceeds the investment of Kibbutz Ketura and Kibbutz Degania A in Security Matters Israel (by loan or shares), the either party would be entitled to the Bonus Payment.

In August 2022, the Company has fully paid the Kamea loan. In addition, the Company signed an addendum to the loan agreement that reduces the total amount of the Bonus payment to ILS 2.5 million (~US\$770,000), that will be paid upon the completion of the Business Combination. If the Business Combination will not be completed, the terms of the Bonus payment will return as were prior to the recent signed addendum.

(b) **Administrative services agreement**

Additionally, Kibbutz Ketura provides administrative services that include IT support and booking for Security Matters Israel for which it was paid US\$39,225 in 2021, US\$57,944 in 2020 and US\$41,372 in 2019. Until 2020, Security Matters Israel's lab was located in Kibbutz Ketura.

(c) **Proof of concept projects paid by affiliated companies**

SMX is engaged in proof of concept (**POC**) agreements according to which it receives funds for financing research and development expenses from prospective customers and affiliated companies. Affiliated companies of SMX paid for reimbursement of POC projects the amount of US\$695,000 in 2021 and US\$98,000 in 2020.

5.20 Bridge Loan

On 24 August 2022, SMX and Empatan entered into a binding term sheet with a private investor who agreed to lend SMX and Empatan US\$1,000,000. The key terms of the term sheet are:

- (a) interest is 10% per annum (paid quarterly in arrears);
- (b) repayment of 50% of the loan is to be repaid, with interest, within 12 months of execution of the term sheet;
- (c) repayment of the balance of the loan is to be repaid, with interest, on or before:
 - (i) 24 months of execution of the term sheet; or
 - (ii) a "change of control" event, which is defined to exclude the closing of the Business Combination.
- (d) The lender will also receive a first priority security interest in the shares owned by SMX in the capital of trueGold.

The Bridge Loan lender is Journee Investments Limited (**Bridge Loan Lender**). The Bridge Loan Lender will also receive 200,000 redeemable warrants in Empatan and 50,000 bonus warrants. The warrants will have a 5-year term and an exercise price of US\$11.50. The investor has the right to redeem 50% of the warrants held within 3 months of the implementation of the Schemes for US\$5 each and a further 25% on both the third and fourth anniversary of the implementation of the Schemes for US\$5 each.

Between 24 August 2022 and the Scheme Booklet date, SMX has raised, further funding on the same or similar terms as above, totalling \$2,760,000USD, with pro-rata number of redeemable and bonus warrants issued in Empatan.

The lenders, warrants and bonus warrants issued are as follows:

Date of Loan Agreement	Amount	Lender Name	Number of Warrants	Number of Bonus Warrants	Drawdown Has Occurred?

24.8.2022	\$1,000,000	Journey Investments Limited	200,000	50,000	Y
5.9.2022	\$500,000	Doron Afik	100,000	25,000	Y
14.11.2022	\$60,000	Amos Rabber	12,000	3,000	Y
14.11.2022	\$150,000	33 Capital Ltd	30,000	7,500	Y
19.12.2022	\$500,000	Boon Hui Khoo	100,000	25,000	N
20.12.2022	\$200,000	Mulloway Investments	40,000	10,000	N
20.12.2022	\$1,000,000	PMB Partners LP	200,000	50,000	Y
20.12.2022	\$100,000	Bassat Pension Fund	20,000	5,000	N
28.12.2022	\$100,000	M.h.m. Fasteners Ltd	20,000	5,000	N
29.12.2022	\$150,000	Harold Charles Mitchell Investment	30,000	7,500	Y
Total	\$3,760.000		752,000	188,000	

5.21 Standby Facility

In August 2022, SMX entered into a Standby Facility to raise up to US\$1,400,000 (A\$2,000,000) for the period until October 31, 2022.

Under the Standby Facility, SMX retained full control of the subscription process, with the discretion as to whether to request share placements, the timing of the share placements and the maximum number of shares to be requested to be issued under each placement; the purchase price per SMX share is of 91.5% of the of the volume weighted average price of SMX's shares during the relevant valuation period with a floor price of A\$0.17 (approximately US\$0.12). The facility was terminated at the end of October.

5.22 SMX dividend policy

The Corporations Act requires that dividends may be paid to shareholders from profits or other distributable amounts generated as well as compliance with surplus net assets and solvency conditions. SMX has not paid dividends to SMX Shareholders in recent years, nor are such dividends proposed in the immediate future.

5.23 Recent share performance

Set out below is a summary of the trading performance of SMX Shares on the ASX during the 3 months up to and including 3 January 2023, being the Last Practicable Date:

SMX Share price information	Price (in cents)
Last recorded price on ASX on the Last Practicable Date	15c
Last recorded price on ASX on 25 July, being the last trading day before the public announcement of the Scheme at 5.55AM on 26 July 2022	11c
Highest closing price during the 3 months ended 3 January 2023, being the Last Practicable Date	18c
Lowest closing price during the 3 months ended 3 January 2023, being the Last Practicable Date	13c

5.24 SMX Board's intentions

Subject to the Scheme becoming Effective, on the Scheme Implementation Date, as requested by Empatan, some of the current SMX Directors will resign as directors of SMX and the SMX Board will consist of some of the current SMX Directors and the Lionheart nominees, as discussed in Section 8.11(a). It will be for the Empatan Board, after the Scheme becoming Effective, to determine its intentions as to:

- (a) the continuation of the business of SMX;
- (b) any major changes to be made to the business of SMX; and
- (c) the future employment of the present employees of SMX.

For more information, please see Section 8 below.

If each of the Schemes and Capital Reduction are not implemented, the SMX Board intends to continue the business of SMX as it is now conducted.

5.25 Continuously disclosing entity

SMX is obliged to comply with the continuous disclosure requirements of ASX and the Corporations Act. SMX's Annual Report for the year ended 31 December 2021 was released to ASX on 28 March 2022.

A list of announcements made by SMX from the announcement of entry into the Scheme Implementation Deed to the Last Practicable Date is set out below:

#	Date	Description of announcement
1.	23 December 2022	Update on Merger with Lionheart- notice that application filed with Federal Court
2.	15 December 2022	Reinstatement to official quotation
3.	15 December 2022	Response to ASX Query Letter
4.	12 December 2022	Suspension from Official Quotation
5.	12 December 2022	Pause in Trading
6.	31 October 2022	Change of Registry Address
7.	31 October 2022	Quarterly Activities Report
8.	15 September 2022	Notification of cessation of securities
9.	8 September 2022	Lodgement of F-4 on SEC in relation to proposed scheme of arrangement
10.	7 September 2022	Reinstatement to official quotation

#	Date	Description of announcement
11.	7 September 2022	H1 FY22 Progress and Commercialisation Summary
12.	7 September 2022	Appendix 4D and Half Year Report
13.	30 Aug 2022	Voluntary suspension
14.	30 Aug 2022	Notification regarding unquoted securities - SMX
15.	24 Aug 2022 30 Aug 2022	Notification regarding unquoted securities - SMX Voluntary suspension
16.	24 Aug 2022 30 Aug 2022	Notification of cessation of securities - SMX Notification regarding unquoted securities - SMX
17.	22 Aug 2022 24 Aug 2022	SMX cuts deal to save 60% on loan Notification regarding unquoted securities - SMX
18.	18 Aug 2022 24 Aug 2022	Notice under section 708A of the Corporations Act Notification of cessation of securities - SMX
19.	18 Aug 2022 22 Aug 2022	Application for quotation of securities - SMX SMX cuts deal to save 60% on loan
20.	15 Aug 2022 18 Aug 2022	Notification regarding unquoted securities - SMX Notice under section 708A of the Corporations Act
21.	15 Aug 2022 18 Aug 2022	Change of Director's Interest Notice - Haggai Alon Application for quotation of securities - SMX
22.	15 Aug 2022 15 Aug 2022	Change of Director's Interest Notice - Ed Hofland Notification regarding unquoted securities - SMX
23.	15 Aug 2022 15 Aug 2022	Notification of cessation of securities - SMX Change of Director's Interest Notice - Haggai Alon

#	Date	Description of announcement
24.	12 Aug 2022 15 Aug 2022	Notice under section 708A of the Corporations Act Change of Director's Interest Notice - Ed Hofland
25.	12 Aug 2022 15 Aug 2022	Application for quotation of securities - SMX Notification of cessation of securities - SMX
26.	12 Aug 2022 12 Aug 2022	Proposed issue of securities - SMX Notice under section 708A of the Corporations Act
27.	12 Aug 2022 12 Aug 2022	SMX enters into Standby Equity Facility Application for quotation of securities - SMX
28.	8 Aug 2022 12 Aug 2022	Investor Presentation Update Proposed issue of securities - SMX
29.	29 Jul 2022 12 Aug 2022	Quarterly Activities/Appendix 4C Cash Flow Report SMX enters into Standby Equity Facility
30.	26 Jul 2022 28 Aug 2022	SMX Announces Merger With Lionheart III Corp Investor Presentation Update
31.	29 Jul 2022	Quarterly Activities/Appendix 4C Cash Flow Report
32.	26 Jul 2022	SMX Announces Merger With Lionheart III Corp
33.		

Copies of announcements made by SMX to ASX in the 12 months prior to the date of this Scheme Booklet are available at <https://www.asx.com.au/> under ASX Code 'SMX'.

In addition, SMX is also required to lodge various documents with ASIC. Copies of documents lodged with ASIC in relation to SMX may be obtained from, or inspected at, an ASIC office.

The following documents are available online at <https://smx.tech/home>:

- SMX's 2021 Annual Report (being SMX's annual financial report for the year ended 31 December 2021); and
- any continuous disclosure notice lodged by SMX with ASX between lodgement of SMX's 2021 Annual Report with ASX on 28 March 2022.

SMX will make copies of these documents available, free of charge, to SMX Shareholders and SMX Optionholders. Requests can be made by contacting the SMX Registry+ 61 2 9290 9655 between 9:00 am and 5:00 pm (AEST or AEDT, as the context requires), Monday to Friday.

5.26 Right to inspect and obtain copies of the SMX Register

SMX Shareholders and SMX Optionholders have the right to inspect the SMX Register, which contains the name and address of each SMX Shareholder and SMX Optionholder and certain other prescribed details relating to the SMX Shares and SMX Options, without charge. SMX Shareholders

and SMX Optionholders also have the right to request a copy of the relevant register, upon payment of a fee (if any) up to a prescribe amount.

Requests to access the SMX Register can be made by contacting the SMX Registry on + 61 2 9290 9655 between 9:00 am and 5:00 pm (AEST or AEDT, as the context requires), Monday to Friday.

6. Overview of Lionheart

6.1 Introduction

The following information should be read in conjunction with the full text of this Scheme Booklet. The information contained in this Section has been prepared by Lionheart. The information concerning Lionheart and the intentions, views and opinions contained in this Section are, to the extent permitted by law, the responsibility of Lionheart. SMX and its officers and advisers do not assume any responsibility for the accuracy or completeness of this information.

6.2 Overview of Lionheart

(a) Background

Lionheart is a blank cheque company, incorporated on 14 January 2021 as a Delaware corporation and formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganisation or similar business combination with one or more businesses.]

The business combination that Lionheart intends to undertake is:

- (i) the merger of Aryeh Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of Empatan, with and into Lionheart with Lionheart continuing as a wholly-owned subsidiary of Empatan;
- (ii) the Schemes, under which SMX will become a wholly-owned subsidiary of Empatan; and
- (iii) the listing of Empatan on NASDAQ (**NASDAQ Listing**),

together, the **Business Combination**.]

(b) Operations

Lionheart has neither engaged in any operations nor generated any revenue to date and therefore is a "shell company" as defined under the Securities Exchange Act of 1934 (Securities Exchange Act), because it has no operations and nominal assets consisting solely of cash and/or cash equivalents. Lionheart's management team has an extensive track record of acquiring attractive assets at disciplined valuations, investing in growth while fostering financial discipline and improving business results.]

Lionheart does not have any subsidiaries. Lionheart has never declared nor paid any cash dividends on its capital stock.

(c) Issued securities

Lionheart closed its initial public offering (IPO) on 8 November 2021, whereby 12,500,000 Lionheart Public Units, including 1,000,000 Public Units that were issued pursuant to the full exercise of the IPO underwriter's over-allotment option. Each Public Unit consists of one share of Class A Common Stock and one-half of one redeemable Public Warrant, each whole Public Warrant entitling the holder to purchase one share of Class A Common Stock at an exercise price of US\$11.50 per share. The Lionheart Public Units were sold at a price of US\$10.00 per Public Unit, generating gross proceeds to Lionheart of US\$125,000,000.

Lionheart, simultaneously to its IPO, also completed the private sale (**Private Placement**) of 2,000,000 warrants (**Private Warrants**) and 400,000 Lionheart Private Units in a private placement to its Sponsor and Nomura Securities International, Inc., Northland Securities, Inc. and Drexel Hamilton, LLC, the underwriters of the IPO (**Underwriters**), generating gross proceeds of US\$6,000,000. The Lionheart Private Units are identical to the Lionheart Public Units sold in the IPO. The Private Warrants are identical to the Public Warrants except that the Private Warrants and shares of Class A Common Stock issued on exercise of the warrants that are held by the Sponsor, the IPO underwriters or their respective permitted transferees may not be transferred, assigned or sold until 30 days after the completion of the Business Combination, they will not be redeemable by Lionheart, they may be exercised by the holders on a net share (cashless) basis, and they are subject to registration rights.

In January 2021 Lionheart's sponsor, Lionheart Equities, LLC (**Sponsor**), purchased an aggregate of 2,875,000 founder shares of Class B Common Stock (**Founder Shares**), for an aggregate purchase price of US\$25,000 or approximately \$0.009 per share.

(d) Deposit of IPO proceeds in trust account

On 8 November 2021, US\$126,250,000 of the gross proceeds from the IPO and the Private Placement, was deposited in a trust account established by Lionheart for the benefit of its stockholders (**Trust Account**) with Continental Stock Transfer & Trust Company acting as trustee (**Trustee**).

Funds held in the Trust Account have been invested only in U.S. government securities with a maturity of 185 days or less or in any open-ended investment company that holds itself out as a money market fund. Funds will be held in the Trust Account until the earliest of:

- (i) the completion of an initial business combination;
- (ii) a mandatory redemption of any Class A Common Stock if certain stockholder rights in Lionheart's second amended and restated certificate of incorporation are amended; and
- (iii) the 12 month anniversary of the IPO closing date (or up to 18 months if Lionheart elects to extend the period), if Lionheart does not complete an initial business combination by this date, subject to applicable law.

(e) Stockholder approval

Under Lionheart's Amended and Restated Certificate of Incorporation dated 3 November 2021 (**Lionheart Existing Charter**), the Business Combination requires certain Lionheart stockholder approvals including:

- (i) approval of the Business Combination itself; and
- (ii) approval of the Nasdaq Listing,

in each case by the holders of a majority of the Shares of Class A Common Stock and Class B Common Stock, voting as a single class. Lionheart intends to call a meeting of its stockholders to seek the necessary approvals.

6.3 Lionheart stockholder redemption rights

(a) Overview

Lionheart's Existing Charter requires Lionheart to provide all holders of shares of its Class A Common Stock (**Lionheart Shareholders**) with the opportunity to redeem all or a portion of their shares of Class A Common Stock upon the consummation of an initial business combination. Accordingly, if the Business Combination is approved by Lionheart's shareholders, the Public Shareholders may elect to redeem their shares of Class A Common Stock.

(b) Redemption rights for public stockholders

Lionheart's Public Stockholders will have the opportunity to redeem all or a portion of their shares of Class A Common Stock at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the Trust Account as of two business days prior to the Merger Effective Time including interest earned on the funds held in the Trust Fund and not previously released to Lionheart to pay its taxes, divided by the number of then outstanding shares of Class A Common Stock, subject to the limitations described below.

The amount in the Trust Account was initially US\$10.10 per share of Class A Commons Stock.

The Public Stockholders are not required to vote against the Business Combination in order to exercise their redemption rights. If the Business Combination is not completed, then Public Stockholders who elected to exercise their redemption rights will not be entitled to receive such payments.

A Public Stockholder, together with any affiliate of such holder or any other person with whom such holder is acting in concert or as a "group" (as defined in Section 13(d)(3) of the Exchange Act), will be restricted from seeking redemption rights with respect to more than 15% of Class A Common Stock without Lionheart's prior consent. Accordingly, all shares of Class A Common Stock in excess of 15% held by a Public Stockholder, together with any affiliate of such holder or any other person with whom such holder is acting in concert or as a "group," will not be redeemed for cash without Lionheart's prior consent.

Lionheart's Sponsor, officers, directors have agreed to waive their redemption rights with respect to any Founder Shares, shares of Class A Common Stock and Class B Common Stock held by them in connection with the completion of the Business Combination.

(c) Limitation on redemption rights

Notwithstanding paragraph 6.3(b), in limited circumstances Public Stockholders holding more than an aggregate of 15% of the shares of Class A Common Stock will not be entitled to redeem their shares of Class A Common Stock on completion of the Business Combination. However, these Public Stockholders will be entitled to vote all of their Class A Common Stock for or against the Business Combination.

(d) Stockholder vote on Business Combination

Lionheart has entered into an agreement with the Sponsor and each of its directors and officers pursuant to which, among other things, each such person has agreed to vote all shares of Lionheart common stock owned by it, him or her in favour of the Business Combination. However, Lionheart intends to waive such obligations of the Sponsor, its directors and/or its officers to vote their shares of common stock in favour of the Business Combination in respect of any shares purchased in open market transactions on NASDAQ. Nomura, Underwriter of Lionheart's IPO, has agreed to vote any shares of Lionheart's common stock held by them in favour of the Business Combination. However, Lionheart intends to waive such obligations of Nomura to vote their shares of common stock in favour of the Business Combination in respect of any shares purchased by Nomura in open market transactions on NASDAQ.

As a result, in addition to the shares of common stock held by Nomura, the Sponsor and its officers and directors, Lionheart may need only only 4,612,501, or 36.9% (assuming all outstanding shares are voted), or approximately 4.85% (assuming only the minimum number of shares representing a quorum are voted), of the Class A Common Stock to be voted in favour of the Business Combination in order to have the Business Combination approved.

(e) Permitted purchases of Lionheart shares of Class A Common Stock

In limited circumstances Lionheart's initial stockholders, directors, officers, advisors or their affiliates may purchase Class A Common Stock or Public Warrants in privately negotiated transactions or in the open market prior to completion of the Business Combination. There is no limit on the number of shares of Class A Common Stock or Public Warrants that may be purchased, subject to compliance with applicable law and Nasdaq rules. However, they have no current commitments, plans or intentions to engage in such transactions and have not formulated any terms or conditions for any such transactions.

(f) Redemption of Lionheart Shares if no business combination

Lionheart's second amended and restated certificate of incorporation provides that it will have only 12 months from the closing of the Public Offering (or up to 18 months if it extends the period of time to consummate its initial business combination) to complete an initial business combination. If Lionheart is unable to complete its initial business combination within such 18-month period, it will, among other things, cease all operations and redeem 100% of the Class A Common Stock, at a per-share price, payable in cash, equal to the aggregate amount then on deposit in the Trust Account including interest earned on the funds held in the Trust Account and not previously released to Lionheart to pay its taxes (less up to \$100,000 of interest to pay dissolution expenses), divided by the number of then outstanding Class A Common Stock.

Lionheart's Sponsor, officers and directors have agreed to waive their rights to liquidating distributions from the Trust Account with respect to any Founder Shares and shares of Class B Common Stock held by them if Lionheart fails to complete an initial business combination within 12 months from the closing of the Public Offering (or up to 18 months if Lionheart extends the period of time to consummate its initial business). However, if Lionheart's Sponsor, officers and directors acquire shares of Class A Common Stock at a later date, they will be entitled to liquidating distributions from the Trust Account with respect to such shares if Lionheart fails to complete our initial business combination within the allotted 18-month time period.

6.4 Lionheart's Board and executive officers

(a) Directors

(i) **Ophir Sternberg - Chairman of the Board of Directors, President and Chief Executive Officer**

Background

Ophir Sternberg, Lionheart's Chairman, President and Chief Executive Officer since inception, has over 28 years of experience acquiring, developing, repositioning and investing in all segments of the real estate industry, including office, industrial, retail, hospitality, ultra-luxury residential condominiums and land acquisitions. Mr. Sternberg is the founder and Chief Executive Officer of Miami-based Lionheart Capital, founded in 2010. Lionheart Capital is a Miami-based diversified investment firm focused on building shareholder value in high-growth companies.

Mr. Sternberg began his career assembling, acquiring and developing properties in emerging neighborhoods in New York City, which established his reputation for identifying assets with unrealized potential and combining innovative partnerships with efficient financing structures to realize above average returns. Mr. Sternberg came to the United States in 1993 after completing three years of military service within an elite combat unit for the Israeli Defense Forces.

Under Mr. Sternberg's leadership, Lionheart Capital executed numerous prominent real estate transactions and repositions, including The Ritz-Carlton Residences in Miami Beach, which resulted in a total sell-out value in excess of \$550 million, as well as purchase of the development's site, the former Miami Heart Institute. Additionally, Mr. Sternberg led the \$120 million sale of The Seagull Hotel, making it the highest grossing hotel sale of 2020 in Miami Beach. Mr. Sternberg and Lionheart Capital are currently in development on a number of other projects, including retail properties in Miami's fashion and culture epicenter, The Design District. In addition to The Ritz-Carlton Residences, Miami Beach, Lionheart Capital also developed The Ritz-Carlton Residences Singer Island, Palm Beach, cementing a reputation for developing high-end luxury branded properties.

In 2017, Mr. Sternberg founded Out of the Box Ventures, LLC, a Lionheart Capital subsidiary, to acquire and reposition distressed retail properties throughout the United States. With 19 properties in 14 states, Out of the Box Ventures currently controls over 5 million square feet of big box stores, shopping centers and enclosed regional mall properties with plans to improve and expand upon these acquisitions. Mr. Sternberg and Lionheart Capital are dedicated to working with best-in-class operators and partners such as Marriot International. Lionheart Capital has been able to execute numerous, marquee transactions due largely in part to Mr. Sternberg's extensive industry relationships particularly with key institutional investors.

In March 2020, Mr. Sternberg became Chairman of Nasdaq-listed OPES which on June 30, 2020, announced a definitive agreement to merge with BurgerFi International LLC. The OPES-BurgerFi merger closed on December 16, 2020 to form BurgerFi International Inc., or BurgerFi, a fast-causal "better burger" concept that consists of approximately 120 restaurants nationally and internationally. Mr. Sternberg is the Chairman of the post-combination Nasdaq-listed company, BurgerFi (NASDAQ: BFI). The OPES team, led by Mr. Sternberg, evaluated over 50 potential targets and negotiated business combination terms with multiple candidates in a span of a few months and acquired BurgerFi at what it believed was an attractive multiple relative to its peers.

In addition, in May 2021, Lionheart Capital led a partnership group to purchase the iconic American powerboat business, Cigarette Racing Team, from its longtime owner.

In addition, since its inception in December 2019, Mr. Sternberg has been the Chairman, President and Chief Executive Officer of Nasdaq-listed Lionheart II

Acquisition Corp. (**Lionheart II**), a SPAC. Lionheart II completed its initial public offering in August 2020, in which it sold an aggregate of 23,000,000 units (including the exercise of the underwriters' over-allotment option), each unit consisting of one share of Lionheart II Class A common stock and one-half of one redeemable warrant for one share of Lionheart II Class A common stock, for an offering price of \$10.00 per unit, generating aggregate proceeds of \$230,000,000. Lionheart II's units, shares of Class A common stock and warrants currently trade on Nasdaq under the symbols "LIONU," "LION" and "LIONW," respectively. On July 12, 2021, Lionheart II announced a \$32.6 billion business combination with MSP Recovery, a leader in data-driven solutions that recovers improperly paid benefits on behalf of Medicare, Medicaid and other commercial payers. The Lionheart II -MSP merger closed on May 23, 2022. Mr. Sternberg is qualified to serve as a director due to his extensive experience in acquiring, developing, repositioning and investing in all segments of the real estate industry.

Mr. Sternberg will become the Chairman of the Board of Directors of Empatan (the **Empatan Board**) beginning at the closing of the Business Combination.

(ii) **James Anderson - Director**

Qualifications: BBA from the University of Iowa

Background

James Anderson, a director of Lionheart, has over 40 years of entrepreneurial business experience with a major focus in real estate and business development including internationally. He has either been a sole founder or founding partner in several commercial ventures. From April 2020 to December 2020, Mr. Anderson served on the board of directors of OPES Acquisition Corp., which later merged with BurgerFi International LLC. He has been an owner/broker of JA Real Estate Partners, LLC (New York, NY) since 2001. He co-founded Iowa State Commercial Investment Company, LLC in 2017; he acted as Senior Advisor to F&T Group from 2008-2014 in connection with the Nanjing World Trade Center mixed-use development project; and he was a regional manager/vice president of DeWolfe Companies, Inc. from 1989-1996. Mr. Anderson resided in China for nearly 10 years (2008-2017) where he was involved in numerous business/real estate development projects. Mr. Anderson also serves on the board of directors of Lionheart II, and is also expected to serve as a director of Lionheart IV, a SPAC, upon the completion of its public offering. He holds a BBA degree from the University of Iowa. Mr. Anderson is qualified to serve as a director due to his extensive global experience in real estate and business development.

(iii) **Thomas Byrne – Director**

Qualifications: BS in Accounting and MS in Accounting from the University of Florida

Background

Thomas Byrne, a director of Lionheart, has over 30 years of experience managing and investing in both public and private growth companies and is the co-founder and Chief Strategy Officer of Kaptyn Holding Corp., an electric vehicle rideshare company since November 2018. He is also a general partner of New River Capital Partners, LP, a private equity fund which he co-founded in 1997. From 2015 to 2016 he served as the President of Pivotal Fitness. From 2004 to 2014 he was an executive of Swisher Hygiene, most recently as its CEO. In 2005 Mr. Byrne co-founded Service Acquisition Corp. International, a SPAC that later merged into Jamba Juice, where he served on the company's board and Audit Committee until 2010. From 1988 to 1996, Mr. Byrne was an executive at Blockbuster Entertainment Group, a division of Viacom, where he last served as its Vice-Chairman and President of the Viacom Retail Group. From 1984 to 1988, Mr. Byrne served as a CPA with KPMG. He has also served on the boards of Jamba Juice, LDN CBD, Reel.com, Avaltus, ITC Learning, The Transformational Travel Council and Friends of Birch State Park. Mr. Byrne also

serves on the board of directors of Lionheart II, and is also expected to serve as a director of Lionheart IV, a SPAC, upon the completion of its public offering. Mr. Byrne graduated from the University of Florida with a BS in Accounting in 1980 and an MS in Accounting in 1984. Mr. Byrne is qualified to serve as a director due to his significant industry and financial and accounting experience.

(iv) **Thomas Hawkins – Director**

Qualifications: AB in Political Science from the University of Michigan and Juris Doctor from Northwestern University

Background

Thomas Hawkins, a director of Lionheart, previously served as a Management Consultant for MEDNAX, Inc. from February 2014 to December 2017, after serving as General Counsel and Board Secretary from April 2003 to August 2012. Prior to that, Mr. Hawkins worked for New River Capital Partners as a Partner from January 2000 to March 2003; AutoNation, Inc. as Senior Vice President of Corporate Development from May 1996 to December 1999; Viacom, Inc. as Executive Vice President from September 1994 to May 1996; and Blockbuster Entertainment Corporation as Senior Vice President, General Counsel, and Secretary from October 1989 to September 1994. Mr. Hawkins currently serves on the board of directors of the Alumni Association of the University of Michigan and Jumptuit Inc., a data analytics technology company. Mr. Hawkins also serves on the board of directors of Lionheart II. Mr. Hawkins received his Juris Doctor from Northwestern University in 1986 and his A.B. in Political Science from the University of Michigan in 1983. Mr. Hawkins is qualified to serve as a director due to his experience as a senior executive and chief legal officer at several public companies (including his experience acquiring companies) and with counselling and serving on boards of directors. Mr. Hawkins will become a Director of Empatan beginning at the closing of the Business Combination.

(v) **Roger Meltzer, Esq.- Director**

Qualifications: A.B. from Harvard College and Juris Doctor from New York University

Background

Roger Meltzer, Esq. a director of Lionheart, is a distinguished global leader, having produced substantial innovations for global law firms, including one of the largest and most well-known law firms in the world while demonstrating agility, compassion, and consistency, who has successfully navigated firms and local offices through challenges such as major worldwide financial headwinds, transnational cyberattacks and global pandemics, who has clearly established moral and business imperatives and has pioneered industry precedents for institutionalized equality, diversity and inclusivity and nurtured a global iconic pro bono effort, and who is known for leading and nurturing entrepreneurial, high performing, and team centric cultures. Mr. Meltzer has practiced law at DLA Piper LLP since 2007 and has held various roles: Global Co-Chairman, from 2015 to 2020, and currently as Chairman Emeritus; Americas Co-Chairman, from 2013 to 2020; Member, Office of the Chair, from 2011 to 2020; Member, Global Board, from 2008 to 2020; Co-Chairman, U.S. Executive Committee, from 2013 to 2020; Member, U.S. Executive Committee, from 2007 to 2020; and Global Co-Chairman, Corporate Finance Practice, 2007 through 2015. Prior to joining DLA Piper LLP, Mr. Meltzer practiced law at Cahill Gordon & Reindel LLP from 1980 through 2007 where he was a member of the Executive Committee from 1987 through 2007, Co-Administrative Partner and Hiring Partner from 1987 through 1999, and Partner from 1984 through 2007. Mr. Meltzer currently serves on the Advisory Board of Harvard Law School Center on the Legal Profession (May 2015—Present); Board of Trustees, New York University Law School (September 2011—Present); and the Corporate Advisory Board, John Hopkins, Carey Business School (January 2009—December 2012). He has previously served on the

board of directors of: The Legal Aid Society (November 2013 to January 2020), Hain Celestial Group, Inc. (December 2000 to February 2020) and The Coinmach Service Corporation (December 2009 to June 2013). Mr. Meltzer has also received several awards and honors and has been actively involved in philanthropic activity throughout his career. In March 2021, Mr. Meltzer joined the board of directors of Lionheart II, a SPAC. In February 2021, Mr. Meltzer joined the board of directors and the audit committee of Haymaker Acquisition Corp. III (NASDAQ: HYAC), a special purpose acquisition corporation, and Ubiqquia LLC, a privately-held smart lighting solutions provider. Mr. Meltzer is also expected to serve as a director of Lionheart IV, a SPAC, upon the completion of its public offering. Mr. Meltzer is qualified to serve as a director due to his experience representing clients on high-profile, complex, and cross-border matters and his leadership qualities. Mr. Meltzer received Juris Doctor degree in law from New York University School of Law and an A.B. from Harvard College.

Mr. Meltzer will become a Director of Empatan beginning at the closing of the Business Combination.

(b) Executive officers

(i) Ophir Sternberg - Chairman of the Board of Directors, President and Chief Executive Officer

Please see section 6.4(a)(i) above.

(ii) Paul Rapisarda - Chief Financial Officer

Qualifications: B.A from Amherst College, MBA from the Harvard Business School
Background

Paul Rapisarda, who currently serves as Lionheart's Chief Financial Officer, has also served as Chief Financial Officer at Lionheart Capital, Lionheart II and Out of the Box Ventures since 2019. Mr. Rapisarda is an experienced public company C-suite executive and investment banking professional with more than 25 years working in and for a variety of public and private companies. Prior to joining Lionheart Capital in June 2019, he served as Chief Financial Officer at Etrion Corp. (TSX: ETX), a dual-listed (Canada/Sweden) solar energy development company from October 2015 to December 2017. Etrion Corp. is part of The Lundin Group, a portfolio of 13 public companies in the energy and mining sectors with a combined market capitalization in excess of US\$16 billion, started or sponsored by the Lundin family. Mr. Rapisarda was responsible for managing all finance functions, including financial reporting, treasury & cash management, corporate finance, regulatory/SEC compliance matters and investor relations. In addition, Mr. Rapisarda established Garrison Capital Advisors LLC, a financial advisory and consulting services company in 2014. From 2008 to 2014, he worked for another dual-listed company (Canada/United States), Atlantic Power Corporation (NYSE: AT), most recently serving as Executive Vice President-Commercial Development. The company was a portfolio company controlled by Arclight Capital Partners, a private equity firm with US\$10.4 billion of assets under management and a focus on the energy sector. He was a key member of the executive team that successfully engineered the \$1.8 billion merger with Capital Power Income L.P. and had primary responsibility for the investment of over US\$1.2 billion in capital from 2008-2012. Prior to Atlantic Power, Mr. Rapisarda worked for over 20 years in investment banking and private equity for several firms, including Compass Advisers LLP, Schroders, Merrill Lynch and BT Securities. He has also acted as a board member at several emerging growth companies, primarily in the energy, technology and infrastructure sectors.

(iii) Faquiry Diaz - Chief Operating Officer

Qualifications: graduate of the Wharton School at the University of Pennsylvania
Background

Faquiry Diaz, who currently serves as Lionheart's Chief Operating Officer, also serves as the Chief Operating Officer for Lionheart Capital and its affiliated entities. In this

role, he leads the Mergers & Acquisitions and Corporate Strategy divisions. An investor and operator, over the past 25 years, Mr. Diaz has held positions as an executive, board member, and observer at various public and private corporations in the US and internationally. Mr. Diaz also serves as Chief of Mergers and Acquisitions and Corporate Strategy at BurgerFi International, Inc. (NASDAQ: BFI), where Ophir Sternberg serves as Executive Chairman. He has also served on the boards of several non-profit organizations and educational institutions. Mr. Diaz also serves as the Chief Operating Officer of Lionheart II.

6.5 Lionheart's capital structure

(a) Current capital structure

The capital structure of Lionheart at the date of this Scheme Booklet is as follows:

Type of securities	Number
Class A Common Stock	12,500,000
Class B Common Stock	3,525,000
Class A Common Stock Warrants	8,450,000

6.6 Lionheart capital structure on or prior to the Merger Implementation Date

On or prior to the Merger Implementation Date each share of Class B Common Stock will convert into one share of Class A Common Stock.

Type of securities	Number*
Class A Common Stock ^{1, 2}	16,025,000
Warrants to purchase shares of Class A Common Stock	8,450,000

Notes:

¹Assumes that no Public Stockholders redeem their shares of Class A Common Stock.

²Includes the conversion of 3,125,000 shares of Class B Common Stock into 3,125,000 shares of Class A Common Stock.

*Does not include the issue of shares or warrants under any PIPE financing.

Based on public filings made by institutional investment managers and other holders of 5% or more of shares of Class A Common Stock or Class B Common Stock, as well as information provided by Lionheart directors and executive officers, Lionheart is aware that the following persons beneficially owned more than 5% of all Lionheart shares of Class A Common Stock or Class B Common Stock as of 7 September 2022.

Name	Class A Common Stock	Class B Common Stock	Total voting power
Saba Capital Management L.P.	1,132,075	Nil	7.1%
Lionheart Equities LLC	Nil	1,549,250 ¹	9.7%

6.7 Interests of the Lionheart Directors and executive officers

(a) Shareholder interests in SMX

As at the date of this Scheme Booklet no director or executive officer of Lionheart has an interest in SMX shares.

(b) Shareholder interests in Empatan

As at the date of this Scheme Booklet no Director or Executive Officer of Lionheart has an interest in Empatan shares.

(c) Interests in Lionheart Shares

As at the date of this Scheme Booklet the interest of each Director and Executive Officer of Lionheart in Lionheart shares is as follows:

Director	Description	Number of Shares
Ophir Sternberg	Class B Common	1,549,250 ¹
James Anderson	Class B Common	10,000]
Thomas Byrne	Class B Common	40,000]
Thomas Hawkins	Class B Common	55,000]
Roger Meltzer, Esq.	Class B Common	40,000]
Paul Rapisarda	Class B Common	86,625]

Notes:

¹ Ophir Sternberg, Lionheart's Chairman, President and Chief Executive Officer is the member of the Lionheart Equities, LLC (**Sponsor**). Mr Sternberg disclaims beneficial ownership over any securities owned by the Sponsor in which he does not have any pecuniary interest.

(d) Fees or benefits given or agreed to be given in connection with the Scheme

Other than as set out below, no fees or benefits have been given or agreed to be given to any Lionheart Director or Executive Officer in connection with the Business Combination, including the Scheme.

(i) Chairman Agreement

Mr. Ophir Sternberg and Empatan have entered into a Chairman Agreement (**Chairman Agreement**). Pursuant to the Chairman Agreement, beginning at the closing of the Business Combination, Mr. Sternberg will serve as the Chairman of the Empatan Board for so long as he serves as a member of the Empatan Board, unless he is earlier terminated. Mr. Sternberg will not receive any cash compensation for his service on the Empatan Board nor will he be entitled to participate in any employee benefit plans of Empatan.

The Chairman Agreement provides that Mr. Sternberg will be granted restricted stock units of Empatan representing 3% of the issued and outstanding Empatan Shares as of the grant date in accordance with and subject to the terms and conditions of the Empatan's 2022 Incentive Plan. Mr. Sternberg's restricted stock units are subject to time-based vesting, as follows: 20% vest on the grant date, and the remaining restricted stock units will vest in quarterly instalments thereafter over a period of three years subject to his continued service on the Empatan Board as of each vesting date subject to earlier vesting as forth below.

In the event of the expiration or termination of the Chairman Agreement for any reason other than termination for cause (as defined in the Chairman Agreement), any unvested outstanding equity awards held by Mr. Sternberg will immediately vest and become nonforfeitable. In the event of the termination of the Chairman Agreement by Empatan for cause, all unvested outstanding equity awards will be

cancelled and forfeited, and Mr. Sternberg will not be entitled to any payment in connection therewith.

(ii) Independent Contractor Agreement

Mr. Faquiry Diaz and Empatan entered into an independent contractor agreement (the **Independent Contractor Agreement**). The Independent Contractor Agreement provides for an initial term of three years that automatically renews for one-year terms thereafter, so long as Ophir Sternberg is the Chairman of the Empatan Board. Notwithstanding the foregoing, the Independent Contractor Agreement is terminable by either party at any time, with or without cause (as defined in the Independent Contractor Agreement), effective upon notice to the other party. In exchange for his services, Mr. Diaz will be compensated and reimbursed in the total amount of US\$84,000, annually, payable in twelve equal monthly payments. In addition, the Independent Contractor Agreement provides that Mr. Diaz will be granted restricted stock units of Empatan representing 1% of the issued and outstanding Empatan Shares as of the grant date in accordance with and subject to the terms and conditions of Empatan's 2022 Incentive Plan. Mr. Diaz's restricted stock units are subject to time-based vesting, as follows: 20% vest on the grant date, and the remaining restricted stock units will vest in quarterly instalments thereafter over a period of three years subject to his continued service on the Empatan Board as of each vesting date subject to earlier vesting as set forth below. In the event of the termination of the Independent Contractor Agreement by Empatan without cause or upon a change in control (each such term as defined in the Independent Contractor Agreement), any unvested outstanding equity awards held by Mr. Diaz will immediately vest and become nonforfeitable. In the event of the termination of the Independent Contractor Agreement for cause by Empatan or for any reason by Mr. Diaz, all unvested outstanding equity awards will be cancelled and forfeited without consideration.

(e) Other director compensation

[Other than as set out in this section, no Lionheart Director or Executive Officer receives any cash compensation from Lionheart for their services.]

(f) Other interests

Lionheart pays the Sponsor US\$15,000 per month for office space, utilities and secretarial and administrative services. On completion of the Business Combination Lionheart will cease paying these monthly fees.

6.8 Interests of Lionheart

As at the date of this Scheme Booklet, Lionheart has no voting power or relevant interest in any SMX Shares or Empatan Shares.

Lionheart has not acquired or disposed of a relevant interest in any SMX Shares or Empatan Shares in the four month period ending on the date immediately before the date of this Scheme Booklet.

6.9 No pre-transaction benefits

Except as provided in this Scheme Booklet, during the period of four months before the date of this Scheme Booklet, neither Lionheart nor any associate of Lionheart gave, or offered to give, a benefit to another person which was likely to induce the other person, or an associate of that person, to:

- (a) vote in favour of the Scheme; or
- (b) dispose of SMX Shares.

6.10 Disclosure of interests

Except as otherwise provided in this Scheme Booklet, no:

- (a) Lionheart Director;
- (b) person named in this Scheme Booklet as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Scheme Booklet for or on behalf of Lionheart;
- (c) promoter, stockbroker or underwriter of Lionheart or the Merged Group,

(together the **Interested Persons**) holds, or held at any time during the two years before the date of this Scheme Booklet any interests in:

- (a) the formation or promotion of Lionheart or the Merged Group;
- (b) property acquired or proposed to be acquired by Lionheart in connection with the formation or promotion of Lionheart or the Merged Group or the offer of Empatan Shares under the Scheme; or
- (c) the offer of Empatan Shares under the Scheme.

6.11 Disclosure of fees and benefits

Except as otherwise disclosed in this Scheme Booklet, Lionheart has not paid or agreed to pay any fees, or provided or agreed to provide any benefit:

- (a) to a director or proposed director of Lionheart to induce them to become or qualify as a director of Lionheart;
- (b) for services provided by any Interested Persons in connection with:
 - (i) the formation or promotion of Lionheart or the Merged Group; or
 - (ii) the offer of Empatan Shares under the Scheme.

6.12 Litigation

As at the date of this Scheme Booklet, so far as the Lionheart Directors are aware, there is no current or threatened civil litigation, arbitration proceedings or administrative appeals, or criminal or governmental prosecutions of a material nature of which Lionheart is directly or indirectly concerned which is likely to have a material adverse impact on the business or financial position of Lionheart.

6.13 Lionheart Historical Financial Information

The Lionheart Historical Financial Information included in this section is intended to present SMX Shareholders with information to assist them in understanding the historical financial performance, financial position and cash flows of Lionheart. Lionheart management is responsible for the preparation and presentation of the Lionheart Historical Financial Information.

The preparation of condensed financial statements and related disclosures in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and income and expenses during the periods reported. Actual results could materially differ from those estimates. Lionheart has identified the following critical accounting policies:

(a) Class A Common Stock subject to possible redemption

Lionheart accounts for its common stock subject to possible conversion in accordance with the guidance in Accounting Standards Codification ("ASC") Topic 480 "Distinguishing Liabilities from Equity." Common stock subject to mandatory redemption is classified as a liability instrument and measured at fair value. Conditionally redeemable common stock (including common stock that features redemption rights that are either within the control of the holder or subject to redemption upon the occurrence of uncertain events not solely within our control) is classified as temporary equity. At all other times, common stock is classified as stockholders' equity. Our common stock features certain redemption rights that are considered to be outside of our control and subject to occurrence of uncertain future events. Accordingly, common stock subject to possible redemption is presented at redemption value as temporary equity, outside of the stockholders' deficit section of our condensed balance sheets.

(b) Net loss per common share

Lionheart complies with accounting and disclosure requirements of FASB ASC Topic 260, "Earnings Per Share". Lionheart has two classes of shares, which are referred to as Class A Common Stock and Class B Common Stock. Income and losses are shared pro rata between the two classes of shares. Net income (loss) per common share is computed by dividing net income (loss) by the weighted average number of common stock outstanding for the period. Accretion associated with the redeemable shares of Class A common stock is excluded from earnings per share as the redemption value approximates fair value.

(c) Recent accounting standards

Lionheart management does not believe that there are any other recently issued, but not yet effective, accounting standards, that if currently adopted, would have a material effect on its condensed financial statements.

Lionheart's statement of operations and cash flows data for the period from 14 January 2021 (inception) through 31 December 2021 and balance sheet data as of 31 December 2021 is derived from its audited financial statements. The selected historical financial data of Lionheart for the six months ended 30 June 2022 and the consolidated balance sheet as of 30 June 2022 are derived from Lionheart's unaudited interim combined and consolidated financial statements.

The Lionheart Historical Financial Information has been prepared in a manner consistent with Lionheart's accounting policies applied by Lionheart in preparing the Lionheart Half Yearly Report for the half year ended 30 June 2022 and the Annual Report for the year ended 31 December 2021. The accounting principles used in the preparation of the Lionheart Historical Financial Information are consistent with those set out in Lionheart's Half Yearly Report for the half year ended 30 June 2022 and the Annual Report for the year ended 31 December 2021.

These consolidated financial statements in Lionheart's Annual Reports were prepared in accordance with U.S. GAAP and the applicable rules and regulations of the SEC for interim financial information. Accordingly, they do not include all of the information and footnotes required by U.S. GAAP for full financial statements.

The Lionheart Historical Financial Information contained in this section is presented in an abbreviated form as it does not include all the disclosures, statements or comparative information that are required by U.S. GAAP applicable to full financial statements or to financial statements prepared in accordance with the applicable rules and regulations of the SEC or the Corporations Act. Lionheart files annual and quarterly reports with the SEC. Lionheart's SEC filings, including the Form 10-Q Quarterly Report for the quarter ended 30 September 2022, are available to the public at the SEC's website at www.sec.gov.

(in thousands, except share and per share data) Statement of Operations Data	Three Month Ended June 30,		Six Months Ended June 30,	For the Period from January 14, 2021 (Inception) through June 30, 2021
	2022 (unaudited)	2021 (unaudited)	2022 (unaudited)	2021 as restated
Loss from operations	(1,266,279)	—	(1,512,770)	(1,029)
Other income (expense), net	—	—	—	—
Loss before (provision for) benefit from income taxes	(1,100,942)	—	(1,339,137)	—
Net loss	\$(1,114,508)	—	\$(1,352,703)	\$(1,029)
Basic and diluted weighted average shares outstanding, Class A Common Stock	12,900,000	—	12,900,000	—
Basic and diluted net loss per common share, Class A Common Stock	\$(0.07)	\$(0.00)	\$(0.08)	\$(0.00)
Basic and diluted weighted average shares outstanding, Class B Common Stock	3,125,000	2,875,000	3,125,000	2,875,000
Basic and diluted net loss per common share, Class B Common Stock	\$(0.07)	\$(0.00)	\$(0.08)	\$(0.00)
Statement of Operations Data				
Net cash provided by (used in) operating activities			(496,079)	
Net cash provided by (used in) investing activities			—	

Net cash provided by financing activities	(14,540)	
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Balance Sheet Data (in thousands, except share and per share data)	For the Period from January 14, 2021 (Inception) through June 30,	
	As of June 30,	30,
	2022 (unaudited)	2021 as restated
Total assets	\$127,572,457	\$128,020,208
Total liabilities	5,631,458	4,726,506
Class A common stock subject to possible redemption	126,250,000	126,250,000
Total equity (deficit)	(4,309,001)	(2,956,298)

6.14 PIPE Financing

Lionheart is actively pursuing to enter into subscription agreements with certain institutional and accredited investors (**PIPE Investors**), pursuant to which Lionheart will agree to issue and sell, in private placements to close immediately prior to the closing of the Business Combination, up to US\$25 million in the aggregate, in securities (**PIPE Financing**). The securities to be issued pursuant to the subscription agreements will not be registered under the Securities Act of 1933, as amended (the **US Securities Act**), in reliance upon the exemption provided in section 4(a)(2) of the Securities Act.

The closing of any PIPE Financing would be subject to customary conditions for a financing of this nature, including the completion of the Business Combination (**Closing**). The subscription agreements are expected to provide that Lionheart will provide the PIPE Investors customer registration rights with respect to any securities issued to such investors in connection with any PIPE Financing following the Closing.

The PIPE Investor's obligations to purchase the PIPE securities are subject to termination if the Business Combination is not consummated on or before 8 November 2022. Additionally, the PIPE Investor's obligations to purchase the PIPE Securities are subject to fulfillment of customary closing conditions, including that the Business Combination must be consummated substantially concurrently with, and immediately following, the purchase of the PIPE Securities.

In the event of any such failure to fund, any termination of such obligation, or if any such condition is not satisfied and not waived, Lionheart may not be able to obtain additional funds to account for such shortfall on favourable terms or at all.

6.15 Going concern of Lionheart

If the Business Combination is not consummated by 8 November 2022 (or until May 8, 2023 if Lionheart extends the period of time to consummate its initial business combination pursuant to any further extension period) ("**Lionheart Liquidation Date**"), there will be a mandatory liquidation and subsequent dissolution of Lionheart. Lionheart intends to complete the Business Combination before the Lionheart Liquidation Date, or otherwise to exercise the extension facilities available to it. However, there can be no assurance that Lionheart will be able to consummate the Business Combination.

If an initial business combination is not consummated by the Lionheart Liquidation Date, as may be extended until May 8, 2023, there will be a mandatory liquidation and subsequent dissolution of Lionheart.

Management of Lionheart has determined that the mandatory liquidation, should an initial business combination not occur, and potential subsequent dissolution of Lionheart, raises substantial doubt about its ability to continue as a going concern.

On 8 November 8 2022 and 8 December 8 2022, respectively, Lionheart caused \$412,500 to be deposited on each date into Lionheart's Trust Account for its public stockholders, representing \$0.033 per share of Class A common stock. This allows Lionheart to extend the period of time it has to consummate its previously announced initial business combination with Security Matters Limited by (i) one month initially from 8 November 8 2022 to 8 December 2022 and (ii) from 8 December

2022 to 8 January 2023 (the “**Extension**”). The Extension is the first and second of six one-month extensions permitted under Lionheart’s governing documents. Lionheart has provided an assurance that it will exercise a further extension for the 8 January period and to facilitate the holding of the Scheme Meeting, Optionholders Meeting and General Meeting

Lionheart is required to repay any extension payments that are loaned to the Sponsor for purposes of making such extension payments. If Lionheart completes its initial Business Combination, it will, at the option of the Sponsor, repay any amounts loaned under the promissory note(s) out of the proceeds of the Trust Account released to it or convert a portion or all of the amounts loaned under such promissory note(s) into shares of Class A Common Stock. If Lionheart does not complete an initial Business Combination by the extension deadline, the loans will be repaid only from funds held outside of the Trust Account.

6.16 Further information

Lionheart files annual, quarterly and current reports, proxy statements and other information with the SEC. Lionheart's SEC filings are available to the public at the SEC's website at www.sec.gov.

Lionheart has also, in relation to this transaction, filed extensive material in the form of an F-4 Registration Statement. That Registration Statement, as filed with the SEC can be found here:

<https://www.sec.gov/Archives/edgar/data/1940674/000119312522312839/d381455df4a.htm>

Any further filings provided by Lionheart will also be published on the SEC website and will also be disclosed by SMX to the ASX if relevant to the transaction.

Further information to assist investors with understanding SPAC transactions generally has also been published by the SEC, and may be found here:

<https://www.sec.gov/oiea/investor-alerts-and-bulletins/what-you-need-know-about-spacs-investor-bulletin>

7. Overview of Empatan

7.1 Introduction

The following information should be read in conjunction with the full text of this Scheme Booklet. The information contained in this Section has been prepared by Empatan. The information concerning Empatan and the intentions, views and opinions contained in this Section are, to the extent permitted by law, the responsibility of Empatan. SMX and its officers and advisers do not assume any responsibility for the accuracy or completeness of this information.

7.2 Overview of Empatan

Empatan is a public limited company incorporated under the laws of Ireland on 1 July 2022 in accordance with the Irish Companies Act.

In accordance with the Scheme Implementation Deed, Empatan will hold all of the shares in SMX following the implementation of the Scheme, including the Option Scheme and the Capital Reduction, issue the Scheme Consideration to the Scheme Participants and apply for listing on the NASDAQ.

Empatan has not conducted and has no current intention to conduct any business other than entering into the Scheme Implementation Deed and entering into any documents and agreements and performing the acts which are detailed in this Scheme Booklet. As Empatan is a newly formed entity, it does not have any historical financial statements.

As at the date of this Scheme Booklet, Empatan has the authority to issue:

- (a) 800,000,000,000 ordinary shares, with a nominal value of US\$0.0001 per share (**Empatan Shares**);
- (b) 200,000,000,000 preferred shares with a nominal value of US\$0.0001 each (**Empatan Preference Shares**);
- (c) 25,000 deferred shares with a nominal value of €1.00 each (**Empatan Deferred Shares**).

As at the date of this Scheme Booklet, Empatan has issued one (1) ordinary share at a price of US\$0.0001, held by Doron Afik issued upon the incorporation of Empatan, and 25,000 deferred shares at a price of €1.00 per share held by Doron Afik.

Empatan is not currently listed on any securities exchange. Empatan will apply to be admitted to the official list of NASDAQ and approval of the Empatan Shares and Empatan Public Warrants for quotation on NASDAQ is a condition to the Scheme becoming Effective.

If the Scheme, Option Scheme and Capital Reduction are implemented, on the Scheme Implementation Date, the Empatan Shares subject to the Scheme will be owned by the Scheme Participants in accordance with the Scheme Consideration, subject to the Share Sale Facility and the rounding of fractional entitlements. Furthermore, if the Business Combination is implemented, the Empatan Shares subject to the Business Combination will be owned by the Lionheart Shareholders and the Empatan Public Warrants the subject of the Business Combination will be owned by the Lionheart Warrantholders.

7.3 Empatan's group structure

Empatan is a company limited by shares, incorporated and domiciled in Ireland.

Empatan's registered office and principal place of business is located at Mespil Business Centre, Mespil House, Sussex Road, Dublin 4, Ireland.

7.4 Empatan's Board and key management

As at the date of this Scheme Booklet, Empatan has the following directors:

- (a) Haggai Alon
- (b) Amir Bader

7.5 Empatan's capital structure

(a) Current capital structure of Empatan

The capital structure of Empatan at the date of this Scheme Booklet comprises the following securities:

Number	Securities
--------	------------

1	Ordinary shares of US\$0.0001
25,000	Deferred shares at a price of €1.00

Securities in Empatan are not currently quoted on any securities exchange. In the last 6 months prior to the Last Practicable Date, the following transactions have occurred:

Date	Description of issue / transfer / cancellation	Shares
15 July 2022	Issue to Doron Afik to fulfil requirements of Irish Companies Act. ¹	25,000 deferred shares at a price of €1.00

Note:

¹Under the Irish Companies Act, public limited companies must have at least 25,000 issued capital.

Other than those listed in the table above, there have been no issues, transfers or cancellations of securities in Empatan in the last 6 months prior to the Last Practicable Date.

7.6 Substantial shareholders

The list of substantial shareholders below reflects the latest substantial holders notices as at the Last Practicable Date:

Name	Securities	Percentage
Doron Afik	1 ordinary share and 25,000 deferred shares	100%

7.7 Interests of Empatan's Directors

(a) Interests in Empatan Shares

Prior to the implementation of the Schemes, Capital Reduction and Business Combination, the directors of Empatan do not own any Empatan Shares beneficially or otherwise.

(b) Interests in SMX Shares

Director	Description	Number of SMX Shares
Haggai Alon	SMX Shares	5,135,949
Amir Bader	SMX Shares	324,135

7.8 Empatan interest and dealings in SMX Shares

As at the date of this Scheme Booklet, Empatan has no voting power or relevant interest in any SMX Shares.

During the period of four months before the date of this Scheme Booklet, neither Empatan nor any Associate of Empatan:

- » has provided, or agreed to provide, consideration for any SMX Shares under a purchase or an agreement; or
- » has given or offered to give or agreed to give a benefit to another person where the benefit was likely to induce the other person, or an Associate, to:
 - vote in favour of the Scheme; or
 - dispose of SMX Shares.

Empatan has not acquired or disposed of a relevant interest in any SMX Shares in the four month period ending on the date immediately before the date of this Scheme Booklet.

7.9 **Rights and Liabilities attaching to New Empatan Shares following the implementation of the Schemes, Capital Reduction and Business Combination**

The rights and liabilities attaching to Empatan Shares that will be issued to participants in the Scheme as Scheme Consideration will be the same as those attaching to existing Empatan Shares and will rank equally in all respects with all issued fully paid ordinary shares of Empatan from the date of their issue. These rights and liabilities are detailed in the Empatan Constitution.

The table below summarises some of the key rules in the Empatan constitution in relation to the rights and liabilities that will attach to Empatan Shares following the implementation of the Schemes, Capital Reduction and Business Combination. This summary does not purport to be exhaustive and must be read subject to the full text of the Empatan constitution.

The table below should be read in conjunction with the jurisdictional comparison under Section 14. SMX Shareholders should obtain their own independent advice in relation to their rights and liabilities as potential holders of Empatan Shares in specific circumstances.

Item	Description
Issue of further Empatan Shares	Under rule 14.1 of Empatan's Constitution, the directors of Empatan may issue Empatan Shares on such terms and conditions as considered to be in the best interests of Empatan.
Variation of class rights	<p>In the event where there is an issue of preferred shares in the capital of Empatan or the shares in Empatan are otherwise divided into different classes, the rights attaching to any existing class of shares can only be varied or abrogated if:</p> <ul style="list-style-type: none"> (a) the holders of 75% in nominal value of the issued shares of that class consent in writing to the variation; or (b) a special resolution, passed at a separate general meeting of the holders of that class, sanctions the variation. <p>At least one-third of the holders (in nominal value) of the issued shares of the class in question must be present at the separate general meeting.</p>
Empatan Share transfers	Any member may transfer all or any of their shares (of any class) by an instrument of transfer in the usual common form or in any other form which the Empatan Board may from time to time approve. The instrument of transfer may be endorsed on the certificate.
Meetings of members	<p>Empatan can hold each of:</p> <ul style="list-style-type: none"> (a) an annual general meeting each year (Annual General Meeting); and (b) general meetings (Extraordinary General Meeting). <p>An Annual General Meeting or an Extraordinary General Meeting can be held outside of Ireland. Empatan shall make necessary arrangements to ensure that members can by technological means participate in any such meeting without leaving Ireland.</p>

Item	Description
	<p>A general meeting of Empatan may be held in two or more venues (whether inside or outside of Ireland) at the same time using any technology that provides members, as a whole, with a reasonable opportunity to participate, and such participation shall be deemed to constitute presence in person at the meeting.</p> <p>Empatan will provide 21 days' notice to members in the event that an Annual General Meeting or an Extraordinary General Meeting is called. However, an Extraordinary General Meeting may be called by 14 days' notice where:</p> <ul style="list-style-type: none"> (a) all members, who hold shares that carry rights to vote at the meeting, are permitted to vote by electronic means at the meeting; and (b) a special resolution reducing the period of notice to fourteen days has been passed at the immediately preceding annual general meeting, or at a general meeting held since that meeting.
Voting	<p>At any general meeting, a resolution put to the vote of the meeting shall be decided on a poll.</p> <p>Subject to any rights or restrictions attached to any class or classes of shares in the capital of Empatan, every member of record present in person or by proxy will have one vote for each share registered in his or her name in Empatan's register.</p> <p>Where there are joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, will be accepted to the exclusion of the votes of the other joint holder or holders. Seniority will be determined by the order in which the names of the joint holders stand in Empatan's register.</p>
Dividends	<p>Directors may from time to time:</p> <ul style="list-style-type: none"> (a) pay to the members such dividends (whether as either interim dividends or final dividends) as appear to the Directors to be justified by the profits of Empatan; (b) before declaring any dividend, set aside out of the profits of Empatan such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of Empatan may be properly applied, and pending such application may, at the like discretion either be employed in the business of Empatan or be held as cash or cash equivalents or invested in such investments as the Directors may lawfully determine; and (c) without placing the profits of Empatan to reserve, carry forward any profits which they may think prudent not to distribute.

Item	Description
	<p>If a dividend is declared by the directors of Empatan:</p> <ul style="list-style-type: none"> (a) unless otherwise specified by the Directors at the time of declaring a dividend, the dividend shall be a final dividend; (b) all dividends will be declared and paid such that shares of the same class rank equally irrespective of the premium credited as paid up on such shares; (c) If any share is issued on terms providing that it shall rank for a dividend as from a particular date, such share shall rank for dividend accordingly. <p>No dividend shall bear interest against Empatan.</p>
Rights on winding up	<p>Subject to the provisions of any relevant legislation as to preferential payments, the property of Empatan on its winding up will be distributed among the members according to their rights and interests in Empatan.</p> <p>Unless the conditions of issue of the shares in question provide otherwise, dividends declared by Empatan more than six years preceding the commencement date of a winding up of Empatan, being dividends which have not been claimed within that period of six years, shall not be a claim admissible to proof against Empatan for the purposes of the winding up.</p> <p>If Empatan is wound up and the assets available for distribution among the members are insufficient to repay the whole of the paid up or credited as paid up share capital, such assets will be distributed so that, as nearly as may be, the losses will be borne by the members in proportion to the capital paid up or credited as paid up at the commencement of the winding up on the shares in the capital of Empatan held by them respectively.</p> <p>If in a winding up the assets available for distribution among the members is sufficient to repay the whole of the share capital paid up or credited as paid up at the commencement of the winding up, the excess will be distributed among the members in proportion to the capital at the commencement of the winding up paid up or credited as paid up on shares held by them respectively, subject to specific rights attaching to any class of share capital.</p>
Governing law and jurisdiction	<p>Generally</p> <p>The courts of Ireland will have exclusive jurisdiction to settle any dispute arising out of or in connection with Empatan's constitution and, for such purposes, Empatan and each shareholder irrevocably submit to the exclusive jurisdiction of such courts.</p> <p>Any proceeding, suit or action arising out of or in connection with Empatan's constitution (the Proceedings) will therefore be brought in the courts of Ireland. Each shareholder irrevocably waives any</p>

Item	Description
	<p>objection to Proceedings in the courts on the grounds of venue or on the grounds of forum non conveniens.</p> <p>Complaints regarding Exchange Act or Securities Act of 1933 of the United States</p> <p>For complaints regarding the Exchange Act or Securities Act of 1933 of the United States, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the exclusive forum for the resolution of any complaint asserting a cause of action arising.</p> <p>Any person or entity purchasing or otherwise acquiring any interest in any security of the Company shall be deemed to have notice of and consented to this provision.</p>

7.10 Bridge Loan

On 24 August 2022, SMX and Empatan entered into a binding term sheet with a private investor who agreed to lend SMX and Empatan US\$1,000,000, on the key terms as set out in Section 5.20. The lender, as with the other Bridge Loan lenders, will also receive warrants to subscribe for Empatan Shares and a first priority security interest in the shares owned by SMX in the capital of trueGold.

The investor may redeem 50% of the warrants at the closing of the Business Combination. SMX and the lender are yet to enter into a formal agreement. This is expected to occur prior to the Scheme Meeting, Option Scheme Meeting and General Meeting.

8. Overview of the Merged Group

8.1 Introduction

This Section contains information in relation to the Merged Group that will be created if each of Schemes, the Capital Reduction and Business Combination are implemented.

Following implementation of the Schemes, the Capital Reduction and the Business Combination, the Merged Group will consist of:

- (a) Empatan, as the holding company and entity which will apply for quotation on NASDAQ;
- (b) SMX, as a wholly owned subsidiary of Empatan; and
- (c) Lionheart, as a wholly owned subsidiary of Empatan.

As discussed below at Section 8.3, the Schemes and the Capital Reduction will become Effective conditional on the implementation of the Business Combination.

The Empatan Shares will not be quoted on any securities exchange until after the Schemes and the Capital Reduction will become Effective conditional on the implementation of the Business Combination.

8.2 Overview

This Section sets out the intentions in relation to SMX and the Merged Group, including Empatan's intentions regarding:

- (a) the continuation of the business of SMX and how SMX's existing business will be conducted;
 - (b) any major changes to be made to the business of SMX; and
 - (c) the future employment of the present employees of SMX,
- in each case, after the Schemes and Capital Reduction are implemented.

The information contained in this Section and the intentions of the Merged Group have been formed on the basis of facts and information concerning SMX and the general business environment which are known to Empatan as at the date of this Scheme Booklet.

Empatan will review and make determinations regarding the matters set out below in light of all such material information, facts and circumstances at the relevant time. Accordingly, it is important to recognise that the statements set out in this Section are statements of current intentions only, which may change as new information becomes available or circumstances change.

Furthermore, as the formation of the Merged Group is conditional on the implementation of the Business Combination Agreement (**BCA**), the Merged Group will only be formed following approval by Lionheart Shareholders of the BCA, the transactions contemplated thereby and the satisfaction of various other conditions under the BCA.

8.3 Formation of Merged Group

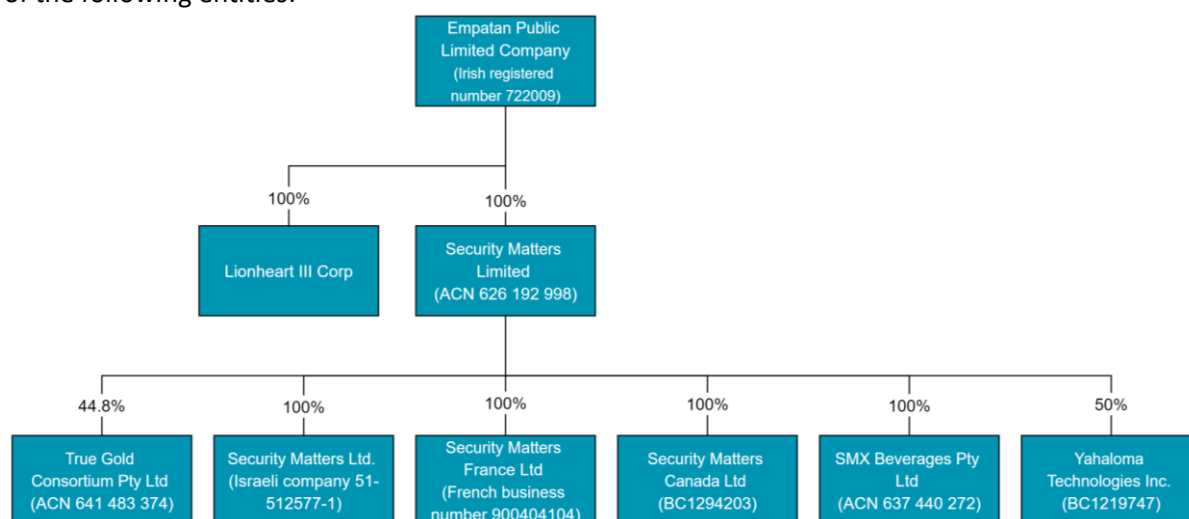
The Merged Group will be formed in accordance with the BCA and the Scheme Implementation Deed (**SID**).

- (a) Under the BCA, following approval by Lionheart Shareholders of the BCA and the transactions contemplated thereby, Lionheart and Merger Sub will enter into a business combination transaction pursuant to which Merger Sub will merge with and into Lionheart, with Lionheart surviving the merger as a wholly owned subsidiary of Empatan.
- (b) Pursuant to the merger of Merger Sub with and into Lionheart, the Lionheart Shareholders will receive New Empatan Shares in exchange for their existing Lionheart Shares and the existing Lionheart Warrantholders will have their existing Lionheart Warrants automatically adjusted to become exercisable in respect of New Empatan Shares instead of Lionheart Shares, subject to Lionheart Shareholder approval and the satisfaction of various other conditions.
- (c) Under the SID, SMX has agreed to propose the Schemes and Capital Reduction which, if implemented, will result in all shares in SMX being cancelled in return for the issue of New Empatan Shares, with Empatan then being issued one SMX Share (resulting in SMX becoming a wholly owned subsidiary of Empatan), subject to SMX Shareholder and SMX Optionholder approval, as the case relates, Australian court approval and the satisfaction of various conditions.

Following implementation of each of the Business Combination, the Schemes and the Capital Reduction, the Merged Group will be formed.

8.4 Corporate structure of Merged Group

Following implementation of the Schemes, the Capital Reduction and the Business Combination, Empatan, Lionheart and SMX intend that the corporate structure of the Merged Group will consist of the following entities:



8.5 Operating structure and business model

Following implementation of the Schemes and Capital Reduction, Empatan, Lionheart and SMX intend that the operating structure of the Merged Group will remain the same as outlined in Section 5.3 and 5.4.

8.6 Strategy

Empatan, Lionheart and SMX intend that, following the successful implementation of the Schemes and Capital Reduction, SMX's strategic plan as outlined in section 5.5 will be applied to the Merged Group.

8.7 Continuation of business

Empatan intends that the Merged Group will operate in accordance with the current strategy and direction of SMX, as described in section 5.5. Accordingly, for the avoidance of doubt, as at the date of this Scheme Booklet, following the implementation of the Schemes, Capital Reduction and Business Combination, it is Empatan's intention that there will be no major changes to the business of SMX, including any redeployment of any fixed assets of SMX.

Subject to the Scheme becoming Effective, on the Scheme Implementation Date, as requested by Empatan, the SMX Board will consist of certain current SMX Directors and Empatan nominees. It will be for the Empatan Board, after the Scheme becoming Effective, to determine its intentions as to:

- (a) the continuation of the business of SMX;
- (b) any major changes to be made to the business of SMX; and
- (c) the future employment of the present employees of SMX.

If the Scheme is not implemented, the SMX Board intends to continue the business of SMX as it is now conducted.

Future employment of the present employees of SMX is discussed at Section 8.11.

8.8 Dividend Policy

Empatan currently does not expect to pay any cash dividends on Empatan Shares. The Merged Group expects to retain future earnings, if any, to fund the development and growth of its business. Any future determination to pay dividends will be at the discretion of the Empatan Board.

8.9 Employee incentive arrangements

Following implementation of the Schemes, Capital Reduction and Business Combination, employees will be governed by Empatan's employee incentive plan, which is in a form typical for US public companies.

A copy of Empatan's employee incentive plan is available at <https://smx.tech/home>.

Following implementation of the Schemes, Capital Reduction and Business Combination, Empatan's employee incentive plan will be the primary plan used by Empatan and the Merged Group for all future grants of stock incentives to employees and directors of the Merged Group unless and until another incentive plan is approved by the shareholders of the Merged Group.

Empatan's employee incentive plan provides for the grant to employees of the Merged Group and members of the Merged Group board of non-transferable stock options which will generally vest over a period of continued service, as determined by the Merged Group board (with potential for exceptional vesting in certain termination and other scenarios outlined in the employee incentive plan) and, once vested, may be exercised by the optionholder at any time prior to their expiration.

8.10 Headquarters

Following implementation of the Business Combination, Schemes and the Capital Reduction, the Merged Group will be headquartered in Mespil Business Centre, Mespil, Sussex Road, Dublin 4, Ireland.

8.11 Board and Management

(a) Board

Following implementation of the Scheme, Empatan will have the following directors:

Name	Position	Director fees (\$US) p/a
Haggai Alon	Executive director	Nil
Ophir Sternberg	Executive director	Nil
Zeren Browne	Executive director	Nil
Pauline Khoo	Non-executive independent director	Restricted stock units in an amount equal to US\$100,000 divided ¹
Amir Bader	Non-executive independent director	Restricted stock units in an amount equal to US\$100,000 divided
Tom Hawkins	Non-executive independent director	Restricted stock units in an amount equal to US\$100,000 divided ¹
Roger Meltzer	Non-executive independent director	Restricted stock units in an amount equal to US\$100,000 divided ¹

(i) Haggai Alon

Please see Section 5.12(a)(i).

(ii) Ophir Sternberg

Please see Section 6.4(a)(i).

(iii) Pauline Khoo

Following the implementation of the Schemes, Capital Reduction and Business Combination, Ms Khoo will be appointed as a Non-executive independent director. Ms Khoo has more than forty years of financial and managerial experience in financial institutions, law firms and various companies.

Ms Khoo currently serves as the Wealth Planning Manager at Mishcon de Reya and was previously the Managing Director of Credit Suisse Trust Limited.

Ms Khoo is a member of the Institute of Chartered Secretaries (by completing exams), the Society of Trust and Estate Practitioners, the Institute of Chartered Secretaries and Administrators Chartered Trustee of Singapore Trustees Association, Family Firm Institute-Business Advisory and Family Advisory and a senior member of the Global-Asia Family Office Circle.

(iv) Zeren Browne

Following the implementation of the Schemes, Capital Reduction and Business Combination, Ms Browne will be appointed as an executive director. Mr Browne has more than 20 years' experience in global marketing and strategic brand management. She has previously held senior management roles and led the marketing and commercial business activities for brands under luxury & lifestyle conglomerates LVMH and Estee Lauder Companies. She was formerly the Managing Director at Mulloway Pty Limited and is currently the Managing Director of trueGold Consortium Pty Limited.

Ms Browne holds a Bachelor of Commerce Degree and an advanced MBA Degree from The University of Western Australia, where she was awarded the Dux and The Women in Management Scholarship. Ms Browne also holds the role of VP Strategy, Head of Fashion Sustainability Center in SMX.

(v) Amir Bader

Please see Section 5.12(a)(iv) above.

(vi) Tom Hawkins

Following the implementation of the Schemes, Capital Reduction and Business Combination, Mr Hawkins will be appointed as a director.

Mr Hawkins is currently a director of Lionheart. Please see Section 6.4(a)(iv) above for more information about Mr Hawkins.

(vii) Roger Meltzer

Following the implementation of the Schemes, Capital Reduction and Business Combination, Mr Meltzer will be appointed as a director of the Merged Group.

Mr Meltzer is currently a director of Lionheart. Please see Section 6.4(a)(v) for more information about Mr Meltzer.

(viii) Key terms of director engagement

The key terms of the director engagement agreements are as follows:

- (A) each director is entitled to receive director fees, as outlined above;
- (B) each of the directors may also be reimbursed for all travelling, hotel and other expenses properly incurred by them: (a) in attending and returning from: (i) meetings of the Directors or any committee; or (ii) general meetings of the Company, or (b) otherwise in connection with the business of the Company;
- (C) each director will remain appointed until the conclusion of the annual general meeting for the year in which each term expires and until the director's successor is elected and will qualify, subject however, to prior death, resignation, retirement, disqualification or removal from office;
- (D) if any director wishes to resign before the term has expired, the director must provide notice in writing to the Company and each of the other directors. The remaining directors must resolve to accept the offer to resign; and
- (E) for the first year, each independent director is granted restricted stock units in an amount equal to US\$100,000 divided by the closing price on the last trading day of the fiscal year, generally to vest on the one-year anniversary of the date of grant and be settled in ordinary shares, subject to such director's continuous services as a director until such time and earlier vesting due to a change of control. Ophir Sternberg, Haggai Alon and Zeren Browne will not receive this compensation as their compensation is governed by their individual agreements, as Chairman, CEO and VP Strategy, respectively.

In addition, each committee chair is entitled to receive an additional grant annually of restricted stock units in an amount equal to US\$10,000 divided by the closing price on the last trading day of the fiscal year, subject to the same terms listed in the prior sentence. Ophir Sternberg, Haggai Alon and Zeren Browne will not receive this compensation as their compensation is governed by their individual agreements, as Chairman, CEO and VP Strategy, respectively.

Each of the directors have represented and warranted that no legal or disciplinary action has been taken out on each of them.

(ix) Retiring directors of SMX

Following the implementation of the Schemes, Capital Reduction and Business Combination, Mr Everardus Hofland, Ms Kathryn Davies and Ms Jovanka Naumoska will resign from the SMX Board.

(b) Key management

Subject to the Scheme becoming Effective, on the Scheme Implementation Date, as requested by Empatan, the following SMX employees will be employed by the Merged Group and the Merged Group will have the following key managers:

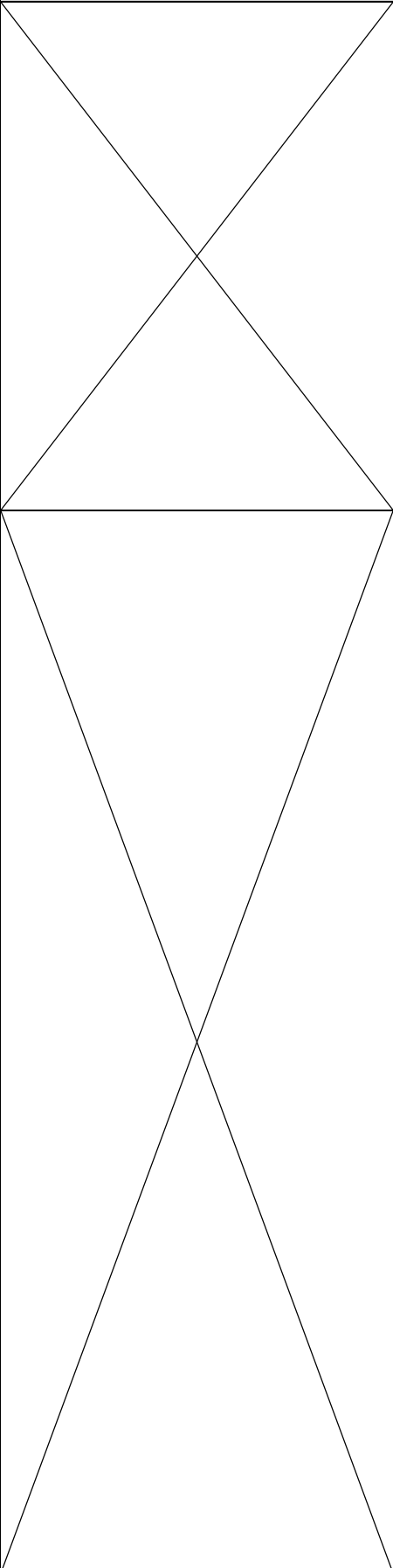
Name	Position	Salary (\$US) p/a
Haggai Alon	Chief Executive Officer	ILS 960,000 (about US\$295,000)
Limor Moshe Lotker	Chief Financial Officer	ILS 660,000 (about US\$203,000)

The terms of each of the key managers are outlined below:

(i) Haggai Alon

Terms	Existing	Proposed
Salary	ILS 480,000	ILS 960,000 (about US\$295,000)
Term	Until termination by the Company or resignation in accordance with the terms of the agreement.	Until termination by the Company or resignation in accordance with the terms of the agreement. But in any case the term will be no less than at least 5 years
Annual leave	28 days	28 days
Pension	In accordance with Israeli law	In accordance with Israeli law
Notice for termination	180 days	180 days
Bonus payments	Entitled to the following: <ul style="list-style-type: none"> At each January 1st while he is employed, he will be entitled to a retention bonus in cash equal to two times the base salary; subject to meeting individual and Company goals, which will 	Entitled to the following: <ul style="list-style-type: none"> At each January 1st while he is employed, he will be entitled to a retention bonus in cash equal to two times the base salary; subject to meeting individual and Company goals, which will

Terms	Existing	Proposed
	<p>be determined by the board of directors of SMX annually, he will be entitled to an annual bonus in the amount of up to one Base Salary (at Company discretion;</p> <ul style="list-style-type: none"> 500,000 options to vest on a Double Trigger Event (being if the Parent raises >US 20 million in one raise). 	<p>be determined by the board of directors of Empatan annually, he will be entitled to an annual bonus in the amount of up to one Base Salary (at Company discretion</p> <ul style="list-style-type: none"> subject to the approval of the Empatan Board, Mr Alon shall receive restricted stock units ("RSUs") with respect to a number of shares of the capital stock of Empatan representing 5% of the issued and outstanding stock on a fully diluted basis as at the grant date (subject to the terms and conditions of Empatan 2022 Incentive Equity Plan). The RSUs shall be subject to a vesting schedule as follows: 20% of the RSUs shall be fully vested immediately upon grant. The remaining RSUs shall vest at a rate of 5% quarterly thereafter (on the last day of each calendar quarter thereafter, beginning with the first full calendar quarter following the date of grant of the RSUs), over a period of five (5) years commencing on the grant date, subject to the his continued employment with the Company through each such vesting date, pursuant to the terms of this Agreement, the 2022 Incentive Equity Plan and the applicable award agreement. In the event of any Change of Control (as defined in the 2022 Incentive Equity Plan), all RSUs that are not then vested shall vest in full as of the effective date of the Change of Control.
Retirement payments	ILS 780,000 (about US\$240,000)	ILS 780,000 (about US\$240,000)
Trigger Event	If the Schemes, Capital Reduction and Business Combination occurs	

Terms	Existing	Proposed
	<p>as set out in this Scheme Booklet this will constitute a Trigger Event under the Employment Agreement entitling the Executive to the following:</p> <ul style="list-style-type: none"> • 400,000 options will become vested; • Salary: 600,000 ILS; • one time bonus: 1.50% of amount raised; • Monthly limit on Car of 4,000 ILS. 	
Double Trigger Event	<p>If the Schemes, Capital Reduction and Business Combination occurs as set out in this Scheme this will constitute a Double Trigger Event under the Employment Agreement entitling the Executive to the following:</p> <ul style="list-style-type: none"> • all 500,000 options will become vested; • Salary: 780,000 ILS; • one time bonus: 1% of amount raised; • annual bonus: up to two base salaries; • Monthly limit on Car of 5,000 ILS. <p>The Schemes, Capital Reduction and Business Combination will result in a Double Trigger Event.</p> <p>Haggai is not entitled to receive financial benefits as a result of both the Trigger Event and the Double Trigger Event occurring. For the avoidance of doubt, if the Double Trigger Event occurs, Mr Alon would only receive the benefits for either the Trigger Event or the</p>	

Terms	Existing	Proposed
	Double Trigger Event but not for both collectively.	

(ii) Limor Moshe Lotker

Terms	Existing	Proposed
Salary	ILS 540,000	ILS 660,000 (about US\$203,000)
Term	Until termination by the Company or resignation in accordance with the terms of the agreement.	Until termination by the Company or resignation in accordance with the terms of the agreement.
Annual leave	24 days	24 days
Pension	In accordance with Israeli law	In accordance with Israeli law
Options	200,000	Up to 400,000
Notice for termination	Employee shall be required to give Company 90 days prior notice in the event of termination of this employment agreement.	Termination by employee requires 30 days prior written notice, and such termination will not enter effect before 31 December 2022.
Bonus payments	N/A	<p>a bonus at the gross amount of ILS 450,000, which shall be awarded to Employee as follows:</p> <p>a. ILS 100,000 shall be awarded to Employee in the June 2022 salary, due to the workload of the preparation of the F4 of the Transaction; and</p> <p>b. ILS 350,000 upon the salary paid after commencement of trade on NASDAQ of Company after the Transaction.</p>
Retirement payments	N/A	N/A
Financial event	<p>If the Schemes, Capital Reduction and Business Combination occurs as set out in this Scheme Booklet this will constitute a financial event of USD40,000,000 under the Employment Agreement entitling the Executive to the following:</p> <ul style="list-style-type: none"> salary: ILS 660,000; 	

Terms	Existing	Proposed
	<ul style="list-style-type: none"> options: 400,000; and the following bonuses: <ul style="list-style-type: none"> In the event that Company receives an investment of 40,000,000 prior to the end of a certain calendar year, the relative amount (annual bonus divided by number of months since previous bonus) of the annual bonus due to Employee at the time of the investment; An annual, conditional on performance bonus, at an amount which shall be determined by Company's CEO, and in any event subject to a financial event (such as an investment of financing event) in an amount above USD 20,000,000. 	

8.12 Capital Structure

The capital structure of Empatan immediately following implementation of the Scheme is expected to comprise of the following securities:

Securities	Number	
	No redemptions	Maximum redemptions
Fully paid ordinary shares	34,753,278	23,753,278
New ESOP Options	1,295,847	1,295,847
Empatan Public Warrants	6,250,000	6,250,000
Empatan Founder Warrants	2,200,000	2,200,000

8.13 Interests of directors and key management in Empatan Shares following the Schemes and Business Combination

The table below sets out information regarding the beneficial ownership of Empatan Shares following implementation of Schemes, Capital Reduction and Business Combination, by the proposed Directors of Empatan and key management of the Merged Group:

	No redemptions	%	Maximum redemptions	%
Haggai Alon	496,284	1.4%	496,284	2.1%
Ophir Sternberg	3,400,000	9.8%	3,400,000	14.3%
Amir Bader	31,321	Less than 1%	31,321	Less than 1%
Zeren Browne	19,326	Less than 1%	19,326	Less than 1%
Pauline Khoo	34,378	Less than 1%	34,378	Less than 1%
Limor Moshe Lotker	-	0%	-	0%
Thomas Hawkins	-	0%	-	0%
Roger Meltzer	-	0%	-	0%
Total	3,981,309	11.5%	3,981,309	16.8%

8.14 Emerging growth company

Empatan currently qualifies, and will continue to qualify following the Business Combination, as an "emerging growth company," as defined in Section 2(a) of the US Securities Act, as modified by the Jumpstart Our Business Startups Act of 2012 (**JOBS Act**), which means that it is eligible for certain exemptions from various reporting requirements that are applicable to other public companies in the United States that are not emerging growth companies.

8.15 Foreign private issuer status

Following the implementation of the Business Combination, the Schemes and the Capital Reduction, Empatan will be considered a "foreign private issuer" as defined under the Exchange Act.

As a foreign private issuer under the Exchange Act, Empatan will be exempt from certain rules under the Exchange Act, including the proxy rules, which impose certain disclosure and procedural requirements for proxy solicitations.

Moreover, Empatan will not be required to file periodic reports and financial statements with the SEC as frequently or as promptly as domestic U.S. companies with securities registered under the Exchange Act, and Empatan will not be required to comply with Regulation FD, which imposes certain restrictions on the selective disclosure of material information. In addition, Empatan's officers, directors and principal shareholders will be exempt from the reporting and "short-swing" profit recovery provisions of Section 16 of the Exchange Act and the rules under the Exchange Act with respect to their purchases and sales of Empatan Shares.

As a foreign private issuer, Empatan will also be permitted to follow certain home country corporate governance practices instead of those otherwise required under the applicable rules of Nasdaq for domestic U.S. issuers. These circumstances are outlined throughout the NASDAQ listing rules and include:

- (a) the requirement to disclose third party director and nominee compensation set out in Rule 5250(b)(3) of the NASDAQ listing rules; and
- (b) the requirement to distribute annual and interim reports set out in Rule 5250(d) of the NASDAQ listing rules,

provided, however, that such a foreign private issuer comply with:

- (c) the Notification of Noncompliance requirement (Rule 5625), the Voting Rights requirement (Rule 5640)
- (d) the Diverse Board Representation Rule (Rule 5605(f))
- (e) the Board Diversity Disclosure Rule (Rule 5606)
- (f) have an audit committee that satisfies Rule 5605(c)(3) of the NASDAQ listing rules; and
- (g) ensure that such audit committee's members meet the independence requirement in Rule 5605(c)(2)(A)(ii) of the NASDAQ listing rules.

Disclosure requirements for foreign private issuers

The NASDAQ listing rules provide that a foreign private issuer that follows a home country practice in lieu of one or more of the NASDAQ listing rules shall disclose in its annual reports filed with the Commission each requirement that it does not follow and describe the home country practice followed by the Company in lieu of such requirements.

Alternatively, a foreign private issuer that is not required to file its annual report with the Commission on Form 20-F may make this disclosure only on its website. A foreign private issuer that follows a home country practice in lieu of the requirement in Rule 5605(d)(2) of the NASDAQ listing rules to have an independent compensation committee must disclose in its annual reports filed with the Commission the reasons why it does not have such an independent committee.

Empatan does not currently envisage any specific circumstances whereby it will depart from the requirements of the NASDAQ listing rules.

9. Proforma Financial information

9.1 Introduction

SMX provides the following unaudited pro forma condensed combined financial information to aid you in your analysis of the financial aspects of the Transactions, comprising the completed Scheme, Option Scheme, Capital Reduction and Business Combination. The unaudited pro forma condensed combined financial information has been derived from the historical financial statements of SMX, Lionheart and Empatan.

The following unaudited pro forma condensed combined financial statements present the combination of certain financial information of SMX, Lionheart and Empatan, adjusted to give effect to the Transactions.

The unaudited pro forma condensed combined statement of financial position as of 30 June 2022, presents the consolidated historical statement of financial position of SMX, Lionheart and Empatan on a pro forma basis as if the Transactions had been consummated on 30 June 2022.

The unaudited pro forma condensed combined statement of profit or loss for the year ended 31 December 2021, presents the consolidated historical statement of profit or loss and other comprehensive income of SMX and Lionheart (Empatan was not incorporated until after 1 July 2022) for that year on a pro forma basis as if the Transactions had been consummated on 31 December 2021. The purpose of the pro forma condensed combined statement of profit or loss for the year ended December 31, 2021 is to illustrate the impact of the Scheme, Option Scheme, Capital Reduction and Business Combination on the full year financial results of the newly combined group.

The unaudited pro forma condensed combined financial information has only been presented for illustrative purposes. The financial results may have been different had SMX and Lionheart actually been combined for the year presented. You should not rely on the unaudited pro forma condensed combined financial information as being indicative of the historical results that would have been achieved had SMX and Lionheart been combined or the future results that SMX will experience after giving effect to the Transactions. Furthermore, the unaudited pro forma condensed combined financial information may not be useful in predicting the future financial condition and results of operations of SMX after giving effect to the Transactions. The actual financial position and results of operations of SMX may differ significantly from the pro forma amounts reflected herein due to a variety of factors.

The unaudited pro forma adjustments represent SMX management's estimates based on information available as of the date of the unaudited pro forma condensed combined financial information and is subject to, and may differ materially from, the information presented as additional information becomes available and analyses are performed. SMX's management believes that its assumptions and methodologies provide a reasonable basis for presenting all of the significant effects of the Transactions based on information available to SMX's management at this time and that the pro forma adjustments give appropriate effect to those assumptions and are properly applied in the unaudited pro forma condensed combined financial information.

Under all redemption scenarios, the Transactions will be accounted for as an assets acquisition, with no goodwill or other intangible assets recorded, in accordance with International Financial Reporting Standards ("IFRS").

The unaudited pro forma condensed combined financial information has been prepared using the assumptions below with respect to the potential redemption of Lionheart's Class A Common Stock:

- (a) Assuming No Redemptions: This presentation assumes that no Lionheart Public Stockholder exercises redemption rights with respect to his, her or its Lionheart Class A Common Stock.
- (b) Assuming Maximum Redemptions: This presentation assumes that Lionheart Public Stockholders holding 11,000,000 Lionheart Class A Common Stock will exercise their redemption rights for US\$111,250,000 of funds in the Trust Account, resulting in US\$15,000,000 remaining in the Trust Account (representing 1.5M shares).

9.2 Accounting for the Transactions

SMX will account for the merger using the reverse acquisition method in accordance with the principles of IFRS 3. This results in SMX being identified as the accounting acquirer, and Empatan

and Lionheart being identified as the accounting acquirees. Under the reverse acquisition method, the accounting acquirer is deemed to have issued shares to obtain control of the acquirees. However, since Empatan and Lionheart are not businesses as defined in IFRS 3, the transaction is not a business combination. Based on IFRS 3's provisions, such a transaction is accounted for in the consolidated financial statements of Empatan (the legal acquirer) as a continuation of the financial statements of SMX (the legal acquiree), together with a deemed issuance of shares by SMX at fair value and a re-capitalization of its equity. This deemed issuance of shares is in fact both an equity transaction under IAS 32 (receiving the net assets of Lionheart, primarily cash) and an equity-settled share-based payment transaction under IFRS 2 (receiving the listing status of Empatan/Lionheart). The difference between the fair value of the shares deemed to have been issued by SMX and the fair value of Lionheart's identifiable net assets represents a payment for the service of obtaining a stock exchange listing for its shares, and not considered a cost of raising capital. Therefore, it is expensed immediately to profit or loss at Closing Date. Transaction costs are allocated on a relative fair value basis of the amounts allocated to each equity transaction as mentioned above, such that the amount attributed to the equity transaction is deducted from equity and the amount attributed to the listing service is charged as expense in profit or loss. The determination of SMX as the accounting acquirer is based on an evaluation of the following facts and circumstances:

- (a) SMX Shareholders will have the largest voting rights in the legal Parent after giving effect to the Transactions, under both redemption scenarios;
- (b) SMX accounts for the majority of representatives in the governing body of Empatan, the Board of Directors;
- (c) SMX's senior management will continue in their respective roles in Empatan after giving effect to the Transactions;
- (d) SMX's operations will substantially comprise the ongoing operations of SMX after giving effect to the Transactions; and
- (e) SMX is the larger entity, in terms of substantive operations and employee base.

9.3 Unaudited Proforma Statement of Financial Position as at 30 June 2022

Unaudited Proforma Combined Statement of Financial Position as at June 30, 2022
(US\$'000)

(all amounts in 000 USD)	(b)	(c)	(d)	(e)	Pro Forma Adjustments		Pro Forma	Pro Forma Adjustments	Pro Forma
	Lionheart US GAAP	IFRS Adjustments	Lionheart IFRS	Security Matters	(No Redemptions)		(No Redemptions)	(Maximum Redemptions)	(Maximum Redemptions)
Assets									
Current assets									
Cash and cash equivalents	906		906	858	126,425 (f)		112,834	126,425 (f)	1,584
					(14,641) (j)			(14,641) (j)	
					(714) (n)			(111,250) (i)	
								(714) (n)	
Other receivables				2,455	(1,027) (j)		1,428	(1,027) (j)	1,428
Prepaid expenses and other current assets	241		241				241		241
Total current assets	1,147	-	1,147	3,313	110,043		114,503	(1,207)	3,253
Non-current assets									
Property and equipment				1,082			1,082		1,082
Intangible assets				4,856			4,856		4,856
Investments in joint ventures				117			117		117
Marketable securities held in Trust Account	126,425		126,425	0	(126,425) (f)		0	(126,425) (f)	0
Total non-current assets	126,425	-	126,425	6,055	(126,425)		6,055	(126,425)	6,055
Total assets	127,572	-	127,572	9,368	(16,382)		120,558	(127,632)	9,308
Liabilities									
Current liabilities									
Trade payables	1,196		1,196	1,615	(293) (j)		2,518	(293) (j)	2,518
Other payables	60		60	705			765		765
Warrants		1,268	1,268			(l)	1,268		1,268
Convertible notes				569	(569) (h)		0	(569) (h)	0
Borrowings from related parties				165			165		165
Total current liabilities	1,256	1,268	2,524	3,054	(862)		4,716	(862)	4,716
Non-current liabilities									
Lease liability				458			458		458
Deferred underwriting payable	4,375		4,375		(4,375) (j)		0	(4,375) (j)	0
Other liabilities				106			106		106
Redeemable shares		119,438	119,438		(119,438) (g)			(119,438) (i)	0
Total non-current liabilities	4,375	119,438	123,813	564	(123,813)		564	(123,813)	564
Total liabilities	5,631	120,706	126,337	3,618	(124,675)		5,280	(124,675)	5,280
Equity									
Issued capital, additional paid in capital and warrants	126,250	(122,349)	3,901	28,737	569 (h)		182,805	569 (h)	79,025
					119,438 (g)			(2,063) (j)	
					(8,283) (j)			50,250 (k)	
					40,812 (k)			1,532 (m)	
					1,532 (m)			(3,901) (k)	
					(3,901) (k)				
Share based payment reserve				3,708	(1,532) (m)		2,219	(1,532) (m)	2,219
					43 (m)			43 (m)	
Foreign currency translation reserve				(416)			(416)		(416)
Accumulated losses	(4,309)	1,643	(2,666)	(26,279)	(2,717) (j)		(69,329)	(8,937) (j)	(76,800)
					(43) (m)			(43) (m)	
					2,666 (k)			2,666 (k)	
					(39,577) (k)			(40,827) (k)	
					(714) (n)			(714) (n)	
Total equity	121,941	(120,706)	1,235	5,750	108,293		115,279	(2,957)	4,029
Total liabilities and equity	127,572	0	127,572	9,368	(16,382)		120,558	(127,632)	9,308

Pro Forma Adjustments and Assumptions to the unaudited Pro Forma Statement of Financial Position

- (a) Empatan was formed in July 2022, and will have no results of operations until the completion of this Transactions. Therefore, its historical results of operations are not shown in a separate column in the unaudited pro forma combined statement of financial position and pro forma statement of profit or loss.
- (b) Derived from Lionheart's audited financial statements as of June 30, 2022 which have been prepared in accordance with U.S. GAAP. The US\$126,250 Class A Common Stock subject to possible redemption are classified in temporary equity under U.S GAAP.
- (c) Adjustments made to present Lionheart statement of financial position in accordance with IFRS:
 - (i) Reclassification of Lionheart's ordinary shares (US\$126,250) subject to redemption as long term liabilities measured at amortized cost using the effective interest method under IFRS.
 - (ii) Reclassification of accretion to amount subject to redemption (US\$12,261) from additional paid in capital (US\$9,647) and from accumulated losses (US\$2,614) to redeemable shares liability (US\$6,812) and accumulated losses (US\$5,449) in order to recognize the accretion on the basis of passage of time using the effective interest method under IFRS.
 - (iii) Reclassification of share warrants (US\$5,747) from equity to derivative financial liabilities at fair value as of the date of filing, US\$0.15, under IFRS
- (d) Represents Lionheart's statement of financial position after adjustments to IFRS.
- (e) Derived from SMX's interim financial statements as of 30 June, 2022 which have been prepared in accordance with IFRS.
- (f) Represents the release of cash from marketable securities held in the trust account.
- (g) Represents the reclassification of the liability for redeemable shares to equity, assuming no redemptions.
- (h) Represents the conversion of convertible notes to ordinary shares of SMX at Closing.
- (i) Represents the cash disbursement from the trust account to public SPAC shareholders for the redemption of the redeemable ordinary shares that could be redeemed in connection with the Transactions, where US\$15M (representing 1.5M shares) are retained in the trust account and classified to equity, assuming maximum redemptions.
- (j) Represents cash disbursement to settle the estimated transactions costs of US\$11M originally anticipated to be incurred in connection with the Transactions, of which, as of 30 June 2022, US\$1.027M have been incurred and US\$0.734M also paid. The estimated transaction costs related to acquire Lionheart's net assets are recognized directly in equity and the those related to obtain listing status are charged to profit or loss. The allocation was made on a relative fair value basis of the amounts of consideration attributed to each component. Cash disbursement was also made to settle the deferred underwriting payable.
- (k) Represents the effects of the recapitalization at Closing where SMX is the accounting acquirer, and the elimination of historical issued capital and additional paid in capital and accumulated losses of Lionheart. The adjustment as a reduction in accumulated losses reflects the difference between the fair value of the shares deemed to have been issued to Lionheart shareholders by SMX and the fair value of Lionheart's net assets acquired, in accordance with IFRS 2. The adjustment reflects the number of shares outstanding assuming no redemptions.
- (l) Represents the warrants in Empatan forming part of Lionheart's net assets. The warrants are derivative financial liabilities in accordance with IFRS. The fair value is the market price of US\$0.15 as of the date of filing. As reflected from the Business Combination Agreement, Empatan's warrants have the same fair value as Lionheart's warrants prior to Closing.
- (m) Represents SMX' share based payment schemes. Upon Transaction, some fully vested options are converted to ordinary shares of Empatan (US\$1,532) and for other unvested options, acceleration of vesting as a result of becoming fully vested for which the future remaining expenses (US\$43) are recognized immediately in accordance with IFRS 2. The remaining reserve balance represents the total of outstanding fully vested options over Empatan shares.

- (n) Represents the full settlement of the loan bonus payment to related parties upon completion of the Transactions, for the amount of ILS 2.5M (USD 714 thousand as converted to US dollar by using the ILS/USD exchange rate of 0.2857 for the balance sheet). As of 30 June, 2022 the carrying amount of the liability for the bonus is nil. Refer also to Note 10 of SMX financial statements for 2021.

9.4 Unaudited pro forma combined statement of profit and loss for the year ended 31 December 2021

Unaudited Pro Forma Combined Statement of Profit and Loss For The Year Ended December 31, 2021

(all amounts in 000 USD)		Lionheart US GAAP	IFRS Adjustments	Lionheart IFRS	Security Matters	Pro Forma Adjustments		Pro Forma		Pro Forma adjustments		Pro Forma	
						(No Redemptions)		(No Redemptions)		(Maximum Redemptions)		(Maximum Redemptions)	
Research and development expenses, net					2,039	194	(d)	2,233		194	(d)	2,233	
Selling and marketing expenses					453			453				453	
General and administrative expenses		345		345	2,482	2,624	(b)	43,755		8,641	(b)	51,022	
						81	(d)			81	(d)		
						38,224	(c)			39,474	(c)		
Operating Loss		345		345	4,974	41,122		46,441		48,390		53,708	
Finance expenses			1,362	(a)	1,362	101	(e)	2,180		717	(e)	2,180	
Finance income		(2)	(4,480)	(a)	(4,482)	(237)		(4,719)				(4,719)	
Share of losses of joint ventures					101			101				101	
Net loss (profit) for the year		343	(3,117)	(2,774)	4,939	41,839		44,004		49,107		51,271	

Pro Forma Adjustments and Assumptions to the unaudited Pro Forma Combined Statement of Profit and Loss

- (a) Adjustment made to record the periodic charge of the accretion amount (US\$1,362) on the redeemable shares in profit or loss using the effective interest method and to record the gain (US\$4,480) from revaluation of warrants to fair value in accordance with IFRS.
- (b) Represents cash disbursement to settle the estimated transactions costs of US\$11M anticipated to be incurred in connection with the Transactions, of which the estimated transaction costs related to listing service are charged to general and administrative expenses.
- (c) The adjustment to general and administrative expenses reflects the service of obtaining a stock exchange listing in accordance with IFRS 2 and is calculated as the difference between the fair value of the shares deemed to have been issued to Lionheart shareholders by Security Matters and the fair value of Lionheart's net assets acquired, in accordance with IFRS 2. The adjustment reflects the number of shares outstanding assuming no redemptions and maximum redemptions, as shown.
- (d) The adjustment reflects acceleration of vesting for unvested options as a result of becoming fully vested upon Transactions for which the future remaining expenses are recognised immediately in accordance with IFRS 2
- (e) Represents the difference between the settlement payment of the loan bonus to related parties and the carrying amount of the liability for the loan bonus as of 31 December 2021. Refer also to Note 10 of SMX financial statements for 2021.

10. Risks

The SMX Board considers that it is appropriate for SMX Shareholders, in considering the Scheme, to be aware that there are a number of risk factors, general and specific to SMX's business, which could materially adversely affect the future operating and financial performance of SMX and the value of SMX Shares.

Sections 10.2 and 10.3 identify some, but not all, of the major risks associated with your current investment in SMX and general investment risks which will continue to apply if the Scheme is not implemented. You should read the whole of this Scheme Booklet in order to fully appreciate such matters and the manner in which SMX currently operates before any decision is made on how to vote at the Scheme Meeting.

If the Scheme is implemented, you will receive the Scheme Consideration and will no longer be a SMX Shareholder. However, you will have an indirect interest in SMX (as a holder of the New Empatan Shares) and will therefore remain exposed to some of the risks set out below.

10.1 Risks associated with the Scheme not proceeding

If the Scheme does not proceed, you will continue to hold your SMX Shares and will continue to be exposed to risks associated with that investment. For further information on the consequences of the Schemes and Capital Reduction not proceeding, see Section 4.3.

10.2 Risks associated with SMX's business

(a) Sufficiency of funding

SMX has limited financial resources and will need to raise additional funds from time to time to finance the complete development and commercialisation of its products and its other longer-term objectives. SMX's ability to raise additional funds will be subject to, among other things, factors beyond the control of SMX and the SMX Directors, including cyclical factors affecting the economy and share markets generally. The SMX Directors can give no assurance that future funds can be raised by SMX on favourable terms, if at all.

(b) Competition

The Company operates in a competitive industry. There may be companies within the industry with significantly greater financial, technical, human, research and development, and marketing resources than the Company. The Company's competitors may develop products in advance of SMX's and/or produce products that are more effective than those developed by the Company. If this was to occur, the Company's current and future products may become obsolete or uncompetitive, resulting in adverse effects on cash flows and profitability.

(c) Key personnel

The Company currently employs a number of key management and specific personnel. SMX will also require the services of additional staff to further develop the Company's products and implement its marketing strategy. The Company's future success depends on retaining and attracting suitably qualified personnel. There is no guarantee they will stay with SMX.

(d) Regulatory risks

The Company, its services and products are subject to various laws and regulations. Changes in these laws and regulations (including interpretation and enforcement) could adversely affect the Company's financial performance. SMX is not currently aware of any specific material changes in relevant regulations or policy which are likely to materially adversely affect SMX or its business.

(e) Dependence on service providers and suppliers

The Company operates a significant amount of its key activities through a series of contractual relationships with licensors, independent contractors and suppliers. All of the Company's contracts carry a risk that the third parties do not adequately or fully comply with its or their respective contractual rights and obligations. Such failure could lead to termination and/or significant damage to the Company's product development efforts.

(f) Currency Risk

While the Company's financial reports are prepared in US dollars, a proportion of revenues and expenditures are earned and incurred in overseas jurisdictions. These revenues and expenditures are subject to the risk of fluctuations in foreign exchange markets.

(g) Management of financial growth

The ability of SMX to achieve adequate financial performance is dependent on a number of factors, not all of which are within the control of SMX.

In the future, SMX may require additional capital, whether by equity or debt, to explore and/or develop further business opportunities. There can be no assurance that SMX will be able to raise such capital on favourable terms, if at all.

The inability to raise additional capital, if required, may have a detrimental impact on SMX's financial performance and the ability of SMX to expand its business.

(h) Unforeseen expenses

SMX may be subject to significant unforeseen expenses or actions. This may include unplanned operating expenses, future legal actions or expenses in relation to future unforeseen events.

(i) Intellectual property

While the Company is not aware of any of its patent applications or technology infringing any third party's patents, it has not undertaken an exhaustive assessment of existing patents to determine any overlapping technology or potential infringement, as the costs of such would be prohibitive. Accordingly, there is a risk that a third party may claim that the SMX's patent applications infringe that third party's patent.

Any event that would jeopardise the Company's proprietary rights or any claims of infringement by third parties could have an adverse effect on the Company's ability to market or exploit its technology.

There is no guarantee that SMX's existing or proposed patents will provide adequate protection for the Company's intellectual property, or that third parties will not infringe or misappropriate the patents or similar proprietary rights. In addition, there can be no assurance that the Company will not have to pursue litigation against other parties to assert its rights.

If some or all of the SMX's patent applications are not granted, the Company's ability to exploit its technology may be materially adversely affected.

(j) Development and commercialisation

The success of SMX will depend on its ability to develop and commercialise the Company's technology. A failure to successfully develop and commercialise the Company's technology could lead to a loss of opportunities and adversely impact on the Company's operating results and financial position.

The global market for SMX's technology is ever changing due to new technologies, new products, changes in regulations and other factors influencing market acceptance or market rejection of the Company's technologies. This market volatility and risks exists despite SMX's best endeavours in relation to market research, promotion and sales campaigns. There is a risk that SMX's technology is not accepted by the market or are not used in proposed markets and industries. There is a risk that SMX will not be able to commercialise its products, which could adversely impact on the Company's operations.

10.3 General risks associated with SMX

Most of the general risks discussed below are outside the control of SMX and the SMX Board and cannot be mitigated.

(a) Market for Shares

No assurance can be given that an active market will exist in the future for SMX Shares or that SMX Shares will trade at or above the Scheme Consideration for the SMX Shares.

(b) Stock market volatility

The market price of SMX Shares may rise or fall depending upon a range of factors beyond SMX's control and which are unrelated to SMX's operational performance. The price of SMX's Shares listed on ASX may also be affected by a range of factors including SMX's financial performance and by changes in the business environment.

SMX Shares carry no guarantee in respect of profitability, dividends, return on capital, or the price at which they may trade on the ASX.

There are a number of national and international market factors that may affect the price of SMX Shares, including movements on international stock markets, economic conditions and general economic outlook, interest rates and exchange rates, inflation rates, commodity supply and demand, government taxation and royalties, legislation, monetary and other policy changes and general investors' perceptions. Neither SMX nor the SMX Directors have control over these factors.

(c) General economic conditions

The general economic climate may affect the financial performance of SMX. These factors include the general level of international and domestic economic activity, inflation and interest rates. These factors are beyond the control of SMX and the SMX Directors and their impact cannot be predicted.

(d) Changes in laws and government policy

Changes in laws and government policies (including changes to SMX's industry), both domestically and internationally, may adversely affect the financial performance of the current and proposed operations of SMX.

(e) Insurance risks

Although SMX maintains insurance, no assurance can be given that adequate insurance will continue to be available to SMX in the future on commercially acceptable terms.

(f) Government actions and other events

The impact of actions by domestic and international governments may affect SMX's activities, including in relation to its infrastructure, compliance with environmental regulations, export, taxation and royalties.

Events may occur within or outside Australia that could impact on the world economy, the financial services market, SMX's operations and the price of SMX Shares. These events include war, acts of terrorism, civil disturbance, political intervention, pandemics and natural disasters. SMX has only a limited ability to insure against some of these risks.

(g) COVID-19

SMX's business may be exposed to the risks associated with disease outbreaks and other public health issues, including COVID-19, their impact on the global economy and the business of its customers, suppliers and other partners.

SMX's possible financing sources, its business, its operations or those of its consultants, suppliers, customers and other partners may be materially and adversely affected as a result.

10.4 Specific risks relating to Empatan

Sections 10.4-10.7 set out some of the key risks relating to Empatan, the Scheme and creation of the Merged Group.

You should carefully read this Scheme Booklet in its entirety and specifically consider the risks in Sections 10.4-10.7. These risks relating to Empatan are different from, and in addition to, those risks set out in Sections 10.2 and 10.3 that apply to your current investment in SMX Shares. These risks may, individually or in combination, have a material adverse effect on the Merged Group's (post implementation of the Scheme) future financial performance, financial position, cash flows and/or your ability to dispose of the New Empatan Shares if you wish to do so and, consequently, on the value of your New Empatan Shares.

The risks set out in Sections 10.4-10.7 are not an exhaustive list of the risks relating to the Empatan, the Scheme and the creation of the Merged Group as many of these risks are outside the control of Empatan, Lionheart, SMX and either cannot be mitigated or can only be partially mitigated.

You should carefully consider these risks in light of your personal circumstances and seek professional advice from their accountant, tax adviser, stockbroker, lawyer or other professional adviser before voting at the Scheme Meeting.

(a) No direct rights against SMX

SMX Shareholders are currently direct holders of SMX Shares, and accordingly may enforce their rights as SMX Shareholders directly against SMX. Scheme Participants will be issued

New Empatan Shares, and will therefore have an indirect holding in SMX through Empatan. Empatan Shareholders may only enforce their rights against Empatan and not against any other member of the Merged Group (which will include SMX on the implementation of the Scheme).

(b) Reporting requirements for foreign private issuers

As a "foreign private issuer" under the rules and regulations of the SEC, Empatan is permitted to, and will, file less or different information with the SEC than a company incorporated in the United States or otherwise subject to these rules, and will follow certain home country corporate governance practices in lieu of certain Nasdaq requirements applicable to U.S. issuers. As a result, there may be less publicly available information concerning Empatan than there is for issuers that are not foreign private issuers.

(c) No operating history

Empatan has no operating history. The financial information contained in this Scheme Booklet may not be an indication of Empatan's financial condition or results of operations following implementation of the Schemes, Capital Reduction and Business Combination and accordingly, you have limited financial information on which to evaluate Empatan and your investment decision.

(d) Irish law

Irish law differs from the laws in effect in Australia and there will be differences between your current rights as a holder of the Company securities and the rights one can expect as a holder of Empatan Shares, some of which may adversely affect you and some of which are set out in Section 14.

10.5 General risks relating to Empatan

(a) Trading in NASDAQ listed securities

Trading in NASDAQ listed securities may differ from trading in ASX listed securities from a practical perspective. You may be required to establish certain accounts or follow certain processes which you are not familiar with in order to hold and / or trade in Empatan Shares.

(b) Price of Empatan Shares

There are general risks associated with investments in equity capital such as Empatan Shares. The trading price of Empatan Shares may fluctuate with movements in equity capital markets in the US and internationally. There is no assurance that the price of Empatan Shares will increase in the future, even if Empatan achieves key technical or commercial milestones or any future financial forecasts. The price at which Empatan Shares are quoted on the NASDAQ may increase or decrease due to a number of factors, some of which may not relate directly or indirectly to the Merged Group's performance or prospects.

Generally applicable factors which may affect the market price of Empatan Shares include:

- (i) fluctuations in the domestic and international markets for listed stocks;
- (ii) general economic conditions, including interest rates, inflation rates, exchange rates, commodity and oil prices or changes to government;
- (iii) fiscal, monetary or regulatory policies, legislation or regulation;
- (iv) inclusion in or removal from market indices;
- (v) the nature of the markets in which Empatan operates;
- (vi) variations in sector performance, which can lead to investors exiting one sector to prefer another; and
- (vii) initiatives by other sector participants which may lead to investors switching from one stock to another.

Deterioration of general economic conditions may also affect Empatan's business operations, and the consequent returns from an investment in Empatan Shares.

(c) Liquidity

Empatan Shares will only be listed on the NASDAQ and will not be listed for trading on any other financial markets. There can be no guarantee that an active market in Empatan Shares will continue. If an active market for the Empatan Shares is not sustained, it may be difficult for investors to sell their Empatan Shares at the time or for the price they seek. Further, the market price for Empatan Shares may fall or be made more volatile because of relatively low

volume of trading in Empatan Shares. When trading volume is low, significant price movements can be caused by the trading in a relatively small number of shares. Sales of a substantial number of Empatan Shares following implementation or the perception or expectation that such sales may occur, could cause the market price of Empatan Shares to decline. Empatan may also offer additional shares in order to raise capital or to (part) fund future acquisitions, which may adversely affect the market price for the shares.

(d) Access to capital

Empatan may rely on access to debt and equity financing. The ability to secure financing on acceptable terms may be materially adversely affected by volatility in financial markets, either globally or impacting a particular geographic region, industry or economic sector, or by a downgrade in its credit rating. For these (or other) reasons, financing may be unavailable or the cost of financing may be significantly increased. Such inability to obtain, or such increase to the costs of obtaining, financing could materially adversely affect the Empatan's operations or financial performance.

(e) Ability to service or refinance debt

Empatan may become unable to service or refinance any future debt, or obtain new debt, on acceptable terms or at all, depending on future performance and cash flows of Empatan which are affected by various factors, some of which may be outside Empatan's control, such as interest and exchange rates, general economic conditions and global financial markets. If any of these scenarios materialise in an adverse way, Empatan may be unable to raise financing on acceptable terms to repay maturing indebtedness. This could adversely affect the longer term prospects and financial performance of Empatan's business.

(f) Tax law and application

The application of and change in, relevant tax laws (including income tax, goods and services tax (or equivalent), rules relating to deductible liabilities and stamp duty), or changes in the way those tax laws are interpreted, will or may impact the tax liabilities of Empatan or the tax treatment of a Empatan Shareholder's investment. An interpretation or application of tax laws or regulations by a relevant tax authority that is contrary to Empatan's view of those laws may increase the amount of tax paid or payable by Empatan.

In particular:

- (i) a transfer of Empatan Shares, other than one effected by means of the transfer of book-entry interests in the Depository Trust Company (**DTC**), may be subject to Irish stamp duty: Submission will be made to the Irish Revenue Commissioners to confirm that transfers of Empatan Shares effected by means of the transfer of book-entry interests in DTC will not be subject to Irish stamp duty. However, if Empatan Shares are held directly rather than beneficially through DTC, any transfer of Empatan Shares could be subject to Irish stamp duty (currently at the rate of 1% of the higher of the price paid or the market value of the Empatan Shares). Payment of Irish stamp duty is generally a legal obligation of the transferee. The potential for stamp duty could adversely affect the price of Empatan Shares;
- (ii) dividends paid by Empatan may be subject to Irish dividend withholding tax: Empatan currently does not expect to pay any cash dividends on Empatan Shares. If Empatan were to declare and pay dividends, in certain limited circumstances, dividend withholding tax (currently at a rate of 25%) may arise in respect of dividends paid on Empatan Shares. A number of exemptions from dividend withholding tax exist such that shareholders resident in Israel and Australia and other exempt countries may be entitled to exemptions from dividend withholding tax, provided the necessary declarations of residency are put in place; and
- (iii) Empatan Shares received by means of a gift or inheritance could be subject to Irish capital acquisitions tax: Irish capital acquisitions tax (**CAT**) could apply to a gift or inheritance of Empatan Shares irrespective of the place of residence, ordinary residence or domicile of the parties. This is because Empatan Shares will be regarded as property situated in Ireland. The person who receives the gift or inheritance has primary liability for CAT. Gifts and inheritances passing between spouses are exempt

from CAT. Children have a tax-free threshold of €335,000 in respect of taxable gifts or inheritances received from their parents.

Both the level and basis of tax may change. Any changes to the current rate of company income tax (in Australia, Ireland or other countries in which Empatan operates) and / or any changes in tax rules and tax arrangements (again in Australia, Ireland or other countries in which Empatan operates) may increase the amount of tax paid or payable by Empatan, may also impact Empatan Shareholder returns and could also have an adverse impact on the level of dividend franking / conduit foreign income and Empatan Shareholder returns. In addition, an investment in Empatan Shares involves tax considerations which may differ for each Empatan Shareholder. Each Empatan Shareholder is encouraged to seek professional tax advice in connection with any investment in Empatan.

For more information, please see Part C of Annexure A.

(g) Force majeure events

Events may occur within or outside Australia that could impact on global, Australian or other local economies relevant to Empatan's financial performance, the operations of Empatan and the price of Empatan Shares. These events include but are not limited to acts of terrorism, an outbreak of international hostilities, fires, floods, earthquakes, labour strikes, civil wars, natural disasters, outbreaks of disease or other man-made or natural events or occurrences that can have an adverse effect on the demand for Empatan's services and its ability to conduct business. Empatan has only a limited ability to insure against some of these risks.

(h) Shareholder dilution

In the future, Empatan may elect to issue further Empatan Shares in connection with fundraisings, including to raise proceeds for acquisitions. There is no assurance that Empatan Shareholders will be able to participate in such fundraisings and they may be diluted as a result of such fundraisings.

(i) Economic conditions

The performance of Empatan will be affected by domestic and global economic conditions. Adverse changes in macroeconomic conditions, including global and country-by-country economic growth, the costs and general availability of credit, the level of inflation, interest rates, exchange rates, government policy (including fiscal, monetary and regulatory policies), general consumption, consumer spending and sentiment, employment levels, industrial disruption, and other conditions, are outside the control of Empatan and may result in material adverse impacts on Empatan's business and operating results.

(j) COVID-19

Empatan's business may be exposed to the risks associated with disease outbreaks and other public health issues, including COVID-19, their impact on the global economy and the business of its customers, suppliers and other partners.

Empatan's possible financing sources, its business, its operations or those of its consultants, suppliers, customers and other partners may be materially and adversely affected as a result.

10.6 Risks specific to the Scheme

(a) Competing Proposal

There is a risk that SMX receives, and recommends, a Competing Proposal before the Second Court Date. If this were to occur, the Scheme Implementation Deed would likely be terminated and the Scheme would not likely proceed.

As at the date of this Scheme Booklet, SMX has not received a Competing Proposal and the SMX Board continues to unanimously recommend the Scheme in the absence of a Superior Proposal.

(b) Potential variation in the ratio of New Empatan Shares

As of the date of the announcement of the Schemes and the Capital Reduction on 26 July 2022, Empatan offered 1 New Empatan Shares per 10.2432 SMX Shares under the terms of the Scheme.

On account of the Standby Facility and Bridge Loan, the ratio of New Empatan Shares that each Scheme Participants will be entitled to is likely to change based on the following formula:

$$NPS = \frac{N}{A + B + C}$$

where:

NPS is the number of New Empatan Shares per SMX Share;

A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and Employee Share Options);

B is the total number of Option Exercise Shares to be issued on exercise of all Scheme Options on a Cashless Exercise basis under this Option Scheme;

C is the total number of Employee Share Options on issue as at the Record Date; and

N is 20,000,000.

As this share ratio is not fixed, and is subject to any changes arising in SMX's capital structure up to the Scheme Record Date, the number of New Empatan Shares to be received by SMX Shareholders in the context of the Scheme may change up to the Scheme Record Date.

No adjustment will be made to the ratio due to fluctuations in the market price of New Empatan Shares or SMX Shares. Any such fluctuations may adversely affect the market value of New Empatan Shares (including the market value of the New Empatan Shares).

The current ratio, as at the date of this Scheme Booklet, of New Empatan Shares that each Scheme Participants will be entitled to is 1 New Empatan Share for every 10.3207 SMX Shares.

(c) Scheme Conditions

Implementation of the Scheme is subject to a number of Scheme Conditions, outlined in Section 11.10 including that no court or Regulatory Authority takes any action to restrain or prohibit the Scheme. Certain Scheme Conditions are beyond the control of SMX, Lionheart and Empatan. There can be no guarantee that the Scheme Conditions will be satisfied or waived (as applicable) in a timely manner or at all. Any failure or delay to satisfy the Scheme Conditions could prevent or delay implementation of the Scheme, which could reduce or delay the benefits that are anticipated to arise from the Scheme, increase the costs associated with the Scheme and impede the successful integration of Empatan, Lionheart and SMX.

(d) Business Combination conditions

Closing of the Business Combination is subject to a number of conditions, outlined in Section 13.4. Certain Scheme Conditions are beyond the control of SMX, Lionheart and Empatan. There can be no guarantee that the conditions to the Business Combination will be satisfied or waived (as applicable) in a timely manner or at all. Any failure or delay to satisfy the conditions to the Business Combination could prevent or delay implementation of the Business Combination and in turn, the Scheme, which could reduce or delay the benefits that are anticipated to arise from the Scheme, increase the costs associated with the Scheme and impede the successful integration of Empatan and SMX.

10.7 Risks specific to creation of the Merged Group

(a) Integration risk

There is a risk that unexpected issues and complications may arise during the process of integrating Empatan and SMX. The Merged Group may face risks such as unanticipated liabilities and costs, operational disruption and possible loss of key employees, clients or market share if integration is not achieved in an efficient and effective manner.

Integration risk factors include:

- (i) difficulty in consolidating corporate and administrative infrastructures and removing duplicative operations;
- (ii) difficulty in aligning and executing the strategy of the Merged Group;
- (iii) difficulty in integrating information systems;

- (iv) difficulty in merging the culture and management styles of the organisations;
- (v) greater than anticipated loss of clients or client opportunities due to conflicts or other factors;
- (vi) unexpected losses of key employees;
- (vii) unanticipated market conditions; and
- (viii) changes in regulations, or regulatory conditions imposed in connection with the Scheme, impacting the ability of the Merged Group to use its scale and presence to achieve anticipated benefits.

Integration planning is expected to mitigate the risk of these issues occurring. Nonetheless, a risk remains that difficulties may arise in integrating the businesses.

(b) Redemptions rights of Lionheart Shareholders

Lionheart closed its IPO offering on 8 November 2021, whereby 12,500,000 Lionheart Public Units were issued in a fully subscribed IPO. Each Public Unit consists of one share of class A Common Stock and one-half of one redeemable Public Warrant, each whole Public Warrant entitling the holder thereof to purchase one share of Class A Common Stock at an exercise price of US\$11.50 per share. The Lionheart Public Units were sold at a price of US\$10.00 per Public Unit, generating gross proceeds to Lionheart of US\$125,000,000.

Lionheart, simultaneously to its IPO, also completed the private sale (Private Placement) of 2,000,000 Private Warrants at a price of US\$1.00 per Private Warrant and the sale of 400,000 Lionheart Private Units in a private placement, generating gross proceeds of \$6,000,000. The Lionheart Private Units are identical to the Lionheart Public Units sold in the Public Offering, and the Private Warrants are largely identical to the Public Warrants.

On 8 November 2021, US\$126,250,000 of the gross proceeds from the Public Offering and the sale of the Private Units was deposited in the Trust Fund with the Trustee. The trust proceeds are invested in US Treasury securities and accrue interest based upon the yield of such securities.

The Lionheart Existing Charter requires Lionheart to provide all holders of shares of its Class A Common Stock with the opportunity to redeem all or a portion of their shares of Class A Common Stock upon the consummation of an initial business combination. Accordingly, if the Business Combination is approved by Lionheart's shareholders, the Public Shareholders may elect to redeem their shares of Class A Common Stock.

Upon redemption, each redeeming share is entitled to its pro rata portion of the proceeds of the trust. The remaining proceeds of the trust will be provided to Empatan, following the closing.

The redemption rate will only be known on the date of the vote of the Lionheart stockholders which is expected to be held in January 2023.

If sufficient Lionheart Shareholders exercise their redemption rights in connection with the Business Combination and if the sale of some or all of the PIPE fails to close (see Section 10.7(c) below), Lionheart may lack sufficient funds to consummate the Business Combination.

(c) PIPE Financing

Lionheart is actively pursuing to enter into subscription agreements with certain institutional and accredited investors (**PIPE Investors**), pursuant to which Lionheart will agree to issue and sell, in private placements to close immediately prior to the closing of the Business Combination, up to US\$25 million in the aggregate, in securities (**PIPE Financing**). The securities to be issued pursuant to the subscription agreements will not be registered under the Securities Act of 1933, as amended (the **US Securities Act**), in reliance upon the exemption provided in section 4(a)(2) of the Securities Act.

The closing of any PIPE Financing would be subject to customary conditions for a financing of this nature, including the completion of the Business Combination (**Closing**). The subscription agreements are expected to provide that Lionheart will provide the PIPE Investors customer registration rights with respect to any securities issued to such investors in connection with any PIPE Financing following the Closing.

The PIPE Investor's obligations to purchase the PIPE securities are subject to termination if the Business Combination is not consummated on or before 8 January 2023 as such date may be further extended in one-month increments until May 8, 2023, as permitted under Lionheart's governing documents. Additionally, the PIPE Investor's obligations to purchase the PIPE Securities are subject to fulfillment of customary closing conditions, including that the Business Combination must be consummated substantially concurrently with, and immediately following, the purchase of the PIPE Securities.

In the event of any such failure to fund, any termination of such obligation, or if any such condition is not satisfied and not waived, Lionheart may not be able to obtain additional funds to account for such shortfall on favourable terms or at all. If the sale of some or all of the PIPE fails to close and sufficient Lionheart Shareholders exercise their redemption rights in connection with the Business Combination, Lionheart may lack sufficient funds to consummate the Business Combination.

(d) Employees

Many of SMX's and Lionheart's key personnel are highly qualified and highly experienced with in-depth industry and client knowledge. Any loss of key personnel may have a material adverse impact on the respective financial performance of the Merged Group. Employee retention may be particularly challenging during the Scheme process and integration of Empatan, Lionheart and SMX, as employees may experience change fatigue or uncertainty about their future roles.

Since the respective businesses are heavily dependent on professional staff, which represents a significant proportion of the cost base, this may have an adverse impact upon revenue and/or profitability. Furthermore, the Merged Group may have to incur significant costs in identifying and hiring replacements for departing employees and may lose significant expertise relating to the business. Accordingly, the Merged Group's ability to realise the anticipated benefits of the Scheme may be adversely affected.

Implementation of the Scheme may result in the termination of management positions or employment contracts of certain employees of Empatan or SMX, which may result in significant redundancy or termination payments. Certain key executives and other employees of Empatan or SMX may terminate their management positions or their employment contracts on their own initiative as a result of or following the Scheme. If members of the Merged Group's senior management depart, the Merged Group may not be able to find effective replacements in a timely manner, or at all, and its business may be disrupted.

(e) Reputation

Industry reputation is a key asset of SMX. Maintenance of the reputation and value associated with the Merged Group, and the development and commercialisation of businesses within it, will be critical to the Merged Group's businesses and their strategy for the future.

It is possible that, if the Scheme is implemented, the strategies described in this Scheme Booklet may not be achieved, or key employees may leave, resulting in the erosion of the reputation or value associated with the Merged Group and its businesses, which in turn could have an adverse effect on the performance and operations of the Merged Group. Other events, including a material non-compliance with regulations or a breach of or failure in information and technology systems, could have a material adverse impact on the Merged Group's reputation or the value of its businesses and increase expenditure due to additional security costs and/or potential claims for compensatory damages.

(f) Litigation

In connection with the Scheme, Empatan, Lionheart and / or SMX could face new claims and litigation, in particular brought by existing or former business partners, competitors and / or regulators of Empatan, Lionheart or SMX, or by investors in connection with the Scheme.

(g) Due Diligence

The negotiations between SMX, Lionheart and Empatan were conducted on the basis of the information that was publicly available to each party and on voluntary limited disclosure by

each party to the other. While SMX, Lionheart and Empatan consider the due diligence investigations to have been adequate and consistent with market practice for a transaction of this type, the investigations were undertaken within a limited timeframe and both parties have not been able to verify the accuracy, reliability or completeness of all of the information provided to them against independent data. In addition, consistent with market practice in Australia, the warranties provided by SMX, Lionheart and Empatan in the Scheme Implementation Deed are more limited than what a seller in a privately negotiated share acquisition agreement would normally provide.

As a result, following implementation of the Scheme, unknown liabilities of SMX, Lionheart or Empatan may arise, or expected types of liabilities may be greater than anticipated, and this may impact negatively on profitability, results of operations, financial position, market value and share price of the Merged Group, which the relevant party might otherwise have discovered if it had conducted a complete due diligence review and obtained extensive warranties from the other party.

(h) After-market

If a large number of shareholders in the Merged Group do not intend to continue to hold their Empatan Shares (including, for SMX Shareholders, those New Empatan Shares received as Scheme Consideration) after implementation of the Scheme and instead choose to sell, there is a risk that the trading price of Empatan Shares will be adversely impacted by such selling.

Prior to 8:00am on the Second Court Date, Empatan and certain holders of Empatan Shares will enter into Lock-Up Agreements, as further detailed in Section 13.7(a).

(i) Going concern of Lionheart

If the Business Combination is not consummated by 8 January 2023 (or until May 8, 2023 if Lionheart extends the period of time to consummate its initial business combination pursuant to any further extension period), Lionheart's liquidation date, there will be a mandatory liquidation and subsequent dissolution of Lionheart. Lionheart intends to complete the Business Combination before the mandatory liquidation date. However, there can be no assurance that Lionheart will be able to consummate the Business Combination.

If an initial business combination is not consummated by the liquidation date, as may be extended until May 8, 2023, there will be a mandatory liquidation and subsequent dissolution of Lionheart.

Management of Lionheart has determined that the mandatory liquidation, should an initial business combination not occur, and potential subsequent dissolution of Lionheart, raises substantial doubt about its ability to continue as a going concern.

On November 8, 2022 and December 8, 2022, respectively, Lionheart caused \$412,500 to be deposited on each date into Lionheart's Trust Account for its public stockholders, representing \$0.033 per share of Class A common stock. This allows Lionheart to extend the period of time it has to consummate its previously announced initial business combination with Security Matters Limited by (i) one month initially from November 8, 2022 to December 8, 2022 and (ii) from December 8, 2022 to January 8, 2023 (the "Extension"). The Extension is the first and second of six one-month extensions permitted under Lionheart's governing documents. Lionheart has provided an assurance that it will exercise a further extension for the 8 January period and to facilitate the holding of the Scheme Meeting, Optionholders Meeting and General Meeting

Lionheart is required to repay any extension payments that are loaned to the Sponsor for purposes of making such extension payments. The initial extension payment was made using existing funds and no promissory note was issued. If Lionheart completes its initial Business Combination, it will, at the option of the Sponsor, repay any amounts loaned under the promissory note(s) out of the proceeds of the Trust Account released to it or convert a portion or all of the amounts loaned under such promissory note(s) into shares of Class A Common Stock. If Lionheart does not complete an initial Business Combination by the extension deadline, the loans will be repaid only from funds held outside of the Trust Account.

(j) Risks Related to The Business and Operations of the Merged Group.

- a. The Post-Combination Company will incur significant increased expenses and administrative burdens as a public company, which could materially and adversely affect its business, results of operations, financial condition, and growth prospects.
- b. If the Post-Combination Company fails to maintain an effective system of disclosure controls and internal controls over financial reporting, its ability to produce timely and accurate financial statements or comply with applicable regulations could be impaired.
- c. The Parent's management has limited experience as executive officers of a U.S. public company.

(k) Risks Related to the Nature of the Proposed Transaction- DeSPAC

- a. As noted above, the structure of this transaction as a De-SPAC process involves specific execution risk, and also risks in relation to the mechanics of the transaction.
- b. Some of the risks relate to the listing- Empatan Shares may not be listed on the financial market operated by NASDAQ after the Business Combination, which could limit investors' ability to make transactions in such securities, subject Empatan to additional trading restrictions, and subject Empatan's security holders to Irish stamp tax upon securities transfers. Whilst Lionheart is already listed, there is a risk that the listing of Empatan through Lionheart may not proceed.
- c. Empatan may lose its foreign private issuer status in the future, which could result in significant additional costs and expenses. This would subject Empatan to GAAP reporting requirements which may be difficult for it to comply with.
- d. Empatan does not intend to pay dividends for the foreseeable future, but if Empatan pays dividends, such dividends may be subject to Irish dividend withholding tax or Irish income tax, and certain transfers of Empatan Shares and Empatan Warrants may be subject to Irish capital acquisitions tax or stamp duty.

11. Implementation of the Scheme

11.1 Overall effect of the Scheme

The Scheme is to be implemented through the Scheme of Arrangement outlined in this Scheme Booklet between SMX and SMX Shareholders. Empatan will acquire all of the issued shares in SMX and SMX will become a wholly-owned Subsidiary of Empatan.

Unless terminated in accordance with SID, the Scheme will remain in force until it becomes effective. The termination rights of each party and the effect of termination are discussed at Section 11.12 and Section 11.13 below.

If the Scheme becomes Effective, on the Scheme Implementation Date all the Scheme Shares will be cancelled in accordance with the Capital Reduction, and SMX will immediately issue Empatan one (1) SMX Share. Each Scheme Participant, being a person who is registered as a SMX Shareholder on the Scheme Record Date, will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares.

The Scheme Consideration will be provided to Scheme Participants in accordance with the provisions of the Scheme.

11.2 People who are affected by the Scheme

If the Scheme and the Capital Reduction becomes Effective, all SMX Shareholders will have all of their SMX Shares cancelled without the need for any further act by any SMX Shareholder in return for the Scheme Consideration for each SMX Share that they hold.

11.3 Right to inspect and obtain copies of the SMX Register

SMX Shareholders have the right to inspect the SMX Register, which contains the name and address of each SMX Shareholder and certain other prescribed details relating to the SMX Shares, without charge. SMX Shareholders also have the right to request a copy of the relevant register, upon payment of a fee (if any) up to a prescribe amount.

For more information about your rights to inspect the SMX Register, please contact +61 2 9290 9655.

11.4 Scheme Consideration

On the date of announcement of the Scheme, Scheme Participants were to be entitled to receive 1 New Empatan Share for every 10.2432 SMX Shares held on the Scheme Record Date.

On account of the Standby Facility and Bridge Loan, the ratio of New Empatan Shares that each Scheme Participants will be entitled to is likely to change based on the following formula:

$$NPS = \frac{N}{A + B + C}$$

where:

NPS is the number of New Empatan Shares per SMX Share;

A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and Employee Share Options);

B is the total number of Option Exercise Shares to be issued on exercise of all Scheme Options on a Cashless Exercise basis under this Option Scheme;

C is the total number of Employee Share Options on issue as at the Record Date; and

N is 20,000,000.

The current ratio of New Empatan Shares that each Scheme Participants will be entitled to is 1 New Empatan Share for every 10.3207 SMX Shares.

The Scheme Consideration represents a 383% premium to SMX's 1-month VWAP and a premium of 448% to the 3-month VWAP prior to the announcement of the Scheme of A\$0.2936 and A\$0.2585, respectively⁶. It also represents a premium of 850% on the closing price at the Last Practicable Date, at which point SMX shares were trading at \$0.15 per share

SMX Shareholders who are Ineligible Foreign Holders will not be issued New Empatan Shares.

Instead, the New Empatan Shares to which Ineligible Foreign Holders would otherwise be entitled to under the Scheme will be issued to the Sale Agent and sold through the Share Sale Facility, with

⁶ As of 26 July 2022.

the Share Sale Facility Proceeds being remitted to those SMX Shareholders based on the following formula:

$$A = \left(\frac{B}{C} \right) \times D$$

where

- A is the amount to be paid to each relevant Ineligible Scheme Participant;
- B is the number of New Empatan Shares that would have been issued to that Ineligible Foreign Holder had it not been an Ineligible Foreign Holder;
- C is the total number of New Empatan Shares; and
- D is the Proceeds.

The Scheme Consideration will be issued on the Scheme Implementation Date which is currently expected to be 15 February 2023

A holding statement detailing the issue of the New Empatan Shares is expected to be despatched to Scheme Participants within 2 Business Days after the Scheme Implementation Date.

Scheme Participants may be unable to trade until they receive the holding statement confirming the number of New Empatan Shares held. It is the responsibility of each Scheme Participant to confirm their holding before trading in their securities. New Empatan Shareholders who sell their securities before they receive their holding statements do so at their own risk. SMX and Empatan disclaim all liability (to the maximum extent permitted by law) to persons who trade the New Empatan Shares before receiving their holding statements.

11.5 Share Sale Facility

Empatan will issue the New Empatan Shares that cannot be issued to an Ineligible Foreign Holder to the Sale Agent and such shares will be sold for the benefit of that relevant person.

Empatan must procure that, as soon as reasonably practicable after the Scheme Implementation Date and, in any event, not more than 15 Business Days after the Implementation Date, the Sale Agent sells or procures the sale, in the ordinary course of trading on NASDAQ, of all the New Empatan Shares issued to the Sale Agent.

Empatan must as soon as reasonably practicable distribute to each Ineligible Foreign Holder their respective proportion of the Share Sale Facility Proceeds by (at its discretion):

- » sending the Share Sale Facility Proceeds to the Ineligible Foreign Holder's registered address by cheque in US currency; or
- » depositing via an electronic funds transfer, the Share Sale Facility Proceeds into an account with any Australian ADI (as defined in the Corporations Act) notified to SMX by an appropriate authority from the Ineligible Foreign Holder.

Brokerage fees, other costs, taxes and charges will be deducted from the Share Sale Facility Proceeds.

Interest will not be paid on any Share Sale Facility Proceeds.

The Sale Agent will sell the New Empatan Shares at such a price and on such other terms as the Sale Agent determines in good faith (and at the risk of Ineligible Foreign Holders) having due regard for the desire to achieve the best price reasonably available at the time of sale.

There is no guarantee that there will be a liquid market for the New Empatan Shares. Prices for the New Empatan Shares may rise and fall during the sale period and will depend on many factors, including the demand for and supply of the New Empatan Shares.

SMX, Empatan and the Sale Agent give no assurance as to the price that will be achieved for the sale of the New Empatan Shares described above. The actual price achieved may be more or less than the market value of the Empatan Shares as at the Last Practicable Date.

The payment of the Share Sale Facility Proceeds from the sale of New Empatan Shares will be in full satisfaction of the rights of Ineligible Foreign Holders.

Under the Scheme, each Ineligible Foreign Holder appoints SMX as its agent to receive any financial services guide or other notice which may be required to be issued to them by the Sale Agent.

11.6 Steps in implementing the Scheme

- (a) **Scheme Implementation Deed:** SMX, Empatan and Lionheart executed the Scheme Implementation Deed under which SMX agreed to propose the Scheme. A copy of the Scheme Implementation Deed (as amended) is reproduced in Annexure D.

- (b) **Execution of Deed Polls:** Empatan and Lionheart have each executed a Deed Poll in favour of SMX Shareholders. Pursuant to the Deed Polls, Empatan and Lionheart each covenants in favour of Scheme Participants to perform its obligations under the Scheme including, among other things, providing each Scheme Participant with their Scheme Consideration. A copy of the Deed Polls are reproduced in Annexure E.
- (c) **Court approval to hold Scheme Meeting:** If it deems it appropriate, the Court will order that the Scheme Meeting be convened and make any other orders it deems appropriate in accordance with section 411(1) and 411(1A) of the Corporations Act. Any orders, directors made by the Court under section 411(1) and 411(1A) are no an endorsement of, or any other expression of opinion, on the Scheme.
- (d) **Scheme Meeting:** SMX Shareholders will vote on whether to approve the Scheme at the Scheme Meeting. The Scheme Resolution must be passed by the Scheme Requisite Majorities.
- (e) **Court approval of the Scheme:** If the Scheme is approved by the requisite majorities of SMX Shareholders at the Scheme Meeting, SMX will apply to the Court for an order approving the Scheme. Each SMX Shareholder has the right to appear at Court at the hearing of the application by SMX for orders approving the Scheme. See the 'Important Notices' section of this Scheme Booklet for further information. The Court has discretion as to whether to grant the orders approving the Scheme, even if the Scheme is approved by the requisite majorities of SMX Shareholders.
- (f) **Court Orders and Effective Date:** If the Court Order approving the Scheme is obtained, on or before 5.00 pm on the first Business Day following approval of the Scheme by the Court in accordance with section 411(4)(b) of the Corporations Act, SMX will lodge with ASIC an office copy of the Court Order. The date the office copy of the Court Order is lodged with ASIC will be the Effective Date.
- (g) **Suspension of trading of SMX Shares:** If the Court approves the Scheme, then SMX will notify ASX of that approval on the day it is received. It is expected that suspension of trading in SMX Shares on ASX will occur from the close of trading on the Effective Date.
- (h) **Scheme Record Date:** The Scheme Participants will be entitled to receive the Scheme Consideration in respect of the Scheme Shares they hold as at the Scheme Record Date (which is expected to be 7.00PM (Melbourne time) on 8 February 2023).
- (i) **Issuance of Scheme Consideration:** On the Scheme Implementation Date, Empatan must issue the New Empatan Shares to the Scheme Participants in accordance with the terms and conditions of the Scheme. On or before the date that is 2 Business Days after the Scheme Implementation Date, Empatan must send, or procure the sending of, a certificate or holding statement reflecting the issue of the New Empatan Shares to each Scheme Participant.
- (j) **Cancellation of Scheme Shares:** If the Scheme becomes Effective, then on the Scheme Implementation Date, in consideration for and subject to Empatan providing the Scheme Consideration, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be cancelled without the need for any further act by any Scheme Participant, by SMX effecting the Capital Reduction.
- (k) **Delisting of SMX:** Following the implementation of the Scheme, it is expected that SMX will apply for the termination of the official quotation of SMX Shares on ASX and for SMX to be removed from the official list of ASX.

On completion of the steps above, Empatan will hold all of the SMX Shares. In the event that the Scheme Implementation Deed is terminated, the Scheme will not become Effective.

11.7 If the Scheme does not proceed

If the Scheme does not proceed, SMX will not become a wholly-owned subsidiary of Empatan and Scheme Participants will not receive the Scheme Consideration, will continue to retain their interest in SMX Shares and continue to collectively control SMX. In this case, the advantages of the Scheme described in Section 4.2 will not be realised. See Section 4.3 for further details of the consequences of the Scheme not proceeding.

11.8 Effect of Scheme

If the Scheme becomes Effective, it will constitute a binding arrangement between SMX and each Scheme Participant and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of SMX.

11.9 Enforcement of Deed Polls

SMX undertakes in favour of each Scheme Participant to enforce each of the Deed Polls against Empatan and Lionheart on behalf of and as agent and attorney for the Scheme Participants.

11.10 Scheme Conditions

The Scheme is conditional on and will be of no force and effect until the following conditions have been satisfied or waived:

- (a) **Scheme Implementation Deed Conditions:** All of the conditions set out in clause 3.1 of the Scheme Implementation Deed (other than the condition that the Court approve the Scheme pursuant to section 411(4)(b) of the Corporations Act by the Second Court Date) have been satisfied or waived in accordance with the terms of the Scheme Implementation Deed prior to 8:00 am on the Second Court Date;
- (b) **No termination:** As at 8:00 am on the Second Court Date, the Scheme Implementation Deed and the Deed Polls have not been terminated in accordance with their terms;
- (c) **Court Approval:** The Court has approved the Scheme for the purposes of section 411(4)(b) of the Corporations Act with or without modification;
- (d) **Additional Conditions:** Such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme as are acceptable to SMX, Empatan and Lionheart have been satisfied;
- (e) **Court orders effective:** Pursuant to section 411(10) of the Corporations Act, the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable section 411(6) of the Corporations Act) in relation to the Scheme must be lodged with ASIC to become Effective; and
- (f) **Option Scheme Conditions:** All Option Scheme Conditions have been satisfied or waived.

11.11 Status of Scheme Conditions

As at the Last Practicable Date, SMX and Empatan are not aware of any circumstances that would cause the outstanding Scheme Conditions not to be satisfied or waived.

As at the Last Practicable Date, the following Scheme Conditions set out in clause 3.1 of the Scheme Implementation Deed have already been satisfied or waived:

- (a) **Court approval – orders convening Scheme Meeting:** On 9 January 2023, the Court ordered that SMX convene the Scheme Meeting at 9.00 AM on 1 February 2023 for the purpose of the SMX Shareholders voting on the Scheme. This condition has been partially fulfilled.
- (b) **Independent Expert opinion:** On 8 September 2022, the Independent Expert issued the Independent Expert's Report, which concluded that the Schemes and the Capital Reduction are in the best interests of SMX Shareholders and SMX Optionholders. Any further reports or updates from the Independent Expert will appear on the website.

11.12 Termination

As outlined in clause 14 of the Scheme Implementation Deed, the Scheme Implementation Deed may be terminated in circumstances including (but not limited to) the following events:

- (a) **(End Date)** by either Lionheart or SMX, if the Schemes have not become Effective on or before the End Date, unless the failure of the Schemes to become Effective on or before the End Date is due to the failure of the party seeking to terminate this document to perform or observe its obligations, covenants and agreements under this document;
- (b) **(SMX adverse change)** by Lionheart at any time prior to 8.00am on the Second Court Date if:
 - (i) any SMX Director:
 - (A) fails to make, changes, withdraws or adversely modifies his or her recommendation to the SMX Shareholders that they vote in favour of the Capital Reduction and Scheme or statement of intention to vote in favour of the Capital Reduction and Scheme or otherwise makes a public statement

- indicating that the SMX Director no longer supports the Capital Reduction, the Scheme or the Transactions;
- (B) fails to make, changes, withdraws or adversely modifies his or her recommendation to the Option Scheme Participants that they vote in favour of the resolution to approve the Option Scheme or statement of intention to vote in favour of the Option Scheme or otherwise makes a public statement indicating that the SMX Director no longer supports the Option Scheme; or
- (C) recommends, supports or endorses a SMX Competing Transaction; or
- (ii) any member of the SMX Group accepts or enters into any agreement, arrangement or understanding to give effect to or implement a SMX Competing Transaction;
- (c) **(Lionheart adverse change)** by SMX at any time prior to 8.00am on the Second Court Date if:
 - (i) any Lionheart Director:
 - (A) fails to make, changes, withdraws or adversely modifies his or her recommendation to the Lionheart Shareholders that they vote in favour of the issuance of Empatan Shares or otherwise makes a public statement indicating that it no longer supports the Lionheart Proposals; or
 - (B) recommends, supports or endorses a Lionheart Competing Transaction; or
 - (ii) any member of the Lionheart Group accepts or enters into any agreement, arrangement or understanding to give effect to or implement a Lionheart Competing Transaction.
- (d) **(material breach)** at any time prior to 8.00am on the Second Court Date by:
 - (i) Lionheart if either SMX or Empatan is in material breach of a term of this document (excluding any representation and warranty not being true and correct), taken in the context of the Schemes as a whole, provided that Lionheart has given notice to SMX or Empatan (as the case may be) setting out the relevant circumstances of such breach and the relevant circumstances continue to exist 30 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time the notice is given;
 - (ii) SMX and Empatan if Lionheart is in material breach of a term of the Scheme Implementation Deed (excluding any representation and warranty not being true and correct), taken in the context of the Schemes as a whole, provided that SMX and Empatan have given notice to Lionheart setting out the relevant circumstances of such breach and the relevant circumstances continue to exist 30 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time the notice is given;
- (e) **(SMX Superior Proposal)** by SMX at any time prior to 8.00am on the Second Court Date if the SMX Board determines, after completion of the processes specified in clause 10.7 and clause 10.8, that an SMX Competing Transaction is a SMX Superior Proposal provided that there has not been a breach by SMX of its obligations under clause 10 in respect of that SMX Competing Transaction;
- (f) **(consultation or appeal failure)** by either Lionheart or SMX in accordance with and pursuant to clause 3.9(a), 3.9(b) or 6.9 of the Scheme Implementation Deed;
- (g) **(agreement)** it is agreed to in writing by Lionheart and SMX;
- (h) **(BCA)** if the Business Combination Agreement has been terminated in accordance with its terms; or
- (i) **(Lionheart Board)** by Lionheart at any time prior to 8.00am on the Second Court Date if a majority of the Lionheart Board change their recommendation as permitted by clause 7.2 of the Scheme Implementation Deed.

Under the Scheme Implementation Deed, where a party has a right to terminate, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other parties stating that it terminates the Scheme Implementation Deed.

11.13 Effect of Termination

If the Scheme Implementation Deed is terminated by a party, or if it otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under the Scheme Implementation Deed, other than the obligations set out in clause 14 and in clauses 11, 12, and clauses 15 to 21 (inclusive) (other than clause 20.12) will immediately cease to be of further force and effect without further liability of any party to the other parties, provided that nothing in clause 14 releases any party from liability in the case of fraud or wilful material breach of this document by such party.

11.14 Damages

In addition to the right of termination under clause 14.1 of the Scheme Implementation Deed, where there is no appropriate remedy for the breach (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of the Scheme Implementation Deed.

11.15 Break Fee

Under the Scheme Implementation Deed, a Break Fee of US\$2,000,000 (plus GST if applicable) will be payable by SMX or Lionheart to the other party in certain circumstances including if:

- (a) **failure or change to recommendation:** during the Exclusivity Period, any Director of Lionheart or SMX:
 - (i) withdraws, changes, qualifies, adversely revises or adversely qualifies their support of the Capital Reduction and Schemes or their recommendation that Scheme Participants vote in favour of the Capital Reduction and Schemes or intention to vote in favour of the Capital Reduction and Schemes or fails to recommend that SMX Shareholders vote in favour of the Capital Reduction and Schemes and state they intend to vote in favour of the Capital Reduction and Scheme in the manner described in clause 7.1 of the Scheme Implementation Deed (including for the avoidance of doubt, whether or not SMX has used its best endeavours to procure the recommendation);
 - (ii) makes a statement:
 - (A) supporting, endorsing or recommending any SMX or Lionheart Competing Transaction, as the case relates;
 - (B) to the effect that they no longer support the Scheme or Option Scheme; or
 - (C) otherwise indicating that they no longer recommend the Transactions,
 unless:
 - (iii) in the case of the SMX Break Fee, the Independent Expert concludes in the Independent Expert's Report (or in any update of, or revision, amendment or addendum to that report), that the Capital Reduction and Scheme is not in the best interests of Scheme Participants (other than where the conclusion is due to the existence of a proposal for an SMX Competing Transaction); or
 - (iv) a Governmental Authority of competent jurisdiction requires that he or she abstains from making a recommendation due to (in SMX's case, an interest the SMX Director has in the Capital Reduction and Scheme that renders it inappropriate for him or her to make or maintain) and provided that in such a case the SMX Director or Lionheart Director:
 - (A) simply abstains from making a recommendation in respect of the Capital Reduction and Scheme and does not adversely change or qualify their recommendation; and
 - (B) does not make a statement of the kind set out in clause 11.3(a)(ii) or 12.3(a)(ii) of the Scheme Implementation Deed;
- (b) **Competing Transaction:** where a Competing Transaction is announced or made on or before the Second Court Date by either Lionheart or SMX and, within 12 months of the date of such announcement, the party making the proposal or an Associate of that party:
 - (i) completes in all material respects a transaction; or

- (ii) directly or indirectly acquires a Relevant Interest in or becomes the holder of or has a right to acquire a legal, beneficial or economic interest in, or control of, securities representing 50% or more of the total outstanding voting power of Lionheart or SMX, as the case relates (other than as a custodian, nominee or bare trustee);
- (c) **Termination:** where SMX or Lionheart terminates the Scheme Implementation Deed for material breach; or
- (d) **Failure of condition precedent:** where either party fails to satisfy certain conditions precedent by the End Date.

11.16 Payment of Break Fee

Under the Scheme Implementation Deed:

- (a) SMX and Empatan may only exercise a right to termination under clause 14 if SMX has first paid the Lionheart Break Fee, if payable, to Lionheart in accordance with clause 11 of the Scheme Implementation Deed; and
- (b) Lionheart may only exercise a right to termination under clause 14 if Lionheart has first paid the SMX Break Fee, if payable, to SMX in accordance with clause 12.

11.17 Establishing Scheme Participants

(a) Dealings prior to the Scheme Record Date

For the purpose of establishing the persons who are Scheme Participants, dealings in SMX Shares will be recognised by SMX provided that:

- (i) in the case of CHESS dealings, the transferee is registered in the SMX Register as the holder of the SMX Shares by the Scheme Record Date; and
- (ii) in all other cases, registrable transmission applications or transfers in registrable form, or valid requests in respect of other alterations, in relation to those dealings are received on or before the Scheme Record Date at the place where the SMX Register is kept,

and SMX will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of SMX Shares received after the Scheme Record Date, other than a transfer to Empatan in accordance with the Scheme or its successors in title.

(b) Dealings after the Scheme Record Date

For the purpose of determining entitlements to the Scheme Consideration, the SMX Register will be determinative.

As and from the Scheme Record Date, each entry on the SMX Register relating to SMX Shares (other than an entry in respect of Empatan) will cease to have any effect other than as evidence of an entitlement to Scheme Consideration.

From the Scheme Record Date, all certificates and holding statements for Scheme Shares held by Scheme Participants existing on the Scheme Record Date will cease to have effect as documents of title.

11.18 Suspension and termination of trading in SMX Shares

SMX will apply to ASX for suspension of the SMX Shares from official quotation on ASX with effect from close of trading on the Effective Date. Following the Scheme Implementation Date, ASX will be then requested to remove SMX from the official list of ASX.

11.19 Covenants and releases by Scheme Participants

Under the Scheme, each Scheme Participant without the need for any further act, irrevocably appoints SMX and each SMX Director as its agent and attorney for the purpose of:

- (a) executing any document or doing any other act necessary to give effect to the terms of the Scheme including, without limitation, the execution of the share transfer(s) to be delivered under the Scheme and the giving of the Scheme Participants consent to SMX and Empatan doing all things necessary, incidental or expedient to the implementation and performance of the Scheme; and
- (b) enforcing each of the Deed Polls against Empatan and Lionheart.

11.20 Warranties by Scheme Participants

The Scheme provides that on the Scheme Implementation Date, each Scheme Participant is deemed to have warranted to Empatan that:

- (a)** all their Scheme Shares (including any rights and entitlements attaching to those shares) will, at the date of their cancellation, be fully paid and free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on cancellation of any kind, whether legal or otherwise; and
- (b)** it has no existing right to be issued any SMX Shares, SMX Options, performance rights, convertible notes or any other SMX security other than in accordance with the Option Scheme.

12. Implementation of the Option Scheme

12.1 Overall effect of the Option Scheme

The Option Scheme is to be implemented through the Option Scheme of Arrangement outlined in this Scheme Booklet between SMX and SMX Optionholders, prior to implementation of the Scheme. Unless terminated in accordance with SID, the Scheme will remain in force until it becomes effective. The termination rights of each party and the effect of termination are discussed at Section 11.12 and Section 11.13 below.

If the Option Scheme becomes Effective, on the Option Scheme Implementation Date, each Option Scheme Participant (being a person who is registered as a SMX Optionholder on the Option Scheme Record Date) will be deemed to have exercised their SMX Options and, in consideration, will receive the Option Scheme Consideration (described below).

12.2 People who are affected by the Option Scheme

If the Option Scheme becomes Effective, SMX Optionholders will have all of their SMX Options exercised without the need for any further act by any SMX Optionholders in return for the Option Scheme Consideration for each SMX Option that they hold.

12.3 Right to inspect and obtain copies of the SMX Register

SMX Optionholders have the right to inspect the SMX Register, which contains the name and address of each SMX Optionholder and certain other prescribed details relating to the SMX Options, without charge. SMX Optionholders also have the right to request a copy of the relevant register, upon payment of a fee (if any) up to a prescribe amount.

For more information about your rights to inspect the SMX Register, please contact +61 2 8023 5440.

12.4 Option Scheme Consideration

If the Option Scheme becomes Effective, Option Scheme Participants will receive the Option Scheme Consideration of SMX Shares in accordance with a Black Scholes Model (**BSM**) calculation for each tranche of SMX Options on issue at the Option Scheme Record Date.

The BSM calculation for each tranche of SMX Options is as follows:

ASX Code	Date granted	Expiry date	Exercise price (\$A)	SMX Options	Ratio of SMX Shares per SMX Option	Total SMX Shares to be issued
SMXAAK	29-May-20	1-Jun-25	\$0.20	2,500,000	0.8987	2,246,818
SMXAT	8-Oct-18	14-Oct-23	\$0.20	1,698,829	0.8988	1,526,926
SMXAAY	18-Jan-22	18-Jan-25	\$0.28	300,000	0.8357	250,699
SMXAO	5-Jun-19	5-Jun-24	\$0.310	125,000	0.8571	107,135
SMXAAT	10-Dec-21	10-Dec-23	\$0.35	1,150,000	0.7789	895,733
SMXAK	25-Oct-20	25-Oct-25	\$0.36	100,000	0.8402	84,017
SMXAZ	28-Jan-20	28-Jan-25	\$0.39	150,000	0.8306	124,593
SMXAAZ	25-Mar-22	25-Mar-27	\$0.40	8,000,001	0.8274	6,619,527
SMXAAW	4-Jan-21	31-Dec-24	\$0.50	100,000	0.7709	77,088
SMXAA	9-Jul-21	9-Jul-24	\$0.60	1,000,000	0.7031	703,135
SMXAAC	27-Nov-20	27-Nov-23	\$0.60	1,000,000	0.7030	703,024

SMXAAG	4-Jan-21	4-Jan-24	\$0.60	500,000	0.7030	351,512
SMXAAJ	27-Nov-20	27-Nov-23	\$0.60	500,000	0.7030	351,512
SMXAP	12-Mar-20	12-Mar-23	\$0.60	4,926,466	0.7030	3,463,422
SMXAQ	25-Mar-20	25-Mar-23	\$0.60	1,391,255	0.7030	978,085
SMXAR	29-May-20	29-May-23	\$0.60	3,250,000	0.7030	2,284,827
SMXAU	23-Nov-20	23-Nov-23	\$0.60	3,089,591	0.7030	2,172,055
SMXAAE	29-Dec-20	29-Dec-23	\$0.70	1,341,815	0.6698	898,741
SMXAAI	4-Jan-21	4-Jan-24	\$0.70	1,000,000	0.6698	669,795
Total						24,508,644

Following the implementation of the Option Scheme, resulting in the conversion of SMX Options to SMX Shares, which will be cancelled and Option Scheme Participants entitled to receive the Cancellation Consideration as outlined below:

$$NPS = \frac{N}{A + B + C}$$

where:

NPS is the number of New Empatan Shares per SMX Share;

A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and Employee Share Options);

B is the total number of Option Exercise Shares to be issued on exercise of all Scheme Options on a Cashless Exercise basis under the Option Scheme;

C is the total number of Employee Share Options on issue as at the Record Date; and

N is 20,000,000.

12.5 Steps in implementing the Option Scheme

- (a) **Scheme Implementation Deed:** SMX, Lionheart and Empatan executed the Scheme Implementation Deed under which SMX agreed to propose the Scheme and the Option Scheme. A copy of the Scheme Implementation Deed (as amended) is reproduced in Annexure D.
- (b) **Court approval to hold Option Scheme Meeting:** If it deems it appropriate, the Court will order that the Option Scheme Meeting be convened and make any other orders or directions it deems appropriate in accordance with section 411(1) and 411(1A) of the Corporations Act. Any orders, directions made by the Court under section 411(1) and 411(1A) are not an endorsement of, or any other expression of opinion, on the Scheme.
- (c) **Option Scheme Meeting:** SMX Optionholders will vote on whether to approve the Option Scheme at the Option Scheme Meeting. The Option Scheme Resolution must be passed by the Scheme Requisite Majorities.
- (d) **Court approval of the Option Scheme:** If the Option Scheme is approved by the requisite majorities of SMX Optionholders at the Option Scheme Meeting, SMX will apply to the Court for an order approving the Option Scheme. Each SMX Optionholder has the right to appear at Court at the hearing of the application by SMX for orders approving the Option Scheme. See the 'Important Notices' section of this Scheme Booklet for further information. The Court has discretion as to whether to grant the orders approving the Option Scheme, even if the Option Scheme is approved by the requisite majorities of SMX Optionholders.
- (e) **Court Orders and Effective Date:** If the Court Order approving the Option Scheme is obtained, on or before 5.00 pm on the first Business Day following approval of the Option Scheme by the Court in accordance with section 411(4)(b) of the Corporations Act, SMX will

lodge with ASIC an office copy of the Court Order. The date the office copy of the Court Order is lodged with ASIC will be the Effective Date.

- (f) **Option Scheme Record Date:** The Option Scheme Participants will be entitled to receive the Option Scheme Consideration in respect of the Scheme Options they hold as at the Option Scheme Record Date (which is expected to be 8 February 2023).
- (g) **Issuance of Option Scheme Consideration:** On the Option Scheme Implementation Date, SMX will issue SMX Shares to the Option Scheme Participants in accordance with the terms and conditions of the Option Scheme.

On completion of the steps above, Option Scheme Participants will be eligible to receive the Cancellation Consideration.

12.6 If the Option Scheme does not proceed

If the Option Scheme does not proceed, SMX Options will not be exercised and eligible SMX Optionholders will not receive SMX Shares.

As the Scheme and the Option Scheme are conditional on each other, if the Option Scheme does not proceed, SMX will not fulfil the Scheme Conditions under the Scheme and will not become a wholly-owned subsidiary of Empatan and Scheme Participants will not receive the Scheme Consideration, will continue to retain their interest in SMX Shares and SMX Options (as the case relates) and continue to collectively control SMX. In this case, the advantages of the Scheme described in Section 4.2 will not be realised. See Section 4.3 for further details of the consequences of each of the Option Scheme and the Scheme not proceeding.

12.7 Effect of Option Scheme

If the Option Scheme becomes Effective, it will constitute a binding arrangement between SMX and each Option Scheme Participant and, to the extent of any inconsistency and to the extent permitted by law, overrides the SMX Constitution.

12.8 Enforcement of Option Scheme Deed Polls

SMX undertakes in favour of each Option Scheme Participant to enforce the Option Scheme Deed Polls against Empatan and Lionheart, as the case relates, on behalf of and as agent and attorney for the Scheme Participants, including Option Scheme Participants that become Scheme Participants as a result of the implementation of the Option Scheme.

12.9 Option Scheme Conditions

The Option Scheme is conditional on and will be of no force and effect until the following conditions have been satisfied or waived:

- (a) **Scheme Implementation Deed Conditions:** All of the conditions set out in clause 3.2 of the Scheme Implementation Deed (other than the condition that the Court approve the Scheme pursuant to section 411(4)(b) of the Corporations Act by the Second Court Date) have been satisfied or waived in accordance with the terms of the Scheme Implementation Deed prior to 8:00 am on the Second Court Date;
- (b) **No termination:** As at 8:00 am on the Second Court Date, the Scheme Implementation Deed and each of the Option Scheme Deed Polls have not been terminated in accordance with its terms;
- (c) **Court Approval:** The Court has approved the Option Scheme for the purposes of section 411(4)(b) of the Corporations Act with or without modification;
- (d) **Additional Conditions:** Such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Option Scheme as are acceptable to Empatan and SMX have been satisfied;
- (e) **Court orders effective:** Pursuant to section 411(10) of the Corporations Act, the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable section 411(6) of the Corporations Act) in relation to the Option Scheme must be lodged with ASIC to become Effective; and
- (f) **Scheme Options:** All Scheme Conditions have been satisfied or waived.

12.10 Status of Option Scheme Conditions

As at the Last Practicable Date, SMX and Empatan are not aware of any circumstances that would cause the outstanding Option Scheme Conditions not to be satisfied or waived.

As at the Last Practicable Date, the following Option Scheme Conditions set out in clause 3.2 of the Scheme Implementation Deed have already been satisfied or waived:

- (a) **Court approval – orders convening Option Scheme Meeting:** On 9 January 2023, the Court ordered that SMX convene the Option Scheme Meeting at 9.30AM on 1 February 2023 for the purpose of the SMX Optionholders voting on the Option Scheme. This condition has been partially fulfilled.
- (b) **Regulatory Approvals:** On 3 January 2023, SMX obtained a waiver from compliance with Listing Rule 6.23.2 from ASX in relation to the Cashless Exercise of the SMX Options, the subject of the Option Scheme.

12.11 Establishing Scheme Participants

(a) Dealings prior to the Scheme Record Date

To establish the identity of the Option Scheme Participants, to the extent that Scheme Options are otherwise permitted to be dealt with in accordance with their respect terms, dealings in SMX Options by Option Scheme Participants will only be recognised by SMX if:

- (i) registrable transmission applications or transfers in registrable form, or valid requests in respect of other alterations, in relation to those dealings are received on or before 5.00pm on the Option Scheme Record Date at the place where the SMX Register is kept; and
- (ii) in the case of an exercise of SMX Options (other than in accordance with the terms of this Option Scheme), the SMX Option is exercised in accordance with its terms such that the resulting SMX Shares are issued by the Option Scheme Record Date, and SMX must not accept for registration, nor recognise for any purpose (except an issue of Option Exercise Shares in accordance with this Option Scheme), any transmission application, transfer or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

(b) SMX Register

For the purpose of determining entitlements to the Option Scheme Consideration, SMX will maintain an option register in accordance with the provisions of Option Scheme until the Cancellation Consideration has been provided to the Option Scheme Participants. The option register in this form will solely determine entitlements to Option Exercise Shares and Cancellation Consideration.

(c) No disposals after the Option Scheme Record Date

If this Option Scheme becomes Effective:

- (i) from the Record Date until implementation of the steps set out in clause 4.3 of the Option Scheme, a holder of Scheme Options (and any person claiming through that holder) must not dispose of, exercise or purport or agree to dispose of or exercise, any Scheme Options or any interest in them after the Record Date in any way except as set out in this Option Scheme and any such disposal or exercise will be void and of no legal effect; and
- (ii) SMX will not accept for registration or recognise for any purpose any transmission, application or transfer, or other valid request in respect of other alterations, in respect of SMX Options of Option Scheme Participants, received after 5.00pm on the Record Date or an issue of SMX Shares on the otherwise valid exercise of SMX Options held by an Option Scheme Participant not received in time to allow the resulting SMX Shares to be issued by the Record Date (except for any an issue of Option Exercise Shares in accordance with this Option Scheme).

12.12 Details of Option Scheme Participants

As soon as practicable after the Option Scheme Record Date, and in any event on the first Business Day after the Option Scheme Record Date, SMX will:

- (a) notify each of the Option Scheme Participants of their eligibility to participate in the Option Scheme; and
- (b) provide details of the names, registered addresses and holdings of Scheme Options for each Option Scheme Participant, as shown in the Register on the Record Date are available to Empatan, as required under the Option Scheme of Arrangement.

12.13 Warranties by Option Scheme Participants

Under the Option Scheme, each Option Scheme Participant is deemed to have warranted to Empatan on the Option Scheme Implementation Date that:

- (a) all their Scheme Options (including any rights and entitlements attaching to those shares) will, at the date of their exercise in accordance with the Option Scheme, and at the time of issue all Option Exercise Shares issued on the exercise of those Scheme Options, in accordance with the Option Scheme, be free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on cancellation of any kind; and
- (b) it has no existing right to be issued any SMX Shares, SMX Options, SMX performance rights, SMX convertible notes or any other SMX securities, other than in accordance with the Option Scheme.

As SMX is acting as agent and attorney of each Option Scheme Participant, it has undertaken to provide the warranties noted above.

13. Implementation of the Business Combination

13.1 Overview of the BCA

On July 26, 2022, Empatan, SMX, Lionheart and Aryeh Merger Sub, Inc. (**Merger Sub**) entered into the BCA pursuant to which Empatan will become the parent of Lionheart and SMX and be listed on the NASDAQ. Subject to the terms and conditions set out in the BCA, including the approval of Lionheart Shareholders, the parties will enter into the Business Combination, pursuant to which, among other things, Merger Sub shall be merged with and into Lionheart with Lionheart continuing as a wholly owned subsidiary of Empatan. Existing Lionheart Shareholders will receive New Empatan Shares and existing Lionheart Warrantholders will have their Lionheart Warrants automatically adjusted to become exercisable in respect of New Empatan Shares instead of Lionheart Shares.

13.2 Formation of Merger Sub

Merger Sub is a wholly owned subsidiary of Empatan formed solely as a vehicle for completing the Business Combination required under the BCA.

Merger Sub, a Delaware corporation (File No. 6927699), was formed on July 22, 2022. Merger Sub's principal executive office is located at c/o K&L Gates LLP, Level 25, 525 Collins Street, Melbourne VIC 3000, Australia.

Following the completion of the Business Combination, Merger Sub will cease to exist.

13.3 Merger of Merger Sub into Lionheart

Under the BCA, Merger Sub will merge with and into Lionheart, with Lionheart surviving the merger as a wholly owned subsidiary of Empatan, with existing Lionheart Shareholders receiving New Empatan Shares in exchange for their Lionheart Shares and the existing Lionheart Warrantholders having their Lionheart Warrants automatically adjusted to become exercisable in respect of New Empatan Shares instead of Lionheart Shares.

13.4 Conditions to the closing of the Business Combination

(a) Conditions to the obligations of Lionheart

The obligations of Lionheart to consummate the Business Combination are subject to the satisfaction or waiver (where permissible) of certain conditions, including:

- (i) certain conditions precedent of the SID as discussed at Section 11.10;
- (ii) the Scheme and the Option Scheme becoming Effective;
- (iii) SMX, Empatan and Merger Sub having performed or complied in all material respects with all agreements and covenants required by the BCA;
- (iv) delivery of certain certificates required by the SID;
- (v) delivery of the Registration Rights Agreement, Lock-up Agreement and Voting Agreement, each duly executed by Empatan and certain shareholders of Empatan;
- (vi) Shareholder approval from Lionheart Shareholders; and
- (vii) certain employment and consulting agreements shall not have been terminated.

(b) Conditions to the obligations of SMX

The obligations of SMX, Empatan and Merger Sub to consummate the Business Combination are subject to the satisfaction or waiver (where permissible) of certain conditions, including:

- (i) certain conditions precedent of the SID as discussed at Section 11.10;
- (ii) Lionheart having performed or complied in all material respects with all other agreements and covenants required by the BCA;
- (iii) delivery of certain certificates required by the SID;
- (iv) delivery of resignation letters from the officers and directors of Lionheart;
- (v) delivery of the Registration Rights Agreement, Lock-up Agreement and Voting Agreement, each duly executed by certain shareholders of Empatan; and
- (vi) approval of the stockholders of Empatan and Merger Sub, approving the BCA and the Business Combination.

13.5 Termination of the BCA

The BCA may be terminated under certain customary and limited circumstances prior to the Second Court Date, including:

- (a) by mutual written consent of Lionheart and SMX;

- (b) by either Lionheart or SMX if the Effective Date has not occurred prior to the End Date;
- (c) by either Lionheart or SMX, as applicable, in each instance that a party is entitled to terminate the SID that is not otherwise addressed in the BCA;
- (d) by either Lionheart or SMX if Lionheart fails to obtain approval of certain proposals to be set forth in this proxy Statement/prospectus;
- (e) by either Lionheart or SMX if the SID has been terminated in accordance with its terms;
- (f) by Lionheart if SMX, Empatan or Merger Sub has breached or failed to perform any of its covenants or agreements set forth in the BCA such that the condition requiring material compliance with covenants would not be satisfied (provided if such breach is curable by SMX, Empatan or Merger Sub, Lionheart may not terminate the BCA pursuant to this provision for so long as SMX, Empatan or Merger Sub continues to exercise its reasonable efforts to cure such breach, unless such breach is not cured by the earlier of thirty (30) days after notice of such breach is provided by Lionheart to SMX and the End Date) or;
- (g) by SMX if Lionheart has breached or failed to perform any of its covenants or agreements set forth in the BCA such that the condition requiring material compliance with covenants would not be satisfied (provided if such breach is curable by Lionheart, SMX may not terminate the BCA pursuant to this provision for so long as Lionheart continues to exercise its reasonable efforts to cure such breach, unless such breach is not cured by the earlier of thirty (30) days after notice of such breach is provided by SMX to Lionheart and the End Date).

13.6 Accounting treatment of the Business Combination

SMX will account for the merger using the reverse acquisition method in accordance with the principles of IFRS 3.

This results in SMX being identified as the accounting acquirer, and Empatan/Lionheart being identified as the accounting acquirees.

Under the reverse acquisition method, the accounting acquirer is deemed to have issued shares to obtain control of the acquirees.

However, since Empatan and Lionheart are not businesses as defined in IFRS 3, the transaction is not a business combination.

Based on IFRS 3's provisions, such a transaction is accounted for in the consolidated financial statements of Empatan (the legal acquirer) as a continuation of the financial statements of the SMX (the legal subsidiary), together with a deemed issuance of shares by SMX and a re-capitalization of its equity.

This deemed issuance of shares is both an equity transaction under IAS 32 (receiving the net assets of Lionheart, primarily cash) and an equity-settled share-based payment transaction under IFRS 2 (receiving the listing status of Empatan/Lionheart).

The difference between the fair value of the shares deemed to have been issued by SMX and the fair value of Lionheart's identifiable net assets represents a payment for the service of obtaining a stock exchange listing for its shares, and not considered a cost of raising capital.

Therefore, it is expensed immediately to profit or loss at Closing Date.

Transaction costs are allocated on a relative fair value basis as mentioned, such that the amount attributed to the equity transaction is deducted from the equity and the amount attributed to the listing service is charged as expense in profit or loss.

13.7 Other agreements related to the Business Combination

(a) Lock up agreements

Prior to the Second Court Date, certain shareholders will enter into lock-up agreements (each, a **Lock-up Agreement**) with Empatan pursuant to which, among other things, such shareholders will agree not to offer, sell, contract to sell or otherwise dispose of, directly or indirectly, any Empatan Shares beneficially owned by such shareholders immediately following the closing (the **Lock-Up**), subject to certain exceptions set forth in each Lock-up Agreement, including the ability of the shareholders to pledge any such Empatan Shares in connection with securing financing or otherwise.

Haggai Alon and certain directors and officers Lionheart will enter into Lock-up Agreements that terminate upon the earlier to occur of:

- (i) fourteen months after the Closing Date; and
- (ii) if, subsequent to the Closing Date, Empatan enters a transaction which results in all of Empatan's shareholders having the right to exchange their Empatan Shares for cash, securities or other property, provided that:
 - (A) 10% of the Empatan Shares will not be subject to the Lock-Up; and
 - (B) 25% of the Empatan Shares that are subject to the Lock-Up will no longer be subject to the Lock-Up if the Empatan Shares trade at or above \$12.50 per share for twenty (20) Nasdaq Stock Market trading days in any 30-day period commencing after the Closing Date.

Lionheart Equities, LLC, Lionheart's sponsor, and its members (other than those members who enter into the fourteen month Lock-up Agreement referenced above) will enter into Lock-up Agreements that terminate upon the earlier to occur of:

- (iii) six months after the Closing Date; and
- (iv) if, subsequent to the Closing Date, Empatan enters a transaction which results in all of the Empatan's shareholders having the right to exchange their Empatan Shares for cash, securities or other property provided that:
 - (A) 10% of the Empatan Shares will not be subject to the Lock-Up; and
 - (B) 25% of the Empatan Shares will no longer be subject to the Lock-Up if the Empatan Shares trade at or above \$12.50 per share for twenty (20) Nasdaq Stock Market trading days in any 30-day period commencing after the Closing Date.

(b) Amended and Restated Sponsor Agreement

Lionheart entered into an amended and restated Sponsor Agreement (the **A&R Sponsor Agreement**) with Lionheart Equities, LLC (the **Sponsor**) and certain directors and officers of Lionheart (the **Insiders**) pursuant to which the Sponsor and Insiders have agreed to take, or not take, certain actions, including:

- (i) to vote any shares of common stock of Lionheart owned by it, him or her (all such shares of common stock, the **Covered Shares**) in favour of the Business Combination and each other related proposal related at the Lionheart shareholder meeting and any other special meeting of Lionheart's stockholders called for the purpose of soliciting the approval of Lionheart's stockholders in connection with the consummation of the Business Combination;
- (ii) to vote the Covered Shares owned by it, him or her against any Lionheart Competing Transaction or change in the capitalization of Lionheart except as contemplated by the BCA and the SID; and
- (iii) not redeem any Covered Shares owned by it, him or her for redemption in connection with such shareholder approval.

(c) Registration Rights Agreement

The BCA and the SID contemplates that, prior to the Second Court Date, Empatan, the Sponsor, certain Lionheart stockholders, and certain SMX shareholders will enter into an amended and restated registration rights agreement (the **A&R Registration Rights Agreement**) pursuant to which, among other things, Empatan will agree to undertake certain shelf registration obligations in accordance with the US Securities Act, and certain subsequent related transactions and obligations, including, among other things, undertaking certain registration obligations, and the preparation and filing of required documents.

(d) Voting Agreement

Prior to the Second Court Date, Empatan and Empatan shareholders will enter into a Voting Agreement (the **Voting Agreement**) pursuant to which, among other things, during the Term (as defined in the Voting Agreement) Empatan and the Empatan shareholders have agreed to take all such action within its power as may be necessary or appropriate (including Empatan nominating or appointing certain persons and the Empatan shareholders voting or providing a written consent or proxy, if applicable, in each case with respect to ordinary shares of Empatan) such that the board of directors of Empatan:

- (i) consists of seven (7) members as set forth in the Voting Agreement; and

- (ii) is divided into three classes of directors, with each class serving for staggered three year terms. The Voting Agreement also provides for certain board observer rights and director indemnification obligations.

(e) PIPE Subscription Agreements

Lionheart is actively pursuing to enter into the Subscription Agreements with investors (the **PIPE Investors**), pursuant to which prior to or substantially concurrently with the closing of the Business Combination:

- (i) the PIPE Investors will agree to subscribe for and purchase; and
- (ii) Lionheart will agree to issue and sell to such PIPE Investors, up to US\$25 million in aggregate in securities (**PIPE Financing**).

The securities to be issued pursuant to the subscription agreements will not be registered under the Securities Act of 1933, as amended (the **US Securities Act**), in reliance upon the exemption provided in section 4(a)(2) of the Securities Act. The closing of any PIPE Financing would be subject to customary conditions for a financing of this nature, including the completion of the Business Combination (**Closing**). The subscription agreements are expected to provide that Lionheart will provide the PIPE Investors customer registration rights with respect to any securities issued to such investors in connection with any PIPE Financing following the Closing.

14. Comparison of relevant Australian and Irish laws and relevant ASX and NASDAQ listing rules

SMX is a public company limited by shares and registered in Victoria under Australian law. SMX Shares are quoted on ASX. Empatan is incorporated in Ireland, under the laws of Ireland. It is proposed that Empatan will be listed on the NASDAQ.

If the Scheme is implemented, the rights of SMX Shareholders in respect of New Empatan Shares will be primarily governed by Irish law and the stock exchange rules of the NASDAQ.

A comparison of some of the material provisions of Australian law, Irish law and relevant ASX and NASDAQ stock exchange rules as they relate to Empatan and SMX respectively is set out below.

References to Australian law where they appear in this Section are references to the Corporations Act, ASX Listing Rules, ASX Settlement Operating Rules and Australian common law, as applicable. References to Irish law where they appear in this Section are references to the Irish Companies Act and the Irish Takeover Rules, as applicable.

The information in this Section of the Scheme Booklet concerning Empatan has been prepared by Empatan and is the responsibility of Empatan.

The comparison below is not an exhaustive statement of all relevant laws, rules and regulations and is intended as a general guide only. You should seek your own independent professional legal advice if you require further information.

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
Related party transactions	<p>The Corporations Act governs the provision of financial benefits to related parties of public companies.</p> <p>The issue of securities to directors and other related parties of SMX is regulated under the ASX Listing Rules. Generally, various requirements must be met for such an issue, including shareholder approval, unless the issue falls within a specified exception.</p>	<p>The Irish Companies Act governs the provision of financial benefits to related parties of public companies.</p> <p>Under the Irish Companies Act:</p> <ul style="list-style-type: none"> (a) there is an obligation on directors to disclose interest in any contract that the company proposes to enter into; (b) loans, guarantees and credit transactions in favor of directors generally are prohibited; (c) a director's interests and dealings in shares in the company must be disclosed to the company within 8 days (but only if the director and his connected persons hold more than 1% of company's issued share capital); and (d) transactions between a director and the company buying or

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
		selling material non-cash assets are generally prohibited, unless approved by shareholders.
Oppression of minority shareholders	<p>The Corporations Act empowers the court to make any order it considers appropriate if conduct of a company's affairs is found to be oppressive to a member or members.</p> <p>Such orders may include winding up, regulating the conduct of the company's affairs, authorising a member to institute derivative proceedings or requiring a person to engage in or abstain from specified conduct.</p>	<p>The Irish Companies Act empowers any shareholder of the company to apply for an order from the court circumstances where the affairs of the company are being conducted or the powers of the directors of the company are being exercised (i) in a manner oppressive to that shareholder or any of the shareholder; or (ii) in disregard of that shareholder or their interests as a shareholder.</p> <p>Such orders may include:</p> <ul style="list-style-type: none"> (a) directing or prohibiting any act or cancelling or varying any transaction; (b) regulating the conduct of the company's affairs in future; (c) directing the purchase of the shares of any shareholders of the company by other shareholders of the company or by the company and, in the case of a purchase by the company, for the reduction accordingly of the company's capital; and (d) the payment of compensation.
Financial assistance and self-acquisition	The Corporations Act prohibits companies from financially assisting a person to acquire shares in the Company, or from acquiring shares in	The Irish Companies Act prohibits companies from financially assisting a person to acquire shares in Empatan, or from acquiring shares in itself,

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
	itself, except for certain limited circumstances.	except for certain limited circumstances.
Takeovers	<p>The Corporations Act prohibits the acquisition of a relevant interest in voting shares where the acquisition would increase a person's voting power in the company to over 20%, except in certain circumstances.</p> <p>The Corporations Act also sets out disclosure requirements for persons who have or cease to have a substantial holding in a company.</p> <p>Compulsory acquisition is permitted by holders with an interest of 90% of a class of securities.</p>	<p>Empatan will be subject to the Irish Takeover Rules which provide for:</p> <ul style="list-style-type: none"> (a) a mandatory obligation to make a cash offer once 30% or more of voting shares are acquired, with the cash price being the highest price paid by the bidder in the previous 12 months; and (b) a prohibition from acquiring 10% or more of the voting shares in a 7 day period or faster that would increase a bidder's stake to 15% or more. <p>The Irish Takeover Rules also set out disclosure requirements for persons who have or cease to have a substantial holding in a company.</p> <p>Depending on the form of takeover, compulsory acquisition is permitted by holders with an interest of 75% (in a scheme or arrangement or merger) or 80% (in a tender offer).</p> <p>Under the NASDAQ listing rules, shareholder approval is required for certain significant issuances of Empatan securities including issuances in excess of 20% of the voting power or number of shares outstanding before the issuance (or 5% in the case of certain related parties), issuances of company securities that will result in a change in control and issuances in connection with a new or materially amended equity compensation arrangement for officers, directors, employees or consultants.</p>

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
Notice of Meetings	The Corporations Act requires at least 28 days' notice of a general meeting of a listed company.	Under the Irish Companies Act (and in accordance with the Empatan Constitution), notice of a general meeting of the company must be given to shareholders at least 21 days before the date of the proposed meeting except that they may be called by not less than 14 clear days' notice where (i) all members, who hold shares that carry rights to vote at the meeting, are permitted to vote by electronic means at the meeting; and (ii) a special resolution reducing the period of notice to 14 days has been passed at the immediately preceding annual general meeting, or at a general meeting held since that meeting.
Removal of directors	The Corporations Act provides that a public company may by resolution at a general meeting remove a director from office. Notice of intention to move the resolution must be given by the company at least 2 months before the meeting is to be held, and the company must notify the director as soon as possible after notice of the intention is received.	<p>Under Irish law, Empatan shareholders may remove a director without cause by ordinary resolution, before the expiration of his or her period of office by way of ordinary resolution, provided that at least 28 clear days' notice of the resolution is given to Empatan, and the shareholders comply with the relevant procedural requirements of the Irish Companies Act.</p> <p>Under the Irish Companies Act, one or more Empatan shareholders representing not less than 10% of the paid-up share capital of the Empatan carrying voting rights may requisition the holding of an extraordinary general meeting at which a resolution to remove a director and appoint another person in his or her place may be proposed.</p>
Directors' duties	General duties imposed by the Corporations Act on directors and officers of companies include duties to exercise duties and powers with due care and diligence, in good faith and for a proper purpose, and not to improperly use their position or information obtained through their	<p>Under the Irish Companies Act, a director may be liable to the company where such director acts in breach of certain of his or her fiduciary duties.</p> <p>Subject to exceptions, the Irish Companies Act does not permit a company to exempt a director or certain officers from, or indemnify a director against, liability in connection</p>

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
	position to gain advantage or cause detriment to the company.	with any negligence, default, breach of duty or breach of trust by a director in relation to the company.
Access to information and filing of documents	Under the Corporations Act, certain documents must be filed by a company with ASIC, including accounts and notice of changes to its Articles of Association. A shareholder may also apply to the court for access to the books of a company.	<p>Under the Irish Companies Act, shareholders have the right to inspect and obtain copies of information and documentation pertaining to the company, including the company registers, minutes of general meetings, memorandum and articles of association, financial statements, and auditors' reports.</p> <p>Empatan will be required to file annual audited financial statements with the Companies Registration Office in Ireland. The audited financial statements must generally be filed within 9 months after the end of the relevant annual financial period.</p>
Remuneration reports	<p>At the company's annual general meeting, shareholders must vote to approve or reject the remuneration report.</p> <p>If the company's remuneration report receives a no vote of 25% or more, the company's subsequent remuneration report must explain whether and how shareholders' concerns have been taken into account.</p> <p>If the company's subsequent remuneration report receives a no vote of 25% or more, shareholders will vote at the same annual general meeting to determine whether the directors (other than the managing director) will need to stand for re-election within 90 days.</p> <p>If the resolution passes, then the "spill meeting" at which the directors face re-election, will take place within 90 days.</p>	<p>The Empatan Constitution provides that the directors are entitled to be remunerated, the extent to which shall be determined by the Empatan Board. Such remuneration is deemed to accrue from day to day.</p> <p>The Empatan Constitution also provides that:</p> <ul style="list-style-type: none"> (a) the remuneration may be provided in the form of shares or other securities of the company or any subsidiary of the company, or options or rights to acquire such shares or other securities, on such terms as the Empatan Board may decide; and (b) the directors may also be paid all travelling, hotel and other expenses properly incurred by them: (a) in attending and returning from: (i)

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
		meetings of directors or any committee; or (ii) general meetings of the company; or (b) otherwise in connection with the business of the company.
Issuing additional shares	<p>Subject to the ASX Listing Rules and the Corporations Act, SMX's constitution authorises the SMX Board to allot and issue any securities in the capital of SMX to any person on such terms and with such rights as the SMX Board determines.</p> <p>Under the ASX Listing Rules, SMX is prohibited from issuing or agreeing to issue securities in any 12 month period which amount to more than 15% of the Company's fully paid ordinary securities unless it obtains shareholder approval or unless one of a number of exceptions apply.</p>	<p>Under the Empatan Constitution the directors have a standing authority to issue shares for 5 years from the date of adoption of the Empatan Constitution, after which the authority can be renewed by a 50% shareholder vote (for a further maximum of 5 years although market practice is to renew for 15/18 months capped at 33% of outstanding shares in light of guidance by ISS).</p> <p>The maximum number of shares that can be issued is set out in the Empatan Constitution and can be increased with shareholder approval.</p> <p>Under the Empatan Constitution the directors also have a standing authority to issue shares without offering them pro rata to existing shareholders for 5 years from the date of adoption of the Empatan Constitution, after which the authority can be renewed by a 75% shareholder vote (for another maximum of 5 years although market practice is to renew for 15/18 months capped at 5% of outstanding shares in light of guidance by ISS); this restriction does not apply for shares issued in stock-deals</p> <p>Furthermore, under the NASDAQ listing rules, Empatan will not be able to disparately reduce or restrict voting rights of the shares through any corporate action or issuance.</p>
Changes in the rights attaching to securities	Under the Corporations Act, if a company has a constitution that sets out a procedure for varying or cancelling rights attached to shares in a class of shares, those rights may be	A special resolution is needed, among other matters, to amend Empatan's Constitution, to disapply statutory pre-emption rights on the issuance of equity securities of Empatan and to

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
	<p>varied or cancelled only in accordance with the procedure.</p> <p>If a company does not have a constitution, or has a constitution which does not set out the procedure for varying or cancelling class rights. The rights may only be varied or cancelled:</p> <ul style="list-style-type: none"> • by special resolution of the company; and • by a special resolution of members holding shares in that class, or with written consent of members with at least 75% of votes in that class. <p>The company must give written notice of the variation or cancellation to the members of the class within 7 days after the variation or cancellation is made.</p>	<p>reduce the Empatan's company capital.</p> <p>Additionally, the rights attaching to a particular class of shares may only be varied if (a) the holders of seventy five percent (75%) of the nominal value of the issued shares of that class consent in writing to the variation, or (b) a special resolution, passed at a separate general meeting of the holders of that class, sanctions the variation.</p>
Appointment of proxies	<p>The Corporations Act provides that a member of a company who is entitled to attend and cast a vote at a meeting of members may appoint a person as a proxy to attend and vote for the member at that meeting. If a member is entitled to cast 2 or more votes, they may appoint 2 or more proxies.</p> <p>For an appointment of a proxy to be effective, the proxy appointment (and any power of attorney under which the appointment was signed) must be received at least 48 hours before the meeting, unless the company's constitution specifies a lesser period.</p> <p>If the appointment specifies the way that a proxy is to vote on a particular resolution:</p> <ul style="list-style-type: none"> • the proxy need not vote on a show of hands, but if they do they must vote that way; • if the proxy has two or more appointments that specify different ways to vote on the 	<p>Under the Empatan Constitution, every member entitled to attend, speak, ask questions and vote at a general meeting may appoint a proxy or proxies to attend, speak, ask questions relating to items on the agenda and vote on his/her behalf and may appoint more than one proxy to attend, speak, ask questions and vote at the same general meeting provided that, where a member appoints more than one proxy in relation to a general meeting, each proxy must be appointed to exercise the rights attached to different shares held by that member.</p> <p>The appointment of a proxy shall be in writing in any usual form or in any other form which the directors may approve and shall be signed by or on behalf of the appointor.</p> <p>The proxy form must make provision for three-way voting (i.e., to allow votes to be cast for or against a resolution or to be withheld) on all</p>

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
	<p>resolution, the proxy must not vote on a show of hands;</p> <ul style="list-style-type: none"> • if the proxy is the chair, the proxy must vote on a poll and must vote in the way specified; and • if the proxy is not the chair, the proxy need not vote on a poll, but if they do they must vote that way. 	<p>resolutions intended to be proposed, other than resolutions which are merely procedural.</p> <p>An instrument or other form of communication appointing or evidencing the appointment of a proxy or a corporate representative (other than a standing proxy or representative) must be returned to the address or addresses stated in the notice of meeting by such time as may be specified in the notice of meeting or, if no such time is specified, at any time prior to the holding of the relevant meeting.</p>
<p>Bringing or intervening in legal proceedings on behalf of the entity</p>	<p>A member, former member or person entitled to be a member of a company, or an officer or former officer of a company, may bring proceedings on behalf of a company and in the company's name.</p> <p>Proceedings may only be brought if leave is granted by the Federal Court, the Supreme Court or the Family Court for the person to bring or intervene in proceedings.</p> <p>Leave will be granted if the court is satisfied that:</p> <ul style="list-style-type: none"> • it is probable that the company itself will not bring the proceedings or properly take responsibility for them; • the applicant is acting in good faith; • it is in the best interests of the company that the applicant be granted leave; • if the application relates to leave to bring proceedings, there is a serious question to be tried; • either at least 14 days before making the application, the applicant gave written notice of the application to the company, or it is appropriate to grant leave even though the notice period was not provided. 	<p>Derivative actions by shareholders on behalf of the company against directors are only possible in limited circumstances and are very rare in practice.</p> <p>Generally the company is the correct plaintiff where the company has suffered the wrong and shareholders cannot take an action on the company's behalf. The exemptions to this rule are limited to the following circumstances:</p> <ul style="list-style-type: none"> (a) the wrong committed by the company is not capable of being ratified by shareholders e.g. bribery or fraud – although never tested in Ireland, payments in breach of FCPA could be caught by this exemption; or (b) the wrong is the result of a controlling majority of shareholders acting to the detriment of minority shareholders in a manner whereby the majority derives a

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
	<p>A rebuttable presumption that granting leave is not in the best of the interests of the company will arise if:</p> <ul style="list-style-type: none"> the proceedings are not by the company against a related party of the company (or vice versa); or the company has decided not to bring or defend proceedings, or has decided to discontinue, settle or compromise the proceedings; and all of the directors who participated in that decision acted in good faith for a proper purpose, did not have a material personal interest in the decision, informed themselves about the subject matter of the decision to the extent they reasonably believed appropriate and rationally believed that the decision was in the best interests of the company. 	<p>benefit to the company's detriment.</p> <p>Empatan's Constitution provides that any dispute or claim arising out of or in connection with Empatan's Constitution will be governed by, and construed in accordance with, the laws of Ireland and that the courts of Ireland will have exclusive jurisdiction to settle any dispute arising out of or in connection with Empatan's Constitution.</p> <p>Empatan's Constitution separately provides that unless the Empatan consents in writing to the selection of an alternative forum, the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Exchange Act or the US Securities Act.</p>
Continuous disclosure	<p>Subject to certain limited exceptions, the ASX Listing Rules require the Company to immediately disclose to ASX any information concerning the Company that a reasonable person would expect to have a material effect on the price or the value of the Company's shares.</p> <p>The Corporations Act also imposes obligations on the Company to require it to notify the ASX of relevant information where the Company is required under the ASX Listing Rules to notify ASX of information about specified events or matters as they arise for market disclosure.</p> <p>There are also periodic reporting and disclosure rules that apply to the Company, requiring it (among other things) to report to the ASX at the end of every half year and annually in respect of its financial statements and reports.</p>	<p>Empatan, once listed on the NASDAQ will be subject to US federal securities laws and regulations following the implementation of the Schemes, Capital Reduction and Business Combination in relation to its continuous disclosure obligations.</p> <p>The NASDAQ listing rules will generally require disclosure to the public of any material information that would reasonably be expected to affect the value of Empatan's shares or influence investors' decisions.</p> <p>As discussed in Section 8.15 above, Empatan will be a "foreign private issuer" as defined in the Exchange Act, and will be exempt from certain rules under the Exchange Act that impose certain disclosure obligations and procedural requirements for proxy solicitations under Section 14 of the Exchange Act.</p>

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
		<p>In addition, Empatan's officers, directors and principal shareholders will be exempt from the reporting and "short-swing" profit recovery provisions under Section 16 of the Exchange Act.</p> <p>Moreover, Empatan will not be required to file periodic reports and financial statements with the U.S. Securities and Exchange Commission as frequently or as promptly as U.S. companies whose securities are registered under the Exchange Act.</p> <p>For as long as Empatan is a foreign private issuer, US federal securities laws and regulations and the Nasdaq listing rules require Emptan to publicly file with the SEC, among others:</p> <ul style="list-style-type: none"> • Annual reports on Form 20-F • Reports of foreign private issuers on Form 6-K •
Corporate governance	<p>Corporate Governance Principles and Recommendations</p> <p>The ASX Corporate Governance Council (ASXCGC) is an industry based body established to develop corporate governance recommendations for listed entities which reflect international best practice.</p> <p>The ASX Listing Rules require the Company to disclose the extent to which it has followed the recommendations of the ASXCGC. This disclosure is required annually, either included in the Company's annual report or in a separate report clearly labelled as the corporate governance report and given to the ASX at the same time as the annual report.</p> <p>Where the Company has not followed all the Recommendations, it must identify the Recommendations that</p>	<p>The Irish Companies Act expressly provides that the delegation by directors of the management of a company's affairs is consistent with the proper discharge of their duties.</p> <p>While directors retain ultimate responsibility for the management of the company, once the directors are satisfied that the executives charged with management have sufficient skill and expertise to carry out that role, the Irish Companies Act will consider the orderly delegation of management authority as a proper, even prudent, exercise of their duties.</p> <p>The Empatan Board's role should be focussed on strategy and oversight, with its management functions focussed on monitoring performance against the objectives set and ensuring adequate systems and policies are in place.</p>

Issue	Australian company listed on ASX	Irish company listed on NASDAQ
	<p>have not been followed and give reasons for not following them.</p> <p>If the Company follows the Recommendations, it will publish various corporate governance policies and procedures in place on its website.</p>	<p>When Empatan lists on the NASDAQ, it will also need to comply with the NASDAQ listing rules.</p>

15. Additional information

15.1 Relevant Interests in Empatan and Lionheart held by SMX Directors

As at the date of this Scheme Booklet, none of the SMX Directors hold any interests in any Empatan or Lionheart securities.

No SMX Director acquired or disposed of a Relevant Interest in any securities in Empatan in the 4-month period ending on the date immediately prior to the date of this Scheme Booklet.

15.2 Relevant Interests of SMX in Empatan and Lionheart

As at the date of this Scheme Booklet, SMX has no interests in Empatan or Lionheart securities.

15.3 Payments or other benefits to SMX Directors, secretaries or executive officers

No payment or other benefit is proposed to be made or given to any Director, secretary or executive officer of SMX or of any Related Body Corporate as compensation for loss of, or as consideration for or in connection with his or her retirement from, office as a Director, secretary or executive officer of SMX or of a Related Body Corporate, as the case may be, as a result of the Scheme.

15.4 Agreements or arrangements with SMX Directors

(a) Payments in connection with retirement from office

As noted in Section 8.11(a)(ix), following the successful implementation of the Schemes, Capital Reduction and Business Combination, Mr Everardus Hofland will retire as a director of SMX. Accordingly, Mr Hofland is entitled to receive a termination payment equal to ILS264,000 (approximately US\$79,332).

This will be subject to the Corporations Act provisions regarding termination payments and related party benefits under Chapter 2D and Chapter 2E.

Other than the retirement payment owed to Mr Hofland as a result of his retirement from the SMX Board, there are no payments or other benefits that are proposed to be made or given to any SMX Director, secretary or executive officer of SMX (or any of its Related Bodies Corporate) as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office in SMX or any of its Related Bodies Corporate.

(b) No collateral benefits offered by Empatan in the last four months

During the four month period before the date of this Scheme Booklet, neither Empatan, a director of Empatan, or any associated of Empatan gave, or offered to give or agreed to give a benefit to another person which was likely to induce the other person or an associate of the other person to:

- (i) vote for the Schemes or the Capital Reduction;
- (ii) dispose of any SMX Shares or SMX Options, which benefit was not offered to all SMX Shareholders or SMX Optionholders (as applicable).

(c) Agreements or arrangements connected with or conditional on the Schemes

(i) Employment agreement of Mr Everardus Hofland

Under Mr Hofland's employment agreement as executive chair of the Security Matters Group, Mr Hofland is entitled to receive an increase in his base remuneration following certain events. This includes where SMX raises above US\$20 million in aggregate in a single transaction, or where there is a change of control. As the Schemes, Capital Reduction and Business Combination, when considered together, result in a change of control and capital raising of above US\$20 million in aggregate in a single transaction, Mr Hofland will be entitled to receive, prior to his retirement, an increase of his base remuneration to ILS22,000 per month (ILS264,000 per year, equating to approximately US\$79,332).

(d) Benefits to directors as a result of or conditional on the implementation of the Schemes, Capital Reduction and Business Combination

Other than as set out set out in this Scheme Booklet, no SMX Director, secretary or executive officer of SMX (or any of its Related Bodies Corporate) has agreed to receive, or is entitled to receive, any payment or benefit from Empatan which is conditional on, or is

related to, the Schemes, other than in their capacity as a SMX Shareholder or SMX Optionholder (as the case relates).

15.5 SMX Directors' interests in Empatan and Lionheart contracts

Except as set out in this Section or elsewhere in this Scheme Booklet, there is no agreement or arrangement made between any SMX Director and Empatan or Lionheart in connection with or conditional on, the outcome of the Scheme.

15.6 Effect of Scheme on creditors

SMX has either paid and is paying all its creditors within normal terms of trade, or has entered into agreed payment terms with outstanding creditors. On the basis of these arrangements, it is solvent and is trading in an ordinary commercial manner. It is not expected that the Schemes will adversely affect the interests of SMX's creditors.

15.7 No unacceptable circumstances

The SMX Board does not consider that the Scheme involves any circumstances in relation to the affairs of SMX that could reasonably be characterized as constituting "unacceptable circumstances" for the purposes of section 657A of the Corporations Act.

15.8 Regulatory relief

(a) ASX relief

On 3 January 2023, ASX granted SMX a waiver from ASX Listing Rule 6.23.2 and 6.23.4 to the extent necessary to permit SMX, without shareholder approval to:

- (i) deem that the SMX Options were exercised by way of a Cashless Exercise under the Option Scheme;
- (ii) cancel the ESOP Options in consideration for the issue of options in Empatan on the same terms as the ESOP Options;
- (iii) cancel the Legacy Performance Options for minimal nominal consideration; and
- (iv) cancel the SMX Convertible Notes in consideration for the issue of SMX Shares, without obtaining shareholder approval.

The ASX waivers were granted on condition that the Scheme becomes Effective and that full details of the Option Scheme, cancellation of the ESOP Options, cancellation of the Legacy Performance Options and cancellation of the Convertible Notes are set out to ASX's satisfaction in the Scheme Booklet.

(b) ASIC relief

(i) Change in financial position and inclusion of half year accounts

Clause 8302(h) of Part 3 of Schedule 8 to the Corporations Regulations requires the Scheme Booklet to set out whether, within the knowledge of the SMX Directors, the financial position of SMX has materially changed since the date of the last balance sheet laid before a SMX annual general meeting or sent to SMX Shareholders and SMX Optionholders in accordance with sections 314 or 317 of the Corporations Act, being its financial statements for the financial half year ended 30 June 2022, and if so, full particulars of any change.

ASIC has granted SMX relief from this requirement on the condition that SMX:

- (A) sets out in this Scheme Booklet whether, within the knowledge of the directors of SMX, the financial position of SMX has materially changed since the financial report for the half-year ended 30 June 2022. Please refer to the statement in Section 5.16;
- (B) will provide, free of charge, copies of the documents referred to in the preceding bullet point to anyone who requests them prior to the Scheme being approved by the Court. This information has been made available to the public and is available from SMX's website;
- (C) has disclosed in this Scheme Booklet, and in announcements to the ASX, all material changes to SMX's financial position occurring after the balance date of SMX's financial report for the period ending 30 June 2022;

- (D) discloses all material changes to SMX's financial position that occur after the date of this Scheme Booklet but prior to the Scheme being approved by the Court in announcements to ASX.

(ii) Option Scheme contents and disclosure requirements

Regulation 5.1.01 of the Corporations Regulations requires that, unless ASIC allows otherwise, this Scheme Booklet must contain all matters set out in Part 2 of Schedule 8 of the Corporations Regulations. As some of these requirements are not applicable or appropriate in respect of the Schemes, ASIC has allowed the following variations in this Scheme Booklet.

Paragraphs 8201 and 8203 of the Corporations Regulations requires the Scheme Booklet to set out various content requirements in connection with the Option Scheme, including the names of all SMX Optionholders.

[ASIC has granted relief to SMX from compliance with paragraphs 8201 (a)-(e) and 8203(a)-(b) of Part 2 of Schedule 8 of the Corporation Regulations.]

(iii) Application for ASIC consent to expert's report accompanying explanatory statement

Paragraphs 8305, Part 3 of Schedule 8 of the Corporations Regulations requires that, where the Independent Expert's Report accompanying a Scheme Booklet contains a statement that the market value of an asset or assets of SMX or of a related body corporate differs from the value of the asset(s) shown in the books of SMX, ASIC must provide its consent in writing (prior to the First Court Hearing) to the Independent Expert's Report accompanying the Scheme Booklet in accordance with clause 8305 of Part 3 of Schedule 8 of the Corporations Regulations.

[ASIC has provided its consent in writing to the Independent Expert's Report accompanying the Scheme Booklet.]

15.9 Other material information

Except as set out in this Scheme Booklet, there is no information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any SMX Director or director of any Related Bodies Corporate of SMX, at the time of lodging this Scheme Booklet with ASIC for registration, which has not previously been disclosed to SMX Shareholders.

15.10 Consents

(a) Interests of advisers

Other than as set out in this Section or elsewhere in this Scheme Booklet, no person named in this Scheme Booklet as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Scheme Booklet holds, or held at any time during the last two years before the date of this Scheme Booklet, any interest in:

- (i) the formation or promotion of SMX; or
- (ii) any property acquired or proposed to be acquired by SMX in connection with its formation or promotion or in connection with the Scheme.

Other than as set out in this Section or elsewhere in this Scheme Booklet, no amounts have been paid or agreed to be paid and no value or other benefit has been given or agreed to be given to any of these persons for services rendered by them in connection with the preparation of this Scheme Booklet or in connection with the formation or promotion of SMX or in connection with the Scheme.

(b) SMX's advisers and fees

The following persons are named in this Scheme Booklet as performing a function in a professional or advisory capacity in connection with the Scheme and with the preparation of this Scheme Booklet on behalf of SMX:

- (i) **Mann Lawyers** - Australian legal adviser and will be entitled to receive professional fees charged in accordance with their normal basis of charging.
- (ii) **Arthur Cox** - Irish legal adviser and will be entitled to receive professional fees charged in accordance with their normal basis of charging.
- (iii) **Nexia Australia** - an Independent Expert who will provide an Independent Expert's Report, the fee for which is \$A58,000 plus GST.

- (iv) **Moore Australia** – an independent accountant who will provide an Independent Limited Assurance Report, the fee for which is \$A45,000 plus GST.

(c) Total aggregate fees

The total aggregate fees where the Schemes, Business Combination and Capital Reduction are each implemented, are expected to be approximately \$US11,000,000.

The total aggregate fees incurred by SMX if the Scheme is not implemented for any reason, would be approximately \$US2,500,000. This amount does not include the Break Fee which may be payable in certain circumstances as outlined in Section 4.4(n) of this Scheme Booklet. A breakdown of the estimated fees is as follows:

	Total Across All Parties	SMX
Financial Advisors	4,035,000	
Legal Advisors	3,050,000	1,350,000
Accounting Advisors	570,000	495,000
Run-off premium & Extension fees	2,482,500	
Other	862,500	655,000
Total	11,000,000	2,500,000

Financial Advisors- costs not incurred by SMX- including Clearthnk, Nomura and EF Hutton and include underwriting costs.

Legal costs include fees paid to DLA Piper by Lionheart and legal fees incurred, or payable, by SMX to K & L Gates (the former lawyers for SMX) and to Afik Law and Mann Lawyers. The majority of the legal costs have already been incurred, and paid.

‘Other’ costs include the costs of expert reports, including those attached to this Scheme Booklet and those incurred Lionheart in relation to its SEC approval process, as well as NASDAQ Fees. The majority of the costs in relation to SMX have already been paid, totalling approximately USD\$1.3M to date.

In the event that the Scheme of Arrangement does not proceed, SMX is able to fund the additional costs out of cash on hand and ready borrowing. The company has obtained bridge loans, as detailed in paragraph 5.20, of a further USD\$2.760M, and continues to have the ability to raise. SMX has, in most years, raised in the order of USD\$5-6M, and expects to have continued access to capital markets.

In the event that there is an extremely high rate of redemption by Lionheart shareholders such that the SPAC shareholder funds are insufficient to pay fees- in the order of 95% or higher- the liability for payment of other fees by Lionheart would remain an obligation for Lionheart. Lionheart’s Founders would be required to meet any shortfall.

(d) Consents and disclaimers

- (i) The following parties have given, and have not withdrawn before the time of registration of this Scheme Booklet by ASIC, their consent to be named in this Scheme Booklet in the form and context in which they are named:
- (A) Mann Lawyers, as Australian legal advisor to SMX;
 - (B) Arthur Cox as Irish legal advisor to SMX;
 - (C) Nexia Australia as the Independent Expert and to the inclusion of the Independent Expert's Report set out in Annexure B;
 - (D) Moore Australia as independent investigating accountant and to the inclusion of the Independent Limited Assurance Report set out in Section 9; and
 - (E) Boardroom Pty Limited as the SMX Registry.

- (ii) Each person named in Section 15.10(d):
 - (A) has not authorised or caused the issue of this Scheme Booklet;
 - (B) does not make, or purport to make, any statement in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based, other than as specified in Section 15.10(d); and
 - (C) to the maximum extent permitted by law, expressly disclaims all liability in respect of, makes no representation regarding, and takes no responsibility for, any part of this Scheme Booklet other than a reference to its name and the statement (if any) included in this Scheme Booklet with the consent of that party as specified in Section 15.10(d).
- (iii) Empatan has given, and has not withdrawn before the time of registration of this Scheme Booklet by ASIC, its consent to be named in this Scheme Booklet in the form and context in which it is named, on the basis set out in the Responsibility Statement of the Section entitled "Important Notices".
- (iv) Lionheart has given, and has not withdrawn before the time of registration of this Scheme Booklet by ASIC, its consent to be named in this Scheme Booklet in the form and context in which it is named, on the basis set out in the Responsibility Statement of the Section entitled "Important Notices".

15.11 Supplementary information

If SMX becomes aware of any of the following between the date of lodgement of this Scheme Booklet for registration with ASIC:

- (a) a material statement in this Scheme Booklet is false or misleading;
 - (b) a material omission from this Scheme Booklet;
 - (c) a significant change affecting a matter in this Scheme Booklet; or
 - (d) a significant new matter has arisen and it would have been required to be included in this Scheme Booklet if known about at the date of lodgement with ASIC,
- depending on the nature and timing of the changed circumstances, and subject to obtaining any relevant approvals, SMX may circulate and publish a supplementary document in the manner it considers appropriate, which may include:
- (e) making an announcement to ASX;
 - (f) placing an advertisement in a prominently published newspaper which is circulated generally throughout Australia;
 - (g) posting the supplementary document to SMX Shareholders at their registered address as shown in the SMX Register; or
 - (h) posting a statement online on SMX's website at <https://smx.tech/home>.

16. Glossary of terms

A\$ or \$ means the lawful currency for the time being of the Commonwealth of Australia;

A&R Registration Rights Agreement means an amended and restated registration rights agreement entered by Empatan, the Sponsor, certain Lionheart stockholders, and certain SMX shareholders;

A&R Sponsor Agreement means the amended and restated Sponsor Agreement between Lionheart, Sponsor and certain directors and officers of Lionheart (**Insiders**) pursuant to which the Sponsor and Insiders have agreed to take, or not take, certain actions;

AAS means the Australian Accounting Standards;

AASB means the Australian Accounting Standards Board;

Adviser means any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice) to SMX, Empatan or Lionheart (as applicable)

AEDT means the Australian Eastern Daylight Savings Time;

AEST means Australian Eastern Standard Time;

Annual Reports means SMX's annual financial reports released to the public in accordance with its reporting obligations under the Corporations Act;

ASIC means the Australian Securities and Investments Commission;

Associate has the meaning given in section 9 of the Corporations Act;

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

ASX Listing Rules means the official listing rules of ASX;

Australian Auditing Standards means the auditing standards that establish requirements and provide application and other explanatory material on:

- (a) the responsibilities of an auditor when engaged to undertake an audit of a financial report, or complete set of financial statements, or other historical financial information; and
- (b) the form and content of the auditor's report.

Bidder means Empatan;

Bonus Payments has the meaning given to it under Section 5.19(a);

Break Fee has the meaning given to it in Section 1.8;

Bridge Loan means the proposed financing by Journee Investments Limited to SMX and Empatan in the amount of US\$1 million;

BSM or Black Scholes Model means the calculation used for pricing the SMX Options, using the exercise price for each tranche of SMX Options, the current share price of SMX Shares, the time to expiration of the relevant SMX Option tranche, the current risk-free rate, and the volatility of SMX Shares;

Business Combination means a business combination transaction;

Business Combination Agreement means the Business Combination Agreement between SMX and Lionheart dated 26 July 2022;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Melbourne, Victoria and Dublin, Ireland;

Capital Reduction means subject to SMX Shareholder approval under section 256C(1) of the Corporations Act, the equal capital reduction pursuant to which all SMX Shares are to be cancelled, to be undertaken as part of the Scheme pursuant to section 256B(1) of the Corporations Act;

Capital Reduction Resolution means the resolution of SMX Shareholders to approve the Capital Reduction;

Cancellation Consideration has the meaning given in the Option Scheme;

Cashless Exercise means the exercise of that portion of Scheme Options held by each Option Scheme Participant, with the exercise price of such options being reduced to nil, and the expiry of the balance of Scheme Options held by that Option Scheme Participant occurring on the Implementation Date, such that each Option Scheme Participant receives the number of Option Exercise Shares determined in accordance with the Schedule to the Scheme Implementation Deed and following which all Scheme Options of the Option Scheme Participant have either been exercised or have expired;

CEO means Chief Executive Officer;

Chair means, in reference to the Scheme Meetings, the chair as appointed by the Court in accordance with section

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement and Transfer Corporation Pty Limited ACN 008 504 532;

Circular Electronics Partnership or **CEP** means the partnership to unite leaders in tech, consumer goods and waste management, to identify how to do things better;

Class A Common Stock means Lionheart's Class A common shares, par value \$0.0001 per share;

Class B Common Stock means Lionheart's Class B common shares, par value \$0.0001 per share;

Closing means the closing of the Business Combination;

Closing Date means, in relation to the BCA, the date in which the BCA will complete;

Competing Proposal has the meaning given to it under the SID;

Competing Transaction has the meaning given to it under the SID;

Confidential Information means Lionheart Confidential Information or SMX Confidential Information;

Controller or Control has the meaning it has in the Corporations Act;

Corporations Act means the *Corporations Act 2001* (Cth);

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

Court means the Federal Court of Australia, or another court of competent jurisdiction under the Corporations Act agreed by the parties;

Court Order means an order made by the Court pursuant to section 411(4)(b) of the Corporations Act approving the Scheme;

Costs includes costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis;

Covered Shares has the meaning given to it in Section 13.7;

COVID-19 means SARS-CoV-2 or COVID-19, and any evolutions, variation, derivative or mutations thereof (including any subsequent waves or outbreaks thereof);

COVID-19 Measures means any quarantine, "shelter in place", "stay at home", workforce reduction, social distancing, travel restriction, vaccination program, shut down, closure, sequester, safety or similar laws, rules, regulations, directives, guidelines or recommendations promulgated by any Governmental Authority of competent jurisdiction, including the U.S. Centers for Disease Control and Prevention, the Australian Government Department of Health and the World Health Organization in connection with or in response to COVID-19;

Data Protection Laws means all laws related to data protection or privacy (including laws relating to the privacy and security of data or information that constitutes personal data or personal information under applicable law), including, without limitation:

- (a) in Australia, the *Privacy Act 1988* (Cth) ("**Privacy Act**");
- (b) in Europe, the *General Data Protection Regulation (EU) 2016/679* ("**GDPR**"); and
- (c) any privacy and/or data protection legislation in any relevant jurisdiction;

Deed Polls means each of the deed polls made by Empatan and Lionheart in favour of Scheme Participants, a copy of each which is reproduced in Annexure E (except for their annexures);

Disclosed means fully and fairly disclosed, with sufficient detail and context as to enable a sophisticated investor entering into a transaction of the nature contemplated by this document to understand the nature, scope and financial significance of the relevant matter, event or circumstance:

- (a) in the case of SMX:
 - (i) in the SMX Disclosure Letter; or
 - (ii) in any announcement made by SMX on ASX prior to the date of this document (other than any forward looking, projected or hypothetical information); and
- (b) in the case of Lionheart:
 - (i) in the Lionheart Disclosure Letter; or
 - (ii) in any statement, prospectus, report, schedule or another form filed with or furnished to the SEC by Lionheart pursuant to the US Securities Act or the Exchange Act prior to the date of this document (other than any forward looking, projected or hypothetical information)

Dividend Shares has the meaning given to such term in Section 6.6;

Duty means any stamp, transaction or registration duty or similar charge which is imposed by any Governmental Authority and includes any associated interest, penalty, charge or other amount which is imposed;

DWT means Irish dividend withholding tax;

DWT Forms means the relevant Irish dividend withholding tax exemption declaration forms available at: <http://www.revenue.ie/en/tax/dwt/forms/index.html>;

Effective or **Effect**, when used in relation to the Scheme or the Option Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme or the Option Scheme (as relevant), but in any event at no time before an office copy of the order of the Court is lodged with ASIC;

Effective Date means the date on which the Scheme or the Option Scheme (as applicable) becomes Effective;

Empatan means Empatan PLC, a public limited company incorporated in Ireland with registered number 722009 (to be renamed SMX Public Limited Company);

Empatan Board means the board of directors of Empatan;

Empatan Constitution means the Amended and Restated Memorandum and Articles of Association of Empatan to be adopted by Empatan following the implementation of the Schemes, Capital Reduction and Business Combination;

Empatan Deferred Shares has the meaning given to it in Section 7.2;

Empatan Founder Warrants has the meaning given to that term "Parent Founder Warrants" in the Business Combination Agreement;

Empatan Information means the responses to the questions set out under "Questions about Empatan" in Section 2 (Questions and answers), Section 7 (Overview of Empatan), Section 9 (Scheme Pro Forma Financial Information) to the extent it relates directly to Empatan, Section 10.4 (Specific risks relating to Empatan), Section 10.5 (General risks relating to Empatan), Section 10.6 (Risks specific to the Scheme and Merged Group), and Section 15.10(c) (transaction costs incurred by Empatan);

Empatan Options means an option to acquire an Empatan Share;

Empatan Preference Shares has the meaning given to it in Section 7.2;

Empatan Public Warrants has the meaning given to that term "Parent Public Warrants" in the Business Combination Agreement;

Empatan Shareholder means a holder of at least one Empatan Share;

Empatan Shares means fully paid ordinary shares in the issued share capital of Empatan;

Empatan Warranties means the representations and warranties of Empatan set out in clause 13.4 of the Scheme Implementation Deed;

Empatan Warrants means the Parent Public Warrants and the Parent Founder Warrants;

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement, "security interest" as defined in sections 12(1) or 12(2) of the PPSA, right of first refusal, pre-emptive right, any similar restriction, or any agreement to create any of them or allow them to exist;

End Date means 8 May 2023 or such later date agreed in writing by Lionheart and SMX;

Exchange Act means the United States Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder;

Excluded SMX Option means an SMX Option that Lionheart and SMX agree should not be subject to the Option Scheme;

Excluded SMX Optionholder has the meaning given to Excluded Optionholder in the Option Scheme;

Exclusivity Period means the period from the date of the Scheme Implementation Deed being 26 July 2022 to the earlier of:

- (a) the Scheme Implementation Date of the Scheme; and
- (b) the date of termination of the Scheme Implementation Deed in accordance with its terms;

Explanatory Statement means the explanatory statement for the purposes of section 412 of the Corporations Act, constituted by this Scheme Booklet;

Extraordinary General Meeting has the meaning given to it in Section 7.9;

Fashion Sustainability Competence Centre means the fashion sustainability centre organised by SMX;

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting and the Option Scheme Meeting is heard;

First Court Hearing means the hearing on which an application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting and the Option Scheme Meeting is heard, held on the First Court Date;

Founder Shares has the meaning given to it in Section 6.2;

GAAP means United States generally accepted accounting principles;

General Meeting means the general meeting of SMX Shareholders to approve the Capital Reduction in accordance with section 256C(1) of the Corporations Act;

Governmental Authority means whether domestic or foreign:

- (a) any supranational, national, federal, state, territory, county, municipal, local, or provincial government or any minister, person or entity exercising executive, legislative, judicial, arbitral, regulatory, taxing, or administrative functions of or pertaining to government;
- (b) any public international governmental organisation;
- (c) any agency, division, bureau, department, committee, or other political subdivision of any government, entity or organisation described in the foregoing clauses (a) or (b) of this definition (including patent and trademark offices); or
- (d) quasi-governmental, self-regulatory agency, commission or authority, including any national securities exchange or national quotation system,

and includes ASX, ACCC, ASIC, the Takeovers Panel, FIRB, the Australian Taxation Office, Department of Justice, US Federal Trade Commission, NASDAQ and any state or territory revenue offices;

GST has the meaning given in the GST Act or value added tax as defined under any GST Law or imposed by any Governmental Authority;

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

GST Law means any law relating to GST;

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of SMX Shareholders present and voting, either in person, by direct vote or by proxy;

IFRS means the International Financial Reporting Standards;

Indebtedness of any person means, without duplication:

- (a) the outstanding principal amount of, accrued and unpaid interest on, and other payment obligations or liabilities (including any prepayment premiums, penalties, make-whole payments, termination fees, reimbursement obligations, breakage costs and other fees and expenses that are payable upon repayment of such obligations) of such person arising under, consisting of, pursuant to, or in respect of:
 - (i) indebtedness for borrowed money or indebtedness evidenced by notes, bonds, debentures or other debt securities;
 - (ii) the deferred purchase price of property or services (including any earn out obligations whether or not contingent and regardless of when due) (but excluding trade payables, accrued expenses and current accounts, in each case, incurred and paid in the ordinary course of business);
 - (iii) any letter of credit, bank guarantee, bankers' acceptance or other similar instrument, in each case, to the extent drawn, issued for the account of such person;
 - (iv) any hedging agreement, derivative instrument or similar arrangement, including any interest rate swap, currency swap, forward currency or interest rate contracts or other interest rate or currency hedging arrangements (in each case valued at their termination value as of immediately prior to the date of determination);

- (v) any transaction related to the securitization of assets (including inventory or receivables) for financing purposes to any third party, including all factoring and inventory agreements and similar agreements executed for the purpose of obtaining financing;
- (vi) any obligations in respect of dividends declared but not paid; and
- (vii) any obligations in respect of a capital or finance lease (in which case only the capitalized portion thereof shall constitute Indebtedness); and
- (b) any obligation of another person of the kind described in clause (a) for which such person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise or in respect of which such person has pledged any of its assets as collateral therefor.

Independent Expert means Nexia Australia;

Independent Expert's Report means the independent expert's report prepared by the Independent Expert, a copy of which is reproduced in Annexure B;

Ineligible Foreign Holder means an SMX Shareholder or a SMX Optionholder:

- (a) who (as at the Record Date or the Option Scheme Record Date (as applicable)) is (or is acting on behalf of) a citizen or resident of a jurisdiction other than residents of Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands, Israel and the United States; or
- (b) whose address shown in the SMX Register (as at the Record Date or the Option Scheme Record Date) is a place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands, Israel and the United States or who is acting on behalf of such a person,

unless Lionheart determines that:

- (c) it is lawful and not unduly onerous or unduly impracticable to issue that SMX Shareholder with the Empatán Shares on implementation of the Scheme, or to issue the SMX Optionholder with Empatán Shares on implementation of the Option Scheme (as relevant); and
- (d) it is lawful for that SMX Shareholder to participate in the Scheme or the SMX Optionholder to participate in the Option Scheme, by the law of the relevant place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands Israel and the United States;

Insider has the meaning given to it in Section 13.7;

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to any part of its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- (d) an application or order has been made (and in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or

- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction.

Intellectual Property or IP means:

- (a) trademarks, service marks, brand names, internet domain names, internet and social media usernames, logos, symbols, certification marks, trade dress and other indications of origin, the goodwill associated with the foregoing and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application;
- (b) inventions, discoveries and ideas, whether patentable or not, in any jurisdiction;
- (c) patents, applications for patents (including divisions, continuations, continuations in part and renewal applications), all improvements thereto, and any renewals, extensions or reissues thereof, in any jurisdiction;
- (d) non-public information, trade secrets and know-how, including processes, technologies, protocols, formulae, prototypes and confidential information and rights in any jurisdiction to limit the use or disclosure thereof by any person;
- (e) copyright (whether future or existing) writings and other works, whether copyrightable or not and whether in published or unpublished works, in any jurisdiction;
- (f) rights of publicity, likeness rights, or other similar personality rights;
- (g) registrations or applications for registration of copyrights in any jurisdiction, and any renewals or extensions thereof;
- (h) Moral Rights; and
- (i) any similar intellectual property or proprietary rights.

Intended U.S. Tax Treatment has the meaning given to Intended Tax Treatment in the Business Combination Agreement;

Investigating Accountant means Moore Australia;

Investigating Accountant's Report means the report prepared by the Investigating Accountant in relation to the financial information regarding the Merged Group that is prepared from information provided by Lionheart and SMX for inclusion in the Scheme Booklet;

IPO means initial public offering;

Irish CGT means Irish capital gains tax;

Irish Companies Act means the Irish Companies Act 2014, as amended;

Irish Minister for Finance means the Minister for Finance of Ireland;

Irish Takeover Rules means the Irish Takeover Panel Act, 1997, Takeover Rules, 2013;

Isorad License Agreement means the Isorad License Agreement SMX entered into with Isorad Ltd. (an IP holding company of Soreq) to license the Source IP and develop and commercialize the technology;

Israel Innovation Authority or IIA means an independent publicly funded agency, created to provide a variety of practical tools and funding platforms aimed at effectively addressing the dynamic and changing needs of the local and international innovation ecosystems, which was previously known as the Office of the Chief Scientist;

Israeli Encouragement of Capital Investments Law means the Encouragement of Capital Investments Law, 5719-1959 enacted in Israel;

Israeli Ministry of Economy means one of the operational government ministries responsible for providing tools and support mechanisms designed to advance the Israeli economy and encourage financial growth;

Israeli Non Ionizing Radiation Law means the Non-ionizing radiation law which was passed in 2006 and came into effect in January 2007;

Israeli People means Israeli residents or citizens, or other people to whom equity was offered or issued in Hebrew or with other significant relation to Israel;

Israeli Securities Law means Israeli Securities Law 5728- 1968;

Israeli Tax Authority means the authority that consolidates the various Israeli tax divisions: income tax, real estate taxation, VAT, purchase tax, customs and stamp duty;

Israeli Tax Ordinance means the Income Tax Ordinance [NEW VERSION], 1961;

ISS means the Institutional Shareholder Services Inc., a proxy and corporate governance advisor;

Kibbutz Ketura means a kibbutz in southern Israel named "Ketura";

Last Practicable Date means 3 January 2023, being the last practicable date prior to the date of this Scheme Booklet;

Legacy Performance Optionholders means holders of Legacy Performance Options;

Legacy Performance Options means the:

- (a) 5,000,000 performance options issued by SMX to a related party of Haggai Alon; and
- (b) 5,000,000 performance options issued by SMX to a related party of Everardus (Ed) Hofland, and described under the 2018 SMX initial public offering prospectus and subject to performance milestones;

Lionheart means Lionheart III Corp a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137;

Lionheart A Shares means Lionheart's Class A common shares, par value \$0.0001 per share;

Lionheart B Shares means Lionheart's Class B common shares, par value \$0.0001 per share;

Lionheart Board means the board of directors of Lionheart;

Lionheart Break Fee means US\$2,000,000 plus GST, if applicable;

Lionheart's Certificate of Incorporation means Lionheart's Second Amended and Restated Certificate of Incorporation dated 3 November 2021;

Lionheart Competing Acquisition means any acquisition by any member of the Lionheart Group of a business, entity or undertaking or assets comprising a business (whether by way of stock purchase, tender offer, exchange offer, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization or similar transaction) or joint venture or other transaction, or a series of any of the foregoing (other than the Scheme and Option Scheme) where:

- (a) such target is material to the Merged Group (provided that, for this purpose, the Merged Group, taken as a whole, shall be deemed a consolidated group of entities the same size as the SMX Group); or
- (b) such acquisition or other transaction would likely materially delay or create substantial risk of any Regulatory Approval not being obtained;

Lionheart Competing Transaction means an offer, proposal, transaction or arrangement (whether by way of stock purchase, tender offer, exchange offer, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization, takeover bid, scheme of arrangement, capital reduction, buy back, sale, lease or assignment of assets, sale or issue of securities, reverse takeover bid, dual listed company structure (or other synthetic merger), deed of company arrangement, debt for equity arrangement or otherwise), or a series of any of the foregoing or other transaction or arrangement (other than the Scheme, Option Scheme or other Transaction) which, if entered into or completed, would mean a person (other than Lionheart, its Related Bodies Corporate, or holders of Lionheart Shares as of the date of this document), whether alone or together with its Associates, would:

- (a) directly or indirectly acquire a Relevant Interest in or become the holder of or have a right to acquire a legal, beneficial or economic interest in, or control of, securities representing 20% or more of the total outstanding voting power of Lionheart (other than as a custodian, nominee or bare trustee); or
- (b) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an interest in (including through any license arrangement) 20% or more of the consolidated assets of the Lionheart Group;

Lionheart Confidential Information means the confidential, proprietary or non-public information furnished by Lionheart or its Representatives to SMX or its Representatives, including tangible, intangible, visual, electronic, present, or future information about Lionheart's business, business plans, pricing, customers, strategies, trade secrets, operations, records, finances, assets, technology, algorithms, data and information that reveals the processes, designs, methodologies, technology or know how by which Lionheart's existing or future products, services, applications and methods of operation are developed, conducted or operated, or any information which, by its nature or the circumstances surrounding its disclosure, is or could reasonably be expected to be, regarded as confidential to Lionheart, but shall not include information that:

- (a) is or becomes available to SMX or any of its Representatives on a non-confidential basis from a source (other than Lionheart or any of its Representatives) which, to SMX's knowledge, is not prohibited from disclosing such information to SMX;
- (b) is known to SMX or any of its Representatives prior to disclosure by Lionheart or any of its Representatives;
- (c) is or has been independently developed by SMX without use of any information furnished to it by Lionheart (where SMX can prove the same in writing); or
- (d) is transmitted by Lionheart after delivery of notice by SMX that it no longer wishes to receive Lionheart Confidential Information;

Lionheart Disclosure Letter means Lionheart's disclosure letter to SMX delivered in connection with the Scheme Implementation Deed;

Lionheart Existing Charter means the document titled Amended and Restated Certificate of Incorporation dated 3 November 2021;

Lionheart Group means Lionheart and its Subsidiaries;

Lionheart Indemnified Parties means Lionheart, its officers and directors, its Related Bodies Corporate and the officers and directors of each of its Related Bodies Corporate;

Lionheart Information means the information provided by Lionheart to SMX in writing specifically for inclusion in the Scheme Booklet, being the information in the sections or parts of those sections described below:

- (a) the important notices section:
 - (i) the third paragraph under the heading "responsibility statement";
 - (ii) the paragraphs under the heading "forward looking statements" to the extent they relate to Lionheart;
- (b) Section 6;
- (c) Section 8 as it relates to Lionheart's contribution to the Merged Group Information;

The Lionheart Information does not include the SMX Information, the Empatan Information, the Independent Expert's Report or the Investigating Accountant's Report.

Lionheart Material Adverse Effect has the meaning given to that term in the Scheme Implementation Deed;

Lionheart Merger has the meaning given to "Merger" in the Business Combination Deed;

Lionheart Prescribed Event has the meaning given to that term in the Scheme Implementation Deed;

Lionheart Private Units has the meaning given to SPAC Private Units in the Business Combination Agreement;

Lionheart Private Warrants has the meaning given to SPAC Private Warrants in the Business Combination Agreement;

Lionheart Proposals has the meaning given to that term in the Scheme Implementation Deed;

Lionheart Proxy Statement means the proxy statement to be sent to Lionheart Shareholders for the purpose of obtaining the Lionheart Shareholder Approval;

Lionheart Public Units has the meaning given to SPAC Public Units in the Business Combination Agreement;

Lionheart Public Warrants has the meaning given to SPAC Public Warrants in the Business Combination Agreement;

Lionheart Registration Statement means the registration statement on Form F-4 (or another applicable form if agreed by the parties) to be filed by Empatan in connection with the registration under the US Securities Act of the Empatan Shares to be issued in connection with the Scheme;

Lionheart Shareholder means each person registered as a holder of Lionheart Shares;

Lionheart Shareholder Approval means the approval of Lionheart Shareholders referred to in clause 3.1(a) of the Scheme Implementation Deed which is required under the Listing Rules of NASDAQ, Lionheart's Certificate of Incorporation and the Delaware General Corporation Law;

Lionheart Shareholder Meeting means a special meeting of the Lionheart Shareholders to obtain the Lionheart Shareholder Approval;

Lionheart Shares means the Lionheart A Shares or Lionheart B Shares, as applicable;

Lionheart Warranties means the representations and warranties provided by Lionheart in clause 13.3 of the Scheme Implementation Deed (attached as Annexure D);

Lionheart Warrants has the meaning given to the "SPAC Warrants" under the Business Combination Agreement;

Lock-Up means entry by certain Lionheart shareholders into lock-up agreements with Empatan pursuant to which, among other things, such shareholders will agree not to offer, sell, contract to sell or otherwise dispose of, directly or indirectly, any Empatan Shares beneficially owned by such shareholders immediately following the closing;

Lock-Up Agreement means each of the agreements entered by certain Lionheart shareholders with Empatan pursuant to which, among other things, such shareholders will agree not to offer, sell, contract to sell or otherwise dispose of, directly or indirectly, any Empatan Shares beneficially owned by such shareholders immediately following the closing;

Losses means all claims, demands, damages, losses, costs, expenses (including reasonable fees of counsel) and liabilities;

Material Contract means any agreement entered into by a member of the SMX Group (or a joint venture entity to which the SMX Group is a shareholder) (excluding any SMX Employee Plan):

- (a) which is, in the opinion of SMX management, critical to the business of the SMX Group;
- (b) which has a material strategic significance to the business of the SMX Group; including material agreements with a Key Payments Partner;
- (c) containing continuing material "earn out" milestones;
- (d) granting any right of first refusal, right of first offer or similar right with respect to any material assets, rights or properties of the SMX Group;
- (e) that obligates in any material respect any member of the SMX Group or that will obligate in any material respect any member of the Merged Group to conduct business with any third party on an exclusive basis or contains "most favoured nation" or similar provisions that are material in relation to the conduct of business with the relevant third party;
- (f) that is a settlement or similar agreement containing any material continuing obligations of the SMX Group;
- (g) pursuant to which any member of the SMX Group:
 - (i) has granted or grants any license, covenant not to assert, release, agreement not to enforce or prosecute or other immunity to any third party under or to any material Intellectual Property; or
 - (ii) is granted a license, covenant not to assert, release, agreement not to enforce or prosecute or immunity to or under any material Intellectual Property from any third party, other than, in each case, non-exclusive licenses in the ordinary course of business;
- (h) with a Related Body Corporate of SMX;
- (i) that is a material joint venture or a material profit sharing; or
- (j) containing a covenant not to compete or a covenant not to solicit clients or customers that is granted by any member of the SMX Group in favour of a third party, in each case that restricts the SMX Group in any material respects;

Merged Group means the combination of Empatan, the Lionheart Group and the SMX Group following implementation of the Scheme;

Merged Group Information means any information regarding the Merged Group:

- (a) contained in the Scheme Booklet (and any supplementary disclosure to SMX Shareholders and SMX Optionholders in respect of the Schemes) other than the Lionheart Information, the Independent Expert's Report and the Investigating Accountant's Report; and
- (b) contained in the Lionheart Registration/Proxy Statement (other than the Lionheart Information, the Independent Expert's Report and the Investigating Accountant's Report);

Merger Effective Time has the meaning given to it in the Business Combination Agreement;

Merger Sub means Aryeh Merger Sub, Inc, a Delaware corporation and wholly owned subsidiary of Empatan;

Ministry of Defense means the ministry responsible for security on the political, military and civilian levels in Israel;

Moore Australia means Moore Australia Corporate Finance (WA) Pty Ltd;

Moral Right means the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, which rights are created by the laws of the relevant jurisdiction;

NASDAQ means the NASDAQ exchange or any other stock exchange in the United States of America upon which the Lionheart Shares are listed;

NASDAQ Listing means quotation on official list of the NASDAQ;

New Empatan Shares means the Empatan Shares to be issued under the Scheme as Scheme Consideration;

New ESOP Options has the meaning given to such term in Section 5.17(e);

Nexia Australia means Nexia Sydney Corporate Advisory Pty Ltd ACN 114 696 945;

Notice or Notice of Meeting or Notice of Scheme Meeting means the notice of general meeting, a copy of which is contained in Annexure I;

Offer the offer made under the Scheme;

Officer has the meaning given to that term in the Corporations Act;

Option Cancellation or Exercise Agreement means:

- (a) in respect of the SMX ESOP Options: an agreement between the member of the SMX Group that granted the SMX ESOP Option, a holder of SMX ESOP Options and Empatan under which, subject to the Scheme becoming Effective, the SMX ESOP Options held by that holder are cancelled in consideration for the applicable Option Consideration;
- (b) in respect of the Legacy Performance Options: an agreement between SMX, the holder of Legacy Performance Options and Empatan under which, subject to the Scheme becoming Effective, the Legacy Performance Options held by the holder are cancelled in consideration for the applicable Option Consideration; and
- (c) in respect of each Excluded SMX Option: an agreement SMX, the holder of the Excluded SMX Option and Empatan under which, subject to the Scheme becoming Effective, the Excluding SMX Options held by the holder are exercised in consideration for the applicable Option Consideration,

each in the form agreed between SMX and Lionheart;

Option Consideration means:

- (a) in respect of ESOP Options the consideration per such ESOP Option agreed by SMX and Lionheart;
- (b) in respect of the Legacy Performance Options: the consideration per Legacy Performance Option agreed by SMX and Lionheart; and
- (c) in respect of each Excluded SMX Option: the consideration per Excluded SMX Option agreed by SMX and Lionheart;

Option Exercise Shares means the number of SMX Shares to be issued on exercise of a Scheme Option on a Cashless Exercise basis, being the number of SMX Shares per Scheme Option determined in accordance with the Option Scheme;

Option Scheme means the scheme of arrangement under part 5.1 of the Corporations Act between SMX and Option Scheme Participants in respect of all the Scheme Options, substantially in the form set out Annexure H, together with any amendment or modification made pursuant to section 411(6) of the Corporations Act and approved by SMX and Lionheart;

Option Scheme Conditions means the conditions set out in clause 3.2 of the Scheme Implementation Deed in respect of the Option Scheme;

Option Scheme Consideration has the meaning given to it in Section 12.4;

Option Scheme Deed Polls means each of the deed polls made Lionheart and Empatan in favour of Option Scheme Participants, a copy of each which is reproduced in Annexure F (except for their annexures);

Option Scheme Implementation Date has the meaning given to it in the "Important Dates" Section;

Option Scheme Meeting means the meeting of SMX Optionholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Option Scheme and includes any meeting convened following any adjournment or postponement of that meeting;

- Option Scheme Participant** means an SMX Optionholder, other than an Excluded SMX Optionholder;
- Option Scheme Record Date** means 7.00pm on the 2nd Business Day following the Effective Date or any other date as agreed by SMX, Empatan and Lionheart;
- Option Scheme Requisite Majorities** means the requisite majorities required to pass the Option Scheme Resolution;
- Option Scheme Resolution** means the resolution to be passed by SMX Optionholders to implement the Option Scheme;
- Performance Share** means an unquoted performance share issued by Empatan;
- Perth Mint** means The Perth Mint as operated by Gold Corporation ABN 98 838 298 431, a wholly owned company of the Government of Western Australia;
- Ph.D** means doctorate of philosophy;
- PIPE Financing** means collectively, the potential commitments by the PIPE Investors to purchase up to US\$25 million in the aggregate in securities of Lionheart;
- PIPE Investment** has the meaning given in clause 9.8 of the Scheme Implementation Deed;
- PIPE Investors** means investors that have entered into subscription agreements on or prior to the closing of the Business Combination Lionheart expects to enter into the Subscription Agreements with investors;
- POC** means proof of concept;
- Post Consumer Recycled** or **PCR** means material that is made from the items that consumers recycle every day;
- Power of Attorney** means an attorney duly and properly appointed to vote on behalf of SMX Shareholders or SMX Optionholders (or appointed Proxies) at any of the Scheme Meeting, Option Scheme Meeting or General Meeting, as the context requires;
- PPSA** means the *Personal Property Securities Act 2009* (Cth);
- Private Placement** has the meaning given to it in Section 6.2;
- Private Warrants** means private units in Lionheart;
- Prospectus Regulation** means Regulation (EU) 2017/1129 of the European Parliament and the Council of the European Union;
- Proxy** or **Proxies** means a person or persons (as the context requires) duly and validly appointed with authority to represent a SMX Shareholder or SMX Optionholder, as the context requires;
- Proxy Form** means the proxy form for the Scheme Meeting enclosed with this Scheme Booklet;
- Public Offering** means the public offering of Lionheart securities undertaken in November 2021;
- Public Stockholders** means Lionheart public stockholders;
- Public Units** means public units in the capital of Lionheart;
- Public Warrant** means public warrants in the capital of Lionheart;
- R&D Law** means Encouragement of Research and Development Law, 1984, as amended;
- Record Date** means 7.00 pm on the date which is 2 Business Days after the Effective Date, or such other Business Day agreed by Lionheart, Empatan and SMX;
- Redemption Rights** has the meaning given to such term in the Business Combination Agreement;
- Regulatory Approval** means:
- (a) in respect of the Scheme, the Lionheart Merger or any other Transaction any approval of or notification to a Governmental Authority in respect of the Scheme, the Lionheart Merger or any other Transaction or any aspect of it or another applicable law, which Lionheart and SMX agree, acting reasonably, is necessary or desirable to implement the Scheme, the Lionheart Merger or any other Transaction; and
 - (b) in respect of the Option Scheme, any approval or notification to a Governmental Authority in respect of the Option Scheme or any aspect of it or another applicable law, which Lionheart and SMX agree, acting reasonably, is necessary or desirable to implement the Option Scheme;
- Related Body Corporate** or **Related Bodies Corporate** has the meaning given to those terms in section 50 the Corporations Act;
- Relevant Interest** has the meaning it has in sections 608 and 609 of the Corporations Act;
- Representatives** means, in relation to a party:

- (a) a Related Body Corporate;
- (b) a director, officer or employee of the party or any of the party's Related Bodies Corporate; or
- (c) an adviser (whether legal, financial or other expert adviser) or consultant to the party or any of the party's Related Bodies Corporate (for the avoidance of doubt, not including the Independent Expert);

Rules for Granting Authorization for Use of Know-How Outside of Israel or Licencing Rules means the Rules for Granting Authorization for Use of Know-How Outside of Israel published by the IIA on or around 7 May 2017;

Sale Agent means the person appointed by SMX to sell the New Empatan Shares that are attributable to Ineligible Foreign Shareholders as part of their Scheme Consideration under the terms of the Scheme;

Scheme and **Scheme of Arrangement** means the scheme of arrangement under part 5.1 of the Corporations Act substantially in the form set out Annexure G, together with any amendment or modification made pursuant to section 411(6) of the Corporations Act and approved in writing by Lionheart, Empatan and SMX;

Scheme Booklet means this scheme booklet dated 9 January 2023, including the Annexures to it and the Proxy Form for the Scheme Meeting;

Scheme Conditions means the conditions set out in clause 3 of the Scheme;

Scheme Consideration means the consideration to be provided to each Scheme Participant for the cancellation of each Scheme Share, as determined in accordance with clause 4.2 of the Scheme Implementation Deed and as described in Sections 1.5, and 11.6 of this Scheme Booklet;

Scheme Implementation Date means the 5th Business Day following the Record Date or such other date after the Record Date as SMX and Lionheart agree in writing;

Scheme Implementation Deed means the Scheme Implementation Deed dated 26 July 2022 between Empatan, SMX and Lionheart, as varied on 7 September 2022, a copy of which is reproduced in Annexure C (except for its annexures);

Scheme Meeting means the meeting of SMX Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting;

Scheme Option means an SMX Option on issue at the Option Scheme Record Date which is held by an Option Scheme Participant;

Scheme Participant means each person who is an SMX Shareholder at the Scheme Record Date, other than Empatan;

Scheme Participant Declaration means a declaration in accordance with the requirements of section 14-225 of Schedule 1 of the *Taxation Administration Act 1953* (Cth) that covers, at least, the date of this deed and the Scheme Implementation Date;

Scheme Record Date means 7.00 pm on the date which is 2 Business Days after the Effective Date, or such other Business Day agreed by Empatan and SMX;

Scheme Requisite Majorities means the required majorities to pass each of the Scheme Resolution and the Option Scheme Resolution described in Section 1.6;

Scheme Resolution means the resolution that SMX Shareholders are asked to vote on at the Scheme Meeting, as set out in the Notice of Scheme Meeting attached in Annexure I;

Scheme Share means an SMX Share held by a Scheme Participant at the Scheme Record Date;

Schemes means the Scheme and the Option Scheme;

SEC means the United States Securities and Exchange Commission;

Second Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme and/or Option Scheme is heard or scheduled to be heard, or, if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard;

Second Court Hearing means the hearing by the Court to approve the Scheme and Option Scheme on the Second Court Date;

Security Matters Israel or **SMX Israel** means Security Matters Ltd (Israeli company 51-512577-1), a company incorporated in Israel;

Share Sale Facility means the facility to be established by SMX and managed by the Sale Agent under which the New Empatan Shares which otherwise would be received by Ineligible Foreign Shareholders will be sold in accordance with the Scheme and the agreement to be entered into between SMX and the Sale Agent in relation to the Share Sale Facility;

Share Sale Facility Proceeds means the net cash proceeds from the sale of the New Empatan Shares sold through the Share Sale Facility, after deducting brokerage and other costs of sale and any taxes which may be required to be withheld under applicable laws;

Share Splitting means the splitting by an SMX Shareholder of SMX Shares into two or more parcels of SMX Shares but which does not result in any change in beneficial ownership of the SMX Shares;

SMX or the **Company** means Security Matters Limited ACN 626 192 998;

SMX Beverages means SMX Beverages Pty Ltd (ACN 637 440 272);

SMX Board or **SMX Directors** means the board of directors of SMX;

SMX Break Fee means US\$2,000,000 plus GST, if applicable;

SMX Canada means Security Matters Canada Ltd, a company incorporated in Canada;

SMX Competing Transaction means an offer, proposal, transaction or arrangement (whether by way of stock purchase, tender offer, exchange offer, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization, takeover bid, scheme of arrangement, capital reduction, buy back, sale, lease or assignment of assets, sale or issue of securities, reverse takeover bid, dual listed company structure (or other synthetic merger), deed of company arrangement, debt for equity arrangement or otherwise), or a series of any of the foregoing or other transaction or arrangement (other than the Scheme, the Option Scheme or other Transaction), which, if entered into or completed, would mean:

- (a) a person (other than Lionheart or its Related Bodies Corporate), whether alone or together with its Associates, would:
 - (i) directly or indirectly acquire a Relevant Interest in or become the holder of or have a right to acquire a legal, beneficial or economic interest in, or control of, 20% or more of the SMX Shares (other than as custodian, nominee or bare trustee) or Voting Power of 20% or more in SMX;
 - (ii) acquire control of SMX, within the meaning of section 50AA of the Corporations Act; or
 - (iii) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an interest in (including through any license arrangement) 20% or more of the consolidated assets of the SMX Group; or
 - (iv) be stapled with or merge with SMX; or
- (b) Lionheart would be required to abandon, or otherwise fail to proceed with, the Schemes or any other Transaction.

SMX Confidential Information means the confidential, proprietary or non-public information furnished by SMX or its Representatives to Lionheart or its Representatives, including tangible, intangible, visual, electronic, present, or future information about SMX's business, business plans, pricing, customers, strategies, trade secrets, operations, records, finances, assets, technology, algorithms, data and information that reveals the processes, designs, methodologies, technology or know how by which SMX's existing or future products, services, applications and methods of operation are developed, conducted or operated, or any information which, by its nature or the circumstances surrounding its disclosure, is or could reasonably be expected to be, regarded as confidential to SMX, but shall not include information that:

- (a) is or becomes available to Lionheart or any of its Representatives on a non-confidential basis from a source (other than SMX or any of its Representatives) which, to Lionheart's knowledge, is not prohibited from disclosing such information to Lionheart;
- (b) is known to Lionheart or any of its Representatives prior to disclosure by SMX or any of its Representatives;
- (c) is or has been independently developed by Lionheart without use of any information furnished to it by SMX (where Lionheart can prove the same in writing); or
- (d) is transmitted by SMX after delivery of notice by Lionheart that it no longer wishes to receive SMX Confidential Information.

SMX Constitution means the constitution of SMX;

SMX Convertible Notes means the A\$828,240 convertible notes issued by SMX in May 2022;

SMX Convertible Note Amendment Agreement means an agreement between SMX and each holder of SMX Convertible Notes on terms agreed by SMX and Lionheart;

SMX Convertible Noteholder means a holder of a SMX Convertible Note;

SMX Disclosure Letter means SMX's disclosure letter to Lionheart delivered in connection with the Scheme Implementation Deed;

SMX Employee Plans means the SMX 2018 Share Option Plan and the SMX Israel Global Share Incentive Plan (2016);

SMX ESOP Optionholder means a holder of SMX ESOP Options;

SMX ESOP Options means options issued in the capital of SMX in accordance with an employee incentive plan of the SMX Group;

SMX France means Security Matters France Ltd (French business number 900404104), a company incorporated in France;

SMX Group means SMX and its Subsidiaries;

SMX Group Intellectual Property means any Intellectual Property which has been developed by, for or on behalf of a member of SMX Group or which is otherwise owned by a member of SMX Group;

SMX Historical Financial Information means the historical financial information for SMX;

SMX Information means:

- (a) all information contained in the Scheme Booklet (and any supplementary disclosure to SMX Shareholders and SMX Optionholders in respect of the Schemes) other than the Lionheart Information, the Independent Expert's Report and the Investigating Accountant's Report, and
- (b) all information relating to SMX Group and the Merged Group (excluding any Lionheart Information contained in or used in the preparation of the Merged Group Information) contained in the Lionheart Registration/Proxy Statement and specifically provided by SMX to Lionheart in writing for inclusion in the Lionheart Registration/Proxy Statement;

SMX Israel means Security Matters Ltd. (Israel Corporate Number 515125771);

SMX Material Adverse Effect has the meaning given to that term in the Scheme Implementation Deed;

SMX Optionholder means a holder of a SMX Option;

SMX Options means an option granted by SMX to acquire a SMX Share but excluding the ESOP Options and the Legacy Performance Options;

SMX Prescribed Event has the meaning given to that term in the Scheme Implementation Deed;

SMX Register means the register of members and optionholders of SMX maintained by or on behalf of SMX in accordance with the Corporations Act;

SMX Registry means Boardroom Pty Limited or any replacement provider of share registry services to SMX;

SMX Share means a fully paid ordinary share in the capital of SMX;

SMX Shareholder means each person registered in the SMX Register as a holder of a SMX Share;

SMX Superior Proposal means a genuine SMX Competing Transaction (other than an SMX Competing Transaction which has resulted from a material breach of SMX's obligations under clause 10 of the Scheme Implementation Deed), which the SMX Board, acting in good faith, and after taking advice from its outside legal adviser and financial adviser, determines is:

- (a) reasonably likely of being completed on a reasonable timeline; and
- (b) of a higher financial value and more favourable to SMX Shareholders than the Scheme (as may be revised in accordance with clause 10.8 of the Scheme Implementation Deed if applicable), in each case taking into account all aspects of the SMX Competing Transaction, including the terms of the SMX Competing Transaction, the price and/or value of the SMX Competing Transaction, any conditions, timing considerations and any other matters affecting the probability of the SMX Competing Transaction being completed in accordance with its terms, the identity, expertise, reputation and financial condition of the person making the proposal, and legal, regulatory and financial matters.

SMX Warranties means the representations and warranties of SMX set out in clause 13.1 of the Scheme Implementation Deed;

Soreq means the Soreq Nuclear Research Center, an Israeli government research and development institute for nuclear and photonic technologies under the Israeli Atomic Energy Commission;

Source IP means the commercialization of the initial technology of tracking and tracing materials by observing and identifying markers.

SPAC means special purpose acquisition company;

Sponsor means the founding shareholder of the Company and is Lionheart Equities, LLC;

Standby Facility means the standby facility entered into by SMX in August 2022 to raise up to US \$1,400,000 (AU\$ 2,000,000) for the period until October 31, 2022;

Subscription Agreements has the meaning given to such term in the Business Combination Agreement;

Subsidiary of an entity means another entity which:

- (a) is a subsidiary of the first entity within the meaning of the Corporations Act; and;
- (b) is part of a consolidated entity constituted by the first entity and the entities it is required to include in the consolidated financial statements it prepares, or would be if the first entity was required to prepare consolidated financial statements.

Takeovers Panel means the Australian Takeovers Panel;

Tax means any tax, levy, charge, excise, GST, impost, rates, Duty, fee, deduction, compulsory loan or withholding, which is assessed, levied, imposed or collected by any fiscal Governmental Authority and includes any interest, fine, penalty, charge, fee, expenses or other statutory charges or any other such amount imposed by any fiscal Governmental Authority on or in respect of any of the above;

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), or both as the context requires;

Tax Law means a law with respect to or imposing any Tax;

Tax Return means any computation, return or document relating to Tax including any which must be lodged with a Governmental Authority or which a taxpayer must prepare and retain under a Tax Law (such as an activity statement, amended return, schedule or election and any attachment);

Timetable means the timetable set out in Schedule 1 of the Scheme Implementation Deed, subject to any amendments agreed by the parties in writing;

Transactions has the meaning given to such term in the Business Combination Agreement;

Transaction Documents means the Business Combination Agreement and the Ancillary Agreements (as defined in the BCA);

Transfer Tax means any sales, use, value-added, business, goods and services, transfer (including any stamp duty or other similar Tax chargeable in respect of any instrument transferring property), documentary, conveyancing or similar Tax or expense or any recording fee, in each case that is imposed as a result of the Transactions, together with any penalty, interest and addition to any such item with respect to such item; provided, however, for the avoidance of doubt, the term Transfer Tax shall not include any income Tax or similar Tax imposed on any direct or indirect equity holder of Lionheart, Empatan, or SMX;

trueGold means True Gold Consortium Pty Ltd ACN 641 483 374;

Trust Account has the meaning given to it in the definition of Trust Fund;

Trust Fund means the trust account maintained pursuant to that certain Investment Management Trust Agreement, by and between Continental Stock Transfer & Trust Company (the "**Trustee**") and Lionheart, dated as of November 3, 2021 (such agreement, the "**Trust Agreement**");

US Securities Act means the Securities Act of 1933 of the United States of America;

US Treasury means the executive agency responsible for promoting economic prosperity and ensuring the financial security of the United States;

Voting Agreement means the Voting Agreement entered between Empatan and Empatan shareholders pursuant to which, among other things, during the Term (as defined in the Voting Agreement) Empatan and the Empatan shareholders have agreed to take all such action within its power as may be necessary or appropriate.

Voting Eligibility Date means the date determined by the Court at which shareholders and optionholders, as the case requires, must hold SMX Shares or SMX Options, as the case requires, to be entitled to attend and vote at the Scheme Meeting and Option Scheme Meeting;

Voting Power has the meaning given in section 610 of the Corporations Act;

World Business Council for Sustainable Development means the CEO-led community of over 200 of the world's leading sustainable businesses working collectively to accelerate the system transformations needed for a net zero, nature positive, and more equitable future;

Yahaloma means Yahaloma Technologies Inc. (British Columbia Canada number BC1219747), a company incorporated in Canada;

Annexure A – Taxation Implications of the Scheme

Part A - Australian taxation implications of the Scheme

This guide to the Australian tax implications arising to SMX Shareholders and SMX Option holders (not being employees who hold options under an employee share scheme) from the Scheme is expressed in general terms only.

It assumes that shares and options are held on capital account, and that the holder is an Australian resident for tax purposes.

SMX Shareholders and SMX Option holders should consult their own tax adviser as to the applicable tax consequences of the Scheme referable to their individual circumstances.

References to the Tax Act are to the Income Tax Assessment Act 1997 (Cth).

SMX Shareholders

Under the Scheme, SMX Shareholders will have their SMX shares cancelled by way of an equal reduction of share capital, and in return, will receive New Empatan Shares, at a fixed ratio per SMX Share held immediately prior to cancellation.

The cancellation of SMX shares is a disposal for capital gains tax (**CGT**) purposes, and if the amount received on disposal exceeds the cost base of the shares, a capital gain will arise - unless CGT roll-over relief is available, in which case any such gain will be disregarded.

CGT roll-over relief should be available to SMX Shareholders in respect of the cancellation of SMX Shares and replacement with New Empatan Shares, under Subdivision 124-M of the Tax Act. It is noted that Empatan will not make an election to deny SMX Shareholders roll-over relief.

If an SMX Shareholder elects for roll-over relief, no CGT should occur on the cancellation and exchange. The cost base that an SMX Shareholder has in SMX shares will effectively be transferred to the replacement New Empatan Shares received. The New Empatan Shares will be deemed to have been acquired when the cancelled SMX Shares were acquired.

SMX Option holders

Under the Option Scheme, all SMX Options on issue will be exercised, and SMX Option holders will be issued with SMX Shares. The shares will then be cancelled and New Empatan Shares received in exchange. Any capital gain arising on the exercise of an Option is disregarded for CGT purposes. The exercise price will be added to the cost base of the SMX shares acquired on exercise.

Shares acquired on option exercise are acquired for CGT purposes when actually acquired, not when the option was acquired. The New Empatan Shares will be deemed to have been acquired when the SMX shares were acquired. Once option holders have exercised their options and received SMX shares, they will be SMX shareholders. The subsequent cancellation of the SMX shares and replacement with New Empatan Shares should qualify for the same CGT roll-over relief as discussed above.

Part B - Israeli taxation implications of the Scheme

Israeli capital gains tax

Under Israeli tax laws, any sale of shares is subject to capital gains tax (generally, 25-30%, depending on whether a person is deemed to hold control in the company, as such term is defined under the Israeli Tax Ordinance, which includes any who holds 10% or more of the equity of a company).

Israeli taxation of ESOP

Israeli tax laws stipulate that any benefit granted to an employee by the employer is taxed at the date of the grant as an ordinary income of the employee (and deducted at source by the employer, who may be liable to the tax of the employee if it did not duly deduct at source and paid the amount to the Israeli Tax Authority). The Israeli Tax Ordinance recognizes the employee stock options mechanism and enables, under certain circumstances, a deferral of tax payments. Generally, if the options (and shares to which the options were converted) are held for at least two years by a trustee approved by the Israeli Tax Authority, Section 102 of the Israeli Tax Ordinance defers the tax liability of the employee until the date on which the shares (resulting from the conversion of the options) are sold (or the date of release from the trustee, the earlier of). The Section 102 arrangement applies only to an employee or director who holds less than 10% of the issued and outstanding share capital of the company on a fully diluted basis (and qualifies under other defined terms). If employees or directors do not qualify for the Section 102 arrangement, Section 3(9) of the Israeli Tax Ordinance applies, in which case the holding with the trustee may defer the tax liability until exercise of the options.

2018 tax pre-ruling

As part of the IPO of Security Matters in Australia, the Israeli shareholders and option-holders at such time have swapped all their shares in Security Matters Ltd. (Israel) for shares of Security Matters Limited (Australia), a transaction that under Israeli law would be deemed, in the absence of a pre-approval of the Israeli Tax Authority, a sale transaction subject to capital gains tax. To avoid such taxation, on 05 July 2018 a pre-ruling of the Israeli Tax Authority was retrieved, under which:

- (a) The share-swap transaction of 2018 did not trigger any tax obligation on any of the Israeli shareholders and the newly issued shares shall be deemed to have been issued at the date the original shares were issued;
- (b) The cancellation of the options in Security Matters Ltd. (Israel) and issuance in their stead of options in Security Matters Limited not trigger any tax obligation on any of the Israeli optionholders and the newly issued options shall be deemed to have been issued at the date the original options were issued;
- (c) All shares of Security Matters Ltd. (Israel) and all shares and options at such time of the Israeli shareholders were deposited in trust with IBI Trust Services Ltd., as trustee for the Israeli Tax Authority, to ensure payment of due capital gain taxes upon sale of any such rights;
- (d) For the two first years, no more than 75% of the deposited shares may be sold

2022 tax pre-ruling

As part of the business combination, the Israeli shareholders and option holders will swap all their shares in SMX for shares in Empatan which was incorporated to function as a receiving company as part of the business combination with Lionheart, a transaction that under Israeli law would be deemed, in the absence of a pre-approval of the Israeli Tax Authority, a sale transaction subject to capital gains tax. To avoid such taxation, SMX is in negotiations with the Israeli Tax Authority for a new pre-ruling, under which, inter alia:

- (a) Employee and consultants options which were issued will be cancelled, and new shares bearing the same rights will be issued in the Irish company in the same terms and in the same ratio as prior to the business combination. The swap shall not be deemed a tax event;
- (b) All shares will be cancelled new shares bearing the same rights will be issued in the Irish company in the same terms and in the same ratio as prior to the business combination;
- (c) All shares allocated to Israeli shareholders that are subject to the pre-ruling, as well as the shares of the company will be deposited in trust with IBI Trust Services Ltd., as trustee for the Israeli Tax Authority, to ensure payment of due capital gain taxes upon sale of any such rights;

- (d) The trustee will deduct, and transfer to the Israeli Tax Authority, any tax payable on capital gains or dividends;

The negotiations with the Israeli Tax Authority are in advance stage and the company believes that there is a high chance that this pre-ruling will be retrieved.

Part C - Irish taxation implications of holding Empatan Shares

Scope

The following is a summary of the anticipated material Irish tax consequences of the Scheme to certain non-Irish holders of SMX Shares and the acquisition, ownership and disposal of Empatan Shares received by such holders pursuant to the Scheme. The summary is based upon Irish tax laws and the practice of the Irish Revenue Commissioners in effect on the date of this proxy statement/prospectus and submissions which will be made to the Irish Revenue Commissioners. Changes in law and/or administrative practice may result in a change in the tax consequences described below, possibly with retrospective effect.

A "non-Irish holder" is an individual who beneficially owns their SMX Shares, and who will beneficially own their Empatan Shares, that is neither a resident nor ordinarily resident in Ireland for Irish tax purposes and does not hold their SMX Shares, and will not hold their Empatan Shares, in connection with a trade carried on by such person through an Irish branch or agency.

This summary does not constitute tax advice and is intended only as a general guide. The summary is not exhaustive and securityholders should consult their tax advisors about the Irish tax consequences (and tax consequences under the laws of other relevant jurisdictions) of the business combination and of the acquisition, ownership and disposal of Empatan Shares. The summary applies only to Non-Irish Holders who hold their SMX Shares, and will own their Empatan Shares, as capital assets and does not apply to other categories of Non-Irish Holders, such as dealers in securities, trustees, insurance companies, collective investment schemes and Non-Irish Holders who acquired, or are deemed to have acquired, their SMX Shares or who will, or who will be deemed to, acquire their Empatan Shares by virtue of an Irish office or employment (performed or carried on to any extent in Ireland).

The summary does not, except where expressly stated, consider the position of Non-Irish Holders who hold their Empatan Shares directly (and not beneficially through a broker or custodian (through DTC)). The Irish tax consequences of transactions in Empatan Shares held directly are generally negative when compared with Empatan Shares held through DTC. Any Non-Irish Holder contemplating holding their Empatan Shares directly should consult their personal tax advisors as to the Irish tax consequences of acquiring, owning and disposing of such Empatan Shares.

Irish tax on chargeable gains (Irish CGT)

The following, to the extent it constitutes matters of Irish law and legal conclusions, is the opinion of Arthur Cox LLP regarding the anticipated material Irish CGT consequences of the Scheme to certain non-Irish holders of SMX Shares.

The current rate of tax on chargeable gains (where applicable) in Ireland is 33%.

Non-Irish holders of SMX Shares will not be subject to Irish CGT in respect of any gain realized on the automatic conversion of their SMX Shares into Empatan Shares, by virtue of the Scheme, provided that the SMX Shares neither (a) were used in or for the purposes of a trade carried on by such non-Irish holder through an Irish branch or agency, nor (b) were used, held or acquired for use by or for the purposes of an Irish branch or agency.

Non-Irish Holders further will not be within the territorial scope of a charge to Irish CGT on a subsequent disposal of their Empatan Shares, provided that such Empatan Shares neither (a) were used in or for the purposes of a trade carried on by such Non-Irish Holder through an Irish branch or agency, nor (b) were used, held or acquired for use by or for the purposes of an Irish branch or agency.

Stamp duty

The rate of stamp duty (where applicable) on transfers of shares or warrants of Irish incorporated companies is 1% of the greater of the price paid or market value of the shares or warrants acquired. Where Irish stamp duty arises it is generally a liability of the transferee. However, in the case of a gift or transfer at less than fair market value, all parties to the transfer are jointly and severally liable.

Subject to the approval of the Irish Revenue Commissioners, no stamp duty is expected to be payable on the issue of Empatan Shares to the SMX Shareholders, pursuant to the Scheme.

Irish stamp duty may be payable in respect of transfers of Empatan Shares, depending on the manner in which the Empatan Shares are held. Empatan expects to enter into arrangements with DTC to allow the Empatan Shares to be settled through the facilities of DTC. As such, the discussion below discusses separately the securityholders who hold their shares through DTC and those who do not.

Empatan Shares held through DTC

Submission will be made to the Irish Revenue Commissioners to confirm that transfers of Empatan Shares effected by means of the transfer of book entry interests in DTC will not be subject to Irish stamp duty. It is expected that this confirmation should be granted, in which case a transfer of Empatan Shares effected by means of the transfer of book-entry interests in DTC will not be subject to Irish stamp duty.

Empatan Shares held outside of DTC or transferred into or out of DTC

A transfer of Empatan Shares where any party to the transfer holds such Empatan Shares outside of DTC may be subject to Irish stamp duty.

Should the confirmation from the Irish Revenue Commissioners be granted, holders of Empatan Shares wishing to transfer their Empatan Shares into (or out of) DTC may do so without giving rise to Irish stamp duty provided that:

- (a) there is no change in the beneficial ownership of such shares as a result of the transfer; and
- (b) the transfer into (or out of) DTC is not effected in contemplation of a sale of such shares or warrants by a beneficial owner to a third party.

Due to the potential Irish stamp charge on transfers of Empatan Shares held outside of DTC, it is strongly recommended that all SMX Shareholders should hold their Empatan Shares through DTC (or through a broker who in turn holds such shares through DTC).

Withholding tax on dividends (DWT)

Distributions made by Empatan will, in the absence of one of many exemptions, be subject to DWT, currently at a rate of 25%.

For DWT and Irish income tax purposes, a distribution includes any distribution that may be made by Empatan to holders of Empatan Shares, including cash dividends, non-cash dividends and additional stock taken in lieu of a cash dividend. Where an exemption from DWT does not apply in respect of a distribution made to a holder of Empatan Shares, Empatan is responsible for withholding DWT prior to making such distribution.

General exemptions

Irish domestic law provides that a non-Irish resident holder of Empatan Shares is not subject to DWT on distributions received from Empatan if such holder of Empatan Shares is beneficially entitled to the distribution and is either:

- (a) a person (not being a company) resident for tax purposes in a relevant territory (being an EU member state or a country with which Ireland has signed a double taxation treaty (a "**Relevant Territory**"), including Israel and Australia) and is neither resident nor ordinarily resident in Ireland;
- (b) a company resident for tax purposes in a Relevant Territory, provided such company is not under the control, whether directly or indirectly, of a person or persons who is or are resident in Ireland;
- (c) a company that is controlled, directly or indirectly, by persons resident in a Relevant Territory and who is or are (as the case may be) not controlled by, directly or indirectly, persons who are not resident in a Relevant Territory;
- (d) a company whose principal class of shares (or those of its 75% direct or indirect parent) is substantially and regularly traded on a stock exchange in Ireland, on a recognized stock exchange either in a Relevant Territory or on such other stock exchange approved by the Irish Minister for Finance; or
- (e) a company that is wholly owned, directly or indirectly, by two or more companies where the principal class of shares of each of such companies is substantially and regularly traded on a stock exchange in Ireland, a recognized stock exchange in a Relevant Territory or on such other stock exchange approved by the Irish Minister for Finance,

and provided, in all cases noted above, Empatan or, in respect of Empatan Shares held through DTC, any qualifying intermediary appointed by Empatan, has received from the holder of such Empatan Shares, where required, the relevant DWT Forms prior to the payment of the distribution. In practice, in order to ensure sufficient time to process the receipt of relevant DWT Forms, the holders of Empatan Shares, where required, should furnish the relevant DWT Form to:

- (a) its broker (and the relevant information is further transmitted to any qualifying intermediary appointed by Empatan) before the record date for the distribution (or such later date before the distribution payment date as may be notified to the holder of Empatan Shares by the broker) if its Empatan Shares are held through DTC; or
- (b) Empatan's transfer agent before the record date for the distribution if its Empatan Shares are held outside of DTC.

Links to the various DWT Forms are available at: <http://www.revenue.ie/en/tax/dwt/forms/index.html>.

The information on such website does not constitute a part of, and is not incorporated by reference into, this scheme booklet.

For non-Irish resident holders of Empatan Shares that cannot avail themselves of one of Ireland's domestic law exemptions from DWT, it may be possible for such holder of Empatan Shares to rely on the provisions of a double taxation treaty to which Ireland is party to reduce the rate of DWT.

Empatan Shares held by residents of Israel or Australia

Holders of Empatan Shares who are residents of Israel or Australia must satisfy the conditions of one of the exemptions referred to above under the heading "—General Exemptions", including the requirement to furnish valid DWT Forms, in order to receive distributions without suffering DWT. If such holders of Empatan Shares hold their Empatan Shares through DTC, they must provide the appropriate DWT Forms to their brokers (so that such brokers can further transmit the relevant information to a qualifying intermediary appointed by Empatan) before the record date for the distribution (or such later date before the distribution payment date as may be notified to holder of Empatan Shares by the broker). If such holders of Empatan Shares hold their Empatan Shares outside of DTC, they must provide the appropriate DWT Forms to Empatan's transfer agent before the record date for the distribution. It is strongly recommended that such holders of Empatan Shares complete the appropriate DWT Forms and provide them to their brokers or Empatan's transfer agent, as the case may be, as soon as possible after receiving their Empatan Shares.

If any holder of Empatan Shares who is resident in a Relevant Territory receives a distribution from which DWT has been withheld, the holder of Empatan Shares may be entitled to a refund of DWT from the Irish Revenue Commissioners provided the holder of Empatan Shares is beneficially entitled to the distribution.

Shares held by partnerships

Distributions paid in respect of Empatan Shares held through DTC that are owned by a partnership formed under the laws of a Relevant Territory and where all the underlying partners are resident in a Relevant Territory will be entitled to exemption from DWT if all of the partners complete the appropriate DWT Forms and provide them to their brokers (so that such brokers can further transmit the relevant information to a qualifying intermediary appointed by Empatan) before the record date for the distribution (or such later date before the distribution payment date as may be notified to the holder of Empatan Shares by the broker). If any partner is not a resident of a Relevant Territory, no part of the partnership's position is entitled to exemption from DWT.

Qualifying intermediary

Prior to paying any distribution, Empatan will put in place an agreement with an entity that is recognized by the Irish Revenue Commissioners as a "qualifying intermediary," which will provide for certain arrangements relating to distributions in respect of Empatan Shares that are held through DTC, which are referred to as the "Deposited Securities." The agreement will provide that the qualifying intermediary shall distribute or otherwise make available to Cede & Co., as nominee for DTC, any cash dividend or other cash distribution with respect to the Deposited Securities after Empatan delivers or causes to be delivered to the qualifying intermediary the cash to be distributed.

Empatan will rely on information received directly or indirectly from its qualifying intermediary, brokers and its transfer agent in determining where holders of Empatan Shares reside, whether they have provided the required U.S. tax information and whether they have provided the required DWT Forms. Holders of Empatan Shares that are required to file DWT Forms in order to receive distributions free of DWT should note that such forms are generally valid, subject to a change in circumstances, until December 31 of the fifth year after the year in which such forms were completed.

Income tax on dividends paid on Empatan Shares

Irish income tax may arise for certain persons in respect of distributions received from Irish resident companies.

A Non-Irish Holder that is entitled to an exemption from DWT will generally have no Irish income tax or universal social charge liability on a distribution from Empatan. A Non-Irish Holder that is not entitled to an exemption from DWT, and therefore is subject to DWT, generally will have no additional Irish income tax liability or liability to universal social charge. The DWT deducted by Empatan discharges the Irish income tax liability and liability to universal social charge.

Capital Acquisitions Tax (CAT)

CAT comprises principally gift tax and inheritance tax on property situated in Ireland for CAT purposes or otherwise within the territorial scope of CAT. CAT could apply to a gift or inheritance of Empatan Shares because Empatan Shares are regarded as property situated in Ireland for CAT purposes. The person who receives the gift or inheritance has primary liability for CAT.

CAT is currently levied at a rate of 33% on the value of any taxable gift or inheritance above certain tax-free thresholds. The appropriate tax-free threshold depends upon (1) the relationship between the donor and the donee and (2) the aggregation of the values of previous taxable gifts and inheritances received by the donee from persons within the same group threshold. Gifts and inheritances passing between spouses are exempt from CAT, as are gifts to certain charities. Children have a lifetime tax-free threshold of €335,000 in respect of taxable gifts or inheritances received from their parents. There is also a "small gift exemption" from CAT whereby the first €3,000 of the taxable value of all taxable gifts taken by a donee from any one donor, in each calendar year, is exempt from CAT and is also excluded from any future aggregation. This exemption does not apply to an inheritance.

THE IRISH TAX CONSIDERATIONS SUMMARIZED ABOVE ARE FOR GENERAL INFORMATION ONLY AND ARE NOT INTENDED TO PROVIDE ANY DEFINITIVE TAX REPRESENTATIONS TO HOLDERS. EACH SMX SHAREHOLDER SHOULD CONSULT HIS OR HER TAX ADVISOR AS TO THE PARTICULAR CONSEQUENCES THAT MAY APPLY TO SUCH SHAREHOLDER.

Annexure B – Expert Report

Security Matters Limited

Acquisition of 100% of the issued capital of SMX through a scheme of arrangement ("Share Scheme")

Acquisition of certain options to acquire shares in SMX through a scheme of arrangement ("Option Scheme")

Independent Expert's Report
and Financial Services Guide

7 October 2022

In our opinion:

The Share Scheme is fair and reasonable and in the best interests of the SMX Shareholders

The Option Scheme is fair and reasonable and in the best interests of the SMX Optionholders



FINANCIAL SERVICES GUIDE

Dated: 7 October 2022

What is a Financial Services Guide ("FSG")?

This FSG is designed to help you decide whether to use any of the general financial product advice provided by Nexia Sydney Corporate Advisory Pty Ltd ABN 68 114 696 945 ("NSCA"), a corporate authorised representative of Nexia Sydney Financial Solutions Pty Ltd ("NSFS"), Australian Financial Services Licence Number 247300 ("AFSL").

This FSG includes information about:

- NSCA and how they can be contacted
- the services NSCA is authorised to provide
- how NSCA are paid
- any relevant associations or relationships of NSCA
- how complaints are dealt with as well as information about internal and external dispute resolution systems, and how you can access them; and
- the compensation arrangements that NSCA has in place.

Where you have engaged NSCA we act on your behalf when providing financial services. Where you have not engaged NSCA, NSCA acts on behalf of our client when providing these financial services and are required to provide you with a FSG because you receive a report or other financial services from NSCA.

Financial Services that NSCA is authorised to provide

NSCA is a corporate authorised representative of NSFS, which holds an AFSL authorising it to provide, amongst other services, financial product advice for securities and interests in managed investment schemes, including investor directed portfolio services, to retail clients.

We provide financial product advice when engaged to prepare a report in relation to a transaction relating to one of these types of financial products.

NSCA's responsibility to you

NSCA has been engaged by the independent directors of Security Matters Limited ("SMX" or the "Client") to provide general financial product advice in the form of an independent expert's report to be included in the Scheme Booklet ("Document") sent to SMX's shareholders dated on or about 7 October 2022 ("Report").

You have not engaged NSCA directly but have received a copy of the Report because you have been provided with a copy of the Document. NSCA or the employees of NSCA are not acting for any person other than the Client.

NSCA is responsible and accountable to you for ensuring that there is a reasonable basis for the conclusions in the Report.

General Advice

As NSCA has been engaged by the Client, the Report only contains general advice as it has been prepared without taking into account your personal objectives, financial situation or needs.

You should consider the appropriateness of the general advice in the Report having regard to your circumstances before you act on the general advice contained in the Report.

You should also consider the other parts of the Document before making any decision in relation to the Scheme.

Fees NSCA may receive

NSCA charges fees for preparing Reports. These fees will usually be agreed with and paid by the Client. Fees are agreed on either a fixed fee or a time cost basis. In this instance, the Client has agreed to pay NSCA \$58,000 (excluding GST and out of pocket expenses) for preparing the Report. NSCA and its officers, representatives, related entities and associates will not receive any other fee or benefit in connection with the provision of this Report.

Referrals

NSCA does not pay commissions or provide any other benefits to any person for referring clients to them in connection with a Report.

Associations and Relationships

Through a variety of corporate and trust structures NSCA is controlled by and operates as part of the Nexia Sydney Group Pty Ltd. NSCA's directors and authorised representative may be directors in the Nexia Sydney Group Pty Ltd group entities ("Nexia Sydney Group"). Mr Brent Goldman, authorised representative of NSFS and director of Nexia Sydney Group Pty Ltd, has prepared this Report. The financial product advice in the Report is provided by NSCA and not by the Nexia Sydney Group.

From time to time NSCA, the Nexia Sydney Group and related entities ("Nexia entities") may provide professional services, including audit, tax and financial advisory services, to companies and issuers of financial products in the ordinary course of their businesses.

Over the past two years no professional fees have been received from the Client.

No individual involved in the preparation of this Report holds a substantial interest in, or is a substantial creditor of, the Client or has other material financial interests in the Schemes.

Complaints Resolution

If you have a complaint, please let NSFS know. Formal complaints should be sent in writing to:

Nexia Sydney Financial Solutions Pty Ltd
Head of Compliance
PO Box H195
Australia Square NSW 1215

If you have difficulty in putting your complaint in writing, please telephone the Complaints Officer, Craig Wilford, on +61 2 9251 4600 and he will assist you in documenting your complaint.

Written complaints are recorded, acknowledged within 5 days and investigated. As soon as practical, and not more than 45 days after receiving the written complaint, the response to your complaint will be advised in writing.

External Complaints Resolution Process

If NSFS cannot resolve your complaint to your satisfaction within 45 days, you can refer the matter to the Australian Financial Complaints Authority ("AFCA"). AFCA is an independent company that has been established to provide free advice and assistance to consumers to help in resolving complaints relating to the financial services industry.

Further details about AFCA are available at the AFCA website www.afca.org.au or by contacting them directly at:

Australian Financial Complaints Authority Limited
GPO Box 3, Melbourne Victoria 3001

Telephone: 1300 56 55 62
Facsimile (03) 9613 6399
Email: info@afca.org.au

The Australian Securities and Investments Commission also has a free call infoline on 1300 300 630 which you may use to obtain information about your rights.

Compensation Arrangements

NSCA has professional indemnity insurance cover as required by the Corporations Act 2001(Cth).

Contact Details
You may contact NSCA at:

Nexia Sydney Corporate Advisory Pty Ltd
PO Box H195
Australia Square NSW 1215

7 October 2022

The Independent Directors
Security Matters Limited
c/ K&L Gates
Level 25
525 Collins Street
Melbourne VIC 3000

Dear Independent Directors,

Independent Expert's Report on schemes of arrangement

1. OUTLINE OF THE SCHEMES

On 26 July 2022, Security Matters Limited ("SMX" or the "Group") announced that it had entered into a scheme implementation deed with Empatan PLC ("Empatan" or "Parent") and Lionheart III Corp ("Lionheart") (together the "Combined Group").

Empatan is a newly incorporated Irish entity established to be the holding company of the Combined Group following the implementation of the Scheme. Lionheart is a special purpose acquisition company ("SPAC") listed on the NASDAQ stock exchange in the US.

On completion of the transaction, SMX shareholders will hold shares in Empatan, which will be listed on NASDAQ. The transaction is to be implemented through a scheme of arrangement to acquire all of SMX's ordinary shares (the "Share Scheme") and a separate scheme of arrangement in relation to the exercise of certain options held over shares in SMX (the "Option Scheme") (together the "Schemes").

Under the Share Scheme SMX shareholders will receive between 15,488,623 and 16,219,327 shares in Empatan, depending on shares issued under the standby equity agreement prior to implementation of the Schemes, in return for 100% of the issued share capital of SMX. The Share Scheme is conditional on a number of matters including:

- court approval;
- SMX and Lionheart shareholder approval;
- NASDAQ quotation for the Parent being obtained;
- Parent having net tangible assets of US\$5 million following implementation of the Share Scheme;
- Option Scheme being implemented;
- Certain SMX employee, founder and service provider option holders agreeing to cancel their options in return for the issue of new options in the Parent;
- SMX performance option holders agreeing to the cancellation of their options, which has been agreed subject to implementation of the Schemes; and
- SMX convertible note holders satisfying the amount owed through the issue of shares in SMX prior to the implementation of the Share Scheme, which has been agreed subject to implementation of the Schemes.

Under the Option Scheme eligible option holders will receive 24,715,584 SMX shares and then participate in the Share Scheme. The Option Scheme is conditional on a number of matters including:

- eligible SMX option holder approval;
- court approval; and
- the Share Scheme becoming effective.

In respect of the Schemes the following will also occur:

- An equity raising is being undertaken at US\$10 a share (with potentially attached warrants) with the intention of raising US\$25 million. There is no minimum fundraising and the Schemes are not conditional on the equity raising.
- On implementation of the Scheme the board of the Parent will comprise seven directors of which Lionheart will appoint three directors (including two independent directors) and SMX will appoint four directors.
- Empatan will change its name to SMX Public Company Limited.
- Transaction costs of US\$11 million are expected to be incurred.
- If the Schemes do not proceed then in certain circumstances a break-fee of US\$2 million may be payable by either SMX or Lionheart.

2. PURPOSE OF REPORT

The purpose of this Report is to advise the shareholders of SMX on the fairness and reasonableness of the Scheme and whether or not it is in the best interests of the shareholders.

This report has been prepared in accordance with Section 411 of the Corporations Act (Cth) ("Corporations Act") and guidance provided by the Australian Securities and Investments Commission ("ASIC").

ASIC has issued Regulatory Guide 111 *Content of Expert Reports* ("RG111"), which outlines the principles and matters to be considered in an independent expert's report. We have had regard to the guidance relevant to a scheme of arrangement in preparing our report.

The courts require that documentation provided to shareholders is accompanied by an independent expert report. As such, the Directors of SMX have commissioned an independent expert report in respect of the Scheme in order to inform the shareholders as to whether the Scheme is fair and reasonable and in the best interests of the shareholders of SMX.

3. SUMMARY AND OPINION ON SHARE SCHEME

This section is a summary of our opinion and cannot substitute for a complete reading of this Report. Our opinion is based solely on information available as at the date of this Report.

The principal factors that we have considered in forming our opinion are summarised below.

3.1.1 Fairness of the Share Scheme

As discussed in section 5, in determining whether the Share Scheme is fair to SMX shareholders, we have compared the fair value of a share on a control basis before the implementation of the Share Scheme to the

fair value of the share in Empatan on a minority basis following the implementation of the Share Scheme. This is summarised below:

	Low	Preferred	High
Fair value of a share in SMX on a control basis	A\$0.17	A\$0.23	A\$0.29
Exchange ratio	10.3490	10.5932	10.8373
Fair value of shares in SMX on a control basis for each Empatan share	A\$1.80	A\$2.42	A\$3.10
Fair value of a share in Empatan on a minority basis	A\$3.12	A\$5.17	A\$6.72

The fair value of shares on a minority basis that SMX shareholders will hold in Empatan after the implementation of the Share Scheme is greater than the fair value of a share held in SMX on a control basis applying the exchange ratio.

Therefore, **we have concluded that the Share Scheme is fair.**

3.1.2 Reasonableness of the Share Scheme

In accordance with RG 111, a transaction is reasonable if:

- the transaction is fair; or
- despite not being fair, but considering other significant factors, shareholders should obtain an overall benefit if the transaction proceeds.

In forming our opinion we have considered the following relevant factors (see section 9.2).

Advantages	Disadvantages
<ul style="list-style-type: none"> • The Share Scheme is fair • Access to capital to continue to develop SMX's technology through to commercialisation. • Listing on the NASDAQ exchange providing a deeper capital pool for further fundraising. • Potential for future liquidity in shares as a result of being listed on a larger exchange 	<ul style="list-style-type: none"> • The level of redemptions is unknown and therefore the level of capital available to the ongoing operations may be insufficient. • Dilution of ownership through the issue of shares to Lionheart shareholders. • SMX Shareholders will hold a security in a foreign entity and on a foreign exchange following implementation of the Share Scheme

The Directors have advised us that there are currently no alternatives to the Share Scheme other than the status quo.

If the Share Scheme is not approved, SMX is likely to need further funding to support its ongoing operations and development activities. Any subsequent fundraising may be dilutive to shareholders.

Depending the circumstances of the Share Scheme not proceeding SMX may be either required to pay or may receive a break fee of US\$2 million.

As the Share Scheme is fair, and taking into consideration the matters above, **we have concluded that the Share Scheme is reasonable.**

3.2 Opinion on Share Scheme

Accordingly, in our opinion, **the Share Scheme is fair and reasonable and in the best interests of the SMX shareholders.**

The ultimate decision on whether to approve the Share Scheme should be based on shareholders' own assessment of their circumstances. We strongly recommend that shareholders consult their own professional advisers, carefully read all relevant documentation provided, including the Scheme Booklet, and consider their own specific circumstances before voting in favour of or against the Share Scheme.

4. SUMMARY AND OPINION ON OPTION SCHEME

This section is a summary of our opinion and cannot substitute for a complete reading of this Report. Our opinion is based solely on information available as at the date of this Report.

The principal factors that we have considered in forming our opinion are summarised below.

4.1.1 Fairness of the Option Scheme

As noted in section 5 in determining the fairness of the Option Scheme we have compared the fair value of a relevant SMX option on a control basis before the implementation of the Schemes to the fair value of the shares optionholders will hold in Empatan on a minority basis after the implementation of the Schemes.

We have undertaken the comparison for each option subject to Option Scheme and the comparison by option is set out in section 10.1.1.

The fair value of Empatan shares on a minority basis held for each option is higher than the fair value of each option subject to the Option Scheme on a control basis prior to the implementation of the Schemes. Therefore, **we have concluded that the Option Scheme is fair.**

4.1.2 Assessment of reasonableness of the Option Scheme

In considering the reasonableness of the Option Scheme the advantages and disadvantages as set out for the Share Scheme along with the alternatives to the transaction are also applicable.

The Option Scheme has the additional advantage for the SMX optionholders in that they receive shares in SMX and ultimately in Empatan without having to pay for the exercise of the options.

In accordance with RG 111, a transaction is reasonable if:

- the transaction is fair; or
- despite not being fair, but considering other significant factors, shareholders should obtain an overall benefit if the transaction proceeds.

As the Option Scheme is fair and, taking into account other significant factors, **we have concluded that the Option Scheme is reasonable.**

4.1.3 Opinion on Option Scheme

Accordingly, in our opinion, **the Option Scheme is fair and reasonable and in the best interests** of the SMX optionholders.

The ultimate decision on whether to approve the Option Scheme should be based on optionholders' own assessment of their circumstances. We strongly recommend that optionholders consult their own professional advisers, carefully read all relevant documentation provided, including the Scheme Booklet, and consider their own specific circumstances before voting in favour of or against the Option Scheme.

Yours faithfully

Nexia Sydney Corporate Advisory Pty Ltd



Brent Goldman

Director

(Authorised Representative of Nexia Sydney Financial Solutions Pty Ltd, AFSL 247300)

STRUCTURE OF REPORT

Our Report is set out under the following headings:

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5. BASIS OF EVALUATION

RG 111 provides guidance as to matters that should be considered in determining whether a transaction is fair and reasonable in a range of circumstances.

RG 111 state that in deciding an appropriate form of analysis, the expert needs to consider that the main purpose of the report is to deal with the concerns that could reasonably be anticipated by those persons affected by the transaction. An expert should focus on the purpose and outcome of the transaction; that is the substance of the transaction, rather than the legal mechanism used to effect the transaction.

RG 111 requires analysis of a transaction under two distinct criteria being:

- is the offer 'fair'?; and
- is it reasonable?

That is the opinion of fair and reasonable is not considered as a compound phrase.

In determining what is fair and reasonable for a control transaction, RG 111 states that:

- an offer is fair if the value of the offer price or consideration is equal to or greater than the value of the securities the subject of the offer, assuming a 100% interest in the target and irrespective of whether consideration is cash or scrip; and
- an offer is reasonable if it is fair, or if the offer is not fair, the expert believes that there are sufficient reasons for security holders to accept the offer in the absence of a higher bid before the close of an offer.

In determining whether the transaction is fair, the fair value is assumed to be based on a knowledgeable and willing, but not anxious, buyer and a knowledgeable and willing, but not anxious, seller acting at arm's length.

RG 111 states that if an expert concluded that a transaction is 'fair and reasonable' in the form of a takeover bid, an expert would also be able to conclude that the scheme is in the best interests of the shareholders.

If an expert concludes that a transaction is 'not fair but reasonable' then an expert may still determine that a transaction is in the best interests of the shareholders with the expert clearly stating that consideration is not equal to or greater than the value of the securities the subject of the scheme but that there are sufficient reasons for security holders to vote in favour of the scheme in the absence of a higher offer.

If an expert concludes that a scheme is 'not fair and not reasonable' then the expert would conclude that the scheme was not in the best interests of shareholders.

For the purpose of considering whether or not the Share Scheme is fair, we have compared the fair value of a share in SMX on a control basis prior to the Share Scheme to the fair value of the consideration shares held in Empatan on a minority basis after the implementation of the Share Scheme. The fairness of the Share Scheme has been assessed on this basis given that following implementation of the Share Scheme SMX shareholders will hold a minority interest in Empatan.

For the purposes of considering whether or not the Option Scheme is fair, we have compared the fair value of the options held in SMX on a control basis to the fair value of shares on a minority basis that SMX optionholders will hold in Empatan following the implementation of the Option Scheme and Share Scheme. The fairness of the Option Scheme has been assessed on this basis as the SMX options holders will hold a minority interest in Empatan following the implementation of the Schemes both of which are conditional on each other.

In our assessment of the reasonableness of the Scheme, our consideration has included the following matters:

- the bidder's pre-existing voting power in securities in SMX;
- other significant security holding blocks in SMX;
- the liquidity of the market in SMX's securities;
- taxation losses, cash flow or other benefits through achieving 100% ownership of SMX;
- any special value to the bidder, such as technology, the potential to write-off outstanding loans from SMX, etc;
- the likely market price if the Schemes are not successful;
- the value to an alternate bidder and the likelihood of an alternative bid being made; and
- other significant matters set out in sections 9.2 and 10.2.

5.1 Individual security holders' circumstances

The ultimate decision whether to approve the Schemes should be based on each security holder's assessment of the Schemes, including their own risk profile, liquidity preference, tax position and expectations as to value and future market conditions. If in doubt about the Schemes or matters dealt with in this Report, security holders should seek independent professional advice.

5.2 Limitations on reliance on information

The documents and information relied on for the purposes of this Report are set out in Appendix B. We have considered and relied upon this information and believe that the information provided is reliable, complete and not misleading and we have no reason to believe that documents and material facts have been withheld. The information provided was evaluated through analysis, enquiry and review for the purpose of forming an opinion as to whether the Schemes are fair and reasonable and in the best interests of the shareholders. However, we do not warrant that our enquiries have identified or verified all of the matters which an audit or extensive examination might disclose.

We understand the accounting and other financial information that was provided to us has been prepared in accordance with generally accepted accounting principles. SMX prepares its financial statements in accordance with Australian Accounting Standards and Lionheart prepares its financial statements in accordance US Generally Accepted Accounting Standards.

An important part of the information used in forming an opinion of the kind expressed in this Report is the opinions and judgement of Directors and management. This type of information has also been evaluated through analysis, enquiry and review to the extent practical. However, it must be recognised that such information is not always capable of external verification or validation.

NSCA are not the auditors of SMX or Lionheart. We have analysed and reviewed information provided by the Directors and management of SMX and Lionheart and made further enquiries where appropriate. Preparation of this Report does not imply that we have in any way audited the accounts or records of SMX or Lionheart.

In forming our opinion we have assumed:

- matters such as title, compliance with laws and regulations and contracts in place are in good standing and will remain so and that there are no material legal proceedings, other than as publicly disclosed;
- the information set out in the Scheme Booklet to be sent to security holders is complete, accurate and fairly represented in all material respects; and
- the publicly available information relied upon by NSCA in its analysis was accurate and not misleading.

This Report has been prepared after taking into consideration the current economic and market climate. We take no responsibility for events occurring after the date of this Report which may impact upon this Report or which may impact upon the assumptions referred to in the Report.

6. OVERVIEW OF SMX

6.1 Background

SMX is involved in the development and commercialisation of trace and track technology for a wide range of industries. The Group commenced operations in Israel in 2015 when it entered into a licensing agreement with an Israeli Government state owned enterprise to license and further develop the underlying technology for “reading” materials for commercial application. On 11 October 2018, SMX listed on the Australian Securities Exchange (“ASX”).

The SMX group comprises the following entities held either directly or indirectly:

Entity	% interest
Security Matters France (French business number 900404104)	100%
Security Matters Canada (British Columbia Canada number BC1294203)	100%
Security Matters Ltd. (Israeli company 51-512577-1)	100%
SMX Beverages Pty Ltd (ACN 637 440 272)	100%
Yahaloma Technologies Inc. (British Columbia Canada number BC1219747)	50%
True Gold Consortium Pty Ltd (ACN 641 483 374)	44.8%

Source: Scheme Booklet

6.2 Operations

SMX is yet to generate revenue and its primary operations relate to research and development activities in relation to the commercial application of the mark, track and trace technology. As part of the development, SMX is working with industry participants through joint ventures and commercial operating agreements to develop the technology in specific industries.

SMX’s technology can be applied to any material. It stores data at a molecular level on solids, gases and liquids and can be applied at any point in the supply chain as a drop-in solution. The technology allows materials and products to be:

- marked and recorded using blockchain technology to enable accurate identification;
- protected from product diversion, counterfeiting and fraud;
- fully traced to origin and through their supply chain history;
- compliant with ESG regulations, international customs and industry quality regulations (including food regulations); and

- authenticated in real-time.

SMX is currently undertaking, inter alia, the following industry projects:

- Commercialisation of the technology in the alcoholic beverages industry.
- Through Yahaloma Technologies Inc, a joint venture with Canadian company, Trifecta Industries Inc, SMX is working on the commercialisation of the technology in the diamonds and precious stones industry.
- Through True Gold Consortium Pty Ltd, of which W.A. Mint Pty Ltd, subsidiary of the Perth Mint is the other main partner, SMX is working to create an industry standard to mark, track and trace gold bars and gold through every stage of the supply chain using blockchain technology.
- Development of the Fashion Sustainability Competence Centre to provide participating fashion brands access to SMX's technology. The aim is to allow participating brands to recycle their own merchandise back into high-quality material and merchandise at a commercial scale.
- Joint operation to develop solutions for plastic traceability and circularity.
- Commercialisation of the technology for ethical sourcing of natural and synthetic rubber.

Further information about SMX and its operations is set out in section 5 of the Scheme Booklet.

6.3 Directors

The current board directors of SMX are set out below:

Name	Role	Appointment
Everardus Hofland	Executive Chairman	24 July 2018
Jovanka Naumoska	Non-Executive Director	24 July 2018
Amir Bader	Non-Executive Director	24 July 2018
Kathryn Fay Davies	Non-Executive Director	9 June 2020
Haggai Alon	CEO and Executive Director	24 July 2018
Mark Andrew Licciardo	Company Secretary	16 May 2018

Source: ASIC records and 30 June 2022 financial statements

Following implementation of the Schemes, SMX has the right to appoint four directors.

6.4 Financial Information

SMX's auditor's reports for the years ended 31 December 2019, 2020 and 2021 were unmodified. The financial statements for 31 December 2019 included an emphasis of matter in relation to the COVID-19 pandemic and that at that time the full impact was not known as to how it would affect the economy but that the Company expected to be able to continue operations.

SMX's auditor's review opinion on the half-year to 30 June 2022 was unmodified.

SMX's functional currency is USD and the financial information is presented below in USD consistent with the presentation in the audited financial statements.

6.4.1 Trading results

Set out below are the audited consolidated profit and loss accounts of SMX for the years ended 31 December 2019, 2020 and 2021 and reviewed for the half-years ended 30 June 2021 and 2022:

US\$000		FY19A	FY20A	FY21A	HY21A	HY22A
Revenue	1	13	13	-	-	-
Cost of Goods Sold	1	(8)	(10)	-	-	-
Gross Profit		5	3	-	-	-
Research and development expenses	2	(2,083)	(1,689)	(2,039)	(885)	(932)
Selling and marketing expenses	3	(178)	(428)	(453)	(197)	(378)
General and administration expenses	4	(2,263)	(3,894)	(2,482)	(1,338)	(1,201)
Operating loss		(4,519)	(6,008)	(4,974)	(2,420)	(2,511)
Finance expense	5	(63)	(79)	(101)	(5)	(36)
Finance income	6	14	66	238	46	105
Gain on sale of IP	7	36	-	-	-	-
Share of joint venture profit/(loss)	8	-	-	(102)	-	-
Net loss before tax		(4,532)	(6,021)	(4,939)	(2,379)	(2,442)
Tax expense		-	-	-	-	-
Net loss after tax		(4,532)	(6,021)	(4,939)	(2,379)	(2,442)

Source: SMX 31 December 2019, 2020 and 2021 audited financial statements and 30 June 2022 reviewed half-year financial statements

Notes:

1. Minimal revenue in FY19 and FY20 related to plastic and counterfeit solutions developed with an Israeli partner with associated chemical marker costs recognised as cost of sales.
2. Research and development expenditure is net of contributions received from industry partners for paid pilots and proof of concept projects (FY19: US\$208,000, FY20: US\$549,000 and FY21: \$1,091,000).
3. Selling and marketing expenditure relates to digital advertising, business development consultants and related travel.
4. General and administration expenditure primarily relates to salaries and wages, share based payments and professional fees.
5. Finance expense relates to bank fees, loan interest and interest on right of use assets as well as foreign exchange payments and losses.
6. Finance income includes foreign exchange gains and interest income on cash balances.
7. Relates to the transfer of IP patent to Yahaloma joint venture partner.
8. The share of joint venture loss relates to SMX's share of losses in each of the joint operations set out in section 6.1, being those entities that are not fully owned.

6.4.2 Balance sheets

Set out below is the audited consolidated balance sheets of SMX as at 31 December 2019, 2020 and 2021 and reviewed balance sheet as at 30 June 2022.

US\$000		FY19A	FY20A	FY21A	HY22A
Cash at bank		1,708	4,341	4,171	858
Trade receivables	1	-	6	-	1,039
Other receivables	2	283	439	921	1,416
Total current assets		1,991	4,786	5,092	3,313
Property and equipment	3	471	951	1,192	1,082
Intangible assets	4	1,405	2,101	3,908	4,856
Investment in joint venture	5	214	248	147	117
Total non-current assets		2,090	3,300	5,247	6,055
Total assets		4,081	8,086	10,339	9,368
Trade payables		(192)	(515)	(917)	(1,615)
Lease liability	6	(38)	(53)	(38)	(28)
Other payables	7	(369)	(553)	(673)	(676)
Convertible notes	8	-	-	-	(570)
Borrowings from related parties	9	(405)	(280)	(269)	(165)
Total current liabilities		(1,004)	(1,401)	(1,897)	(3,054)
Lease liability	6	(45)	(485)	(466)	(458)
Provisions		(7)	-	-	-
Other liabilities	7	(104)	(89)	(85)	(106)
Total non-current liabilities		(156)	(574)	(551)	(564)
Total liabilities		(1,160)	(1,975)	(2,448)	(3,618)
Net assets		2,921	6,111	7,891	5,750
Issued capital		14,988	21,881	28,221	28,737
Share based payment reserve	10	2,370	4,300	4,731	3,708
Foreign currency translation reserve	11	(114)	275	223	(416)
Accumulated losses		(14,323)	(20,345)	(25,284)	(26,279)
Total equity		2,921	6,111	7,891	5,750

Source: SMX's 31 December 2019, 2020 and 2021 audited financial statements and reviewed financial statements at 30 June 2022

Notes:

1. Trade receivables at 30 June 2022 relate to amounts receivable from industry partners for pilot projects.
2. Other receivables include amounts receivable from tax authorities in relation to valued added tax receivable and tax advance in relation to employees that will be deductible from future tax payments, proof of concept receivables and prepaid expenses. The increase in prepayments at 30 June 2022 relates to the prepaid transaction costs in relation to the Schemes.
3. Property and equipment primarily relates to machines and equipment and right of use assets for leases.
4. Intangible assets relate to patents, marking and reading technology and software and blockchain assets. Expenditure has been capitalised across all areas over the last three years. The increase at 30 June 2022 also includes exclusive licence intellectual property acquired (US\$664,000) as a result of a 50% acquisition of SMX Beverages Pty Ltd for which consideration was paid through the issue of options.

5. Investments in joint ventures relate to the joint operations set out in section 6.1. These operations are accounted for using the equity method of accounting whereby investments are recorded at cost and movements in the share of net assets are reflected in the carrying value.
6. Lease liabilities relate to the accounting for right of use assets.
7. Other payables primarily relates to amounts payable to employees and related liabilities (HY22: US\$549,000). The balance at HY22 also includes:
 - Liabilities for grants received of US\$20,000 (with a further US\$105,000 recognised as a non-current liability, a total of US\$125,000).
 - US\$24,000 are payable to Kibbutz Ketura for administrative services.
8. Convertibles notes were issued in May 2022 and are discussed further in section 6.5.5.
9. Borrowings from related parties are loans from two shareholders, Kibbutz Ketura ACS and Kibbutz Degania A. The loans are back-to-back loans from a third-party lender, Kamea Fund, which the shareholders on-lent to SMX on the same terms. In respect of the loans:
 - Interest is payable on the loans at 4% per annum.
 - The loans were fully repaid in August 2022
 - Aggregate bonus payments of US\$0.77 million (ILS 2.5 million) are payable upon completion of the Schemes.
10. The share based payments reserve relates to options granted to employees and other service providers. It also includes options issued for the acquisition of 50% of SMX Beverages Pty Ltd, which are included in the Option Scheme. Any options that expire during a period are reclassified to issued capital.
11. Foreign currency translation reserves relate to foreign exchange gains and losses reflected in equity on the translation of group company financial statements to USD for consolidation.
12. At 31 December 2021, SMX had carried forward tax losses of US\$17,837,000, which have not been booked.
13. On 24 August 2022, the company entered into a binding term sheet with a private investor who has agreed to lend SMX and Empatan US\$1 million incurring 10% interest per annum. No amount has been drawn down on the facility as at the date of our Report. 50% of the loan is to be repaid with interest on 26 August 2023 and 50% on the earlier of 26 August 2024, and a change in control event (which does not include the Schemes).

The investor will also receive 200,000 redeemable warrants in Empatan and 50,000 bonus warrants. The warrants will have a 5-year term and an exercise price of US\$11.50. The investor has the right to redeem 50% of the warrants held within 3 months of the implementation of the Schemes for US\$5 each and a further 25% on both the third and fourth anniversary of the implementation of the Schemes for US\$5 each.

A further \$4 million in funding is currently being sought on the same terms which would result in a further 800,000 redeemable warrants in Empatan and 200,000 bonus warrants being issued if investment is made and drawn down.

6.5 Capital Structure

SMX's issued capital as at 29 August 2022 comprised:

- 167,854,581 fully paid ordinary shares
- 32,422,957 options subject to the Option Scheme
- 10,000,000 legacy performance options
- 13,410,782 employee, founder and service provider options
- 828,240 convertible notes

6.5.1 Ordinary shares

The top 10 shareholders, as at 29 August 2022, hold 53.8% of the issued capital of SMX and are set out below:

Shareholder	Quantity held	% ownership
HSBC Custody Nominees (Australia) Limited - A/C 2	21,122,725	12.6%
Ibi Trust Management <Energy Ketura Coop A/C>	17,804,623	10.6%
Ibi Trust Management <Degania A Business A/C>	10,374,617	6.2%
Citicorp Nominees Pty Limited GPO Box 764G	9,079,721	5.4%
HSBC Custody Nominees (Australia) Limited	7,347,909	4.4%
J P Morgan Nominees Australia Pty Limited	5,986,168	3.6%
BNP Paribas Noms Pty Ltd <DRP>	5,977,410	3.6%
Ibi Trust Management <Benguy Escrow Co Ltd A/C>	5,135,949	3.1%
Ibi Trust Management <Menachem Eliyahu Haram A/C>	3,766,362	2.2%
Ibi Trust Management <Pini Meidan A/C>	3,766,362	2.2%
Top 10 shareholders	90,361,846	53.8%
Other	77,492,735	46.2%
Total shares	167,854,581	100.0%

Source: Share registry at 29 August 2022

The table below summarises shareholders by size of shareholding at 29 August 2022:

Distribution	No. of holders	Shares	% of total
1 - 1,000	31	5,415	0.0%
1,001 - 5,000	292	816,304	0.5%
5,001 - 10,000	156	1,337,145	0.8%
10,001 - 100,000	285	10,482,973	6.2%
100,001 and over	127	155,212,744	92.5%
Total	891	167,854,581	100.0%

Source: Share registry at 29 August 2022

Since 1 January 2021, SMX has issued the following shares:

Issue type	Date	# of shares	Issue price
Directors' remuneration	Jan 21	39,475	-
Exercise of options	Feb 21 to May 21	1,300,000	0.23
Capital raise	May 21	15,270,249	0.27
Directors' remuneration	May 21	83,503	0.28
Exercise of options	Apr 21	174,744	0.16
Exercise of options	Jul 21	300,000	0.22
Capital raise	Oct 21	8,938,666	0.22
Directors' remuneration	Dec 21	134,584	0.22
Directors' remuneration	May-22	322,317	0.23
Standby equity facility	Aug-22	2,000,000	0.17

Source: 31 December 2021 audited financial statements and management information

On 12 August 2022, SMX entered into a standby equity agreement with Evolution Capital Pty Ltd. The key terms of this agreement are:

- Total commitment of A\$2 million that SMX at its discretion can draw down.
- A maximum of 11,764,705 shares at the minimum issue price of A\$0.17.
- Commitment period to 31 October 2022.
- Purchase price per share the greater of 91.5% of a 1 to 10 day VWAP (period is specified by SMX when exercising rights under the agreement) and A\$0.17.

Of the shares available under the facility 2,000,000 were issued in August 2022 and therefore 9,764,705 remain available for issue under the facility.

6.5.2 Options subject to the Option Scheme

SMX has the following options on issue that are subject to the Option Scheme:

Expiry Date	Exercise price	Number of options	Option Scheme shares
02/10/2022	A\$0.50	100,000	73,917
02/10/2022	A\$0.50	200,000	149,841
12/03/2023	A\$0.60	4,926,466	3,460,245
25/03/2023	A\$0.60	1,391,255	977,188
29/05/2023	A\$0.60	3,250,000	2,282,731
14/10/2023	A\$0.20	1,698,829	1,526,495
23/11/2023	A\$0.60	3,089,591	2,170,063
27/11/2023	A\$0.60	500,000	351,189
27/11/2023	A\$0.60	1,000,000	702,379
10/12/2023	A\$0.35	1,150,000	895,057
29/12/2023	A\$0.70	1,341,815	897,823
04/01/2024	A\$0.60	500,000	351,189
04/01/2024	A\$0.70	1,000,000	669,111
05/06/2024	A\$0.31	125,000	107,093
09/07/2024	A\$0.60	1,000,000	702,491
31/12/2024	A\$0.50	100,000	77,038
18/01/2025	A\$0.28	300,000	250,571
28/01/2025	A\$0.39	150,000	124,536
01/06/2025	A\$0.20	2,500,000	2,246,183
25/10/2025	A\$0.36	100,000	83,981
25/03/2027	A\$0.40	8,000,001	6,616,462
		32,422,957	24,715,584

Source: Options register and management information at 29 August 2022

Under the Option Scheme, the option holders are not required to provide cash to exercise the options but will instead receive a lower number of shares as set out in the table above.

All options are exercisable at any time prior to expiry.

6.5.3 Legacy performance options

The legacy performance options subject to the following milestones being achieved:

Number of performance options	Revenue milestone	Tech milestone
3,333,334	A\$1 million revenue per half year for two consecutive half years.	<ul style="list-style-type: none"> • Completion of bank of 25,000 markers for plastics industry • Completion of preliminary design review for reader development
3,333,333	A\$1.46 million revenue per half year for two consecutive half years.	<ul style="list-style-type: none"> • Completion of bank of 25,000 markers for electronics industry • Completion of critical design review for reader development • Completion of blockchain software adaption to the reader software
3,333,333	A\$4 million revenue per half year for two consecutive half years.	<ul style="list-style-type: none"> • Design and construction of automatic marker production machine • Completion of development of new proprietary reader at cost per reader of less than US\$7,500

Source: 31 December 2021 audited financial statements

On implementation of the Schemes, the employees eligible for the performance rights will have their legacy performance options cancelled for A\$10 payable to each holder. The legacy performance options holders have agreed to the cancellation subject to the implementation of the Schemes.

6.5.4 Employee, founder and service provider options

SMX has the following share options on issue at 29 August 2022:

Expiry Date	Exercise price	Number of shares
01/09/2023	A\$0.20	945,226
01/09/2023	A\$0.20	829,507
01/09/2023	A\$0.20	773,366
01/09/2023	A\$0.20	975,586
14/10/2023	A\$0.20	2,059,732
14/10/2023	A\$0.20	1,610,365
28/01/2024	A\$0.31	600,000
31/12/2024	A\$0.36	50,000
18/01/2025	A\$0.28	300,000
26/03/2025	A\$0.34	300,000
26/03/2025	A\$0.34	125,000
26/03/2025	A\$0.34	125,000
26/03/2025	A\$0.60	200,000
22/03/2026	A\$0.36	250,000
22/03/2026	A\$0.36	250,000
01/06/2026	A\$0.35	200,000
18/07/2026	A\$0.35	600,000
18/07/2026	A\$0.35	150,000
15/08/2026	A\$0.70	500,000
15/08/2026	A\$0.70	167,000
27/09/2026	A\$0.35	100,000
27/09/2026	A\$0.70	50,000
21/01/2027	A\$0.70	100,000
25/03/2027	A\$0.26	500,000
25/03/2027	A\$0.70	100,000
25/06/2027	A\$0.20	200,000
25/06/2027	A\$0.20	250,000
24/07/2027	A\$0.12	200,000
16/08/2027	A\$0.12	150,000
24/08/2027	A\$0.19	250,000
29/06/2027	A\$0.70	500,000
		13,410,782

Source: Options register and management information at 29 August 2022

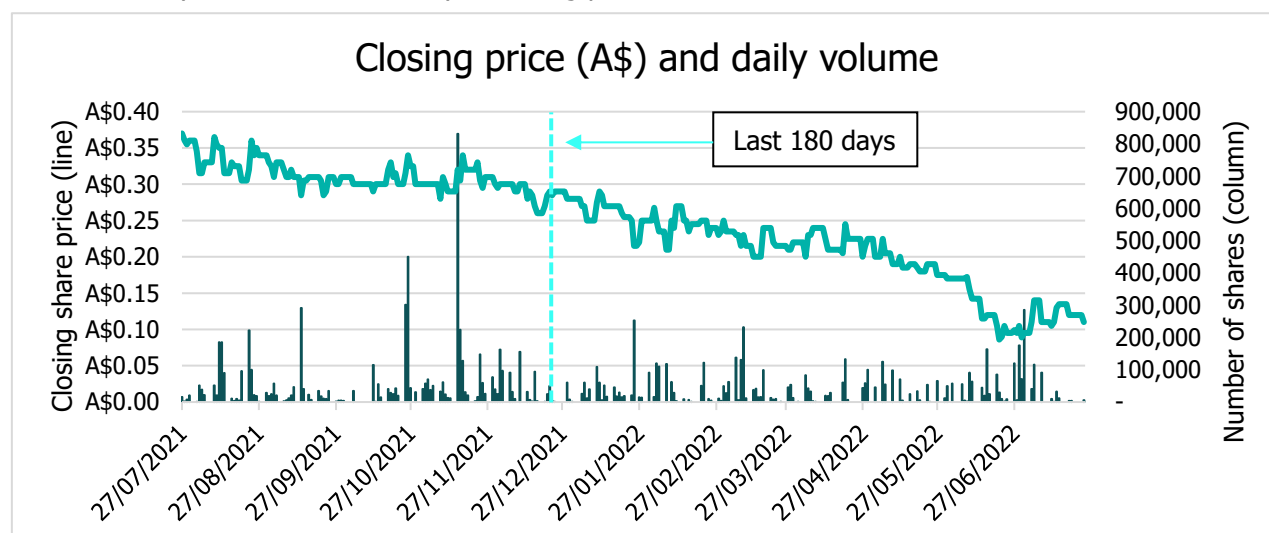
Under the Schemes, the above options will be cancelled and the optionholders will receive options on similar terms in Empatan. The optionholders have agreed to the cancellation and issue of options in Empatan subject to the implementation of the Schemes.

6.5.5 Convertible notes

On 18 May 2022, raised A\$828,240 through the issue of convertible notes at A\$1 per note. Under the Schemes, the convertible note holders will be issued 1,000,000 shares in SMX in settlement of the notes. The noted holders have agreed to the settlement for the issue of shares subject to the implementation of the Schemes.

6.6 Share Price and Volume Trading Analysis

The following chart provides a summary of the trading volumes and prices for SMX's shares from 26 July 2021 to 25 July 2022, the last full day of trading prior to the announcement of the Schemes:



Source: S&P CapitalIQ

The chart above indicates that the closing share price of SMX has traded within a range of A\$0.086 and A\$0.270 over the 180 days to 25 July 2022 (the last full day of trading before the announcement of the Schemes) with a closing price of A\$0.110.

Prices and volumes of trading in SMX's share for the last 180 days prior to 25 July 2022 are summarised in the table below.

Period prior to 25 July 2022	Share Price Low		Share Price High		Cumulative volume traded	VWAP	
1 Day	A\$	0.110	A\$	0.110	6,150	A\$	0.110
30 Days	A\$	0.089	A\$	0.140	974,360	A\$	0.106
60 Days	A\$	0.086	A\$	0.175	1,761,660	A\$	0.120
90 Days	A\$	0.086	A\$	0.225	2,479,910	A\$	0.145
180 Days	A\$	0.086	A\$	0.270	4,713,450	A\$	0.185

Source: S&P Capital IQ and Nexia analysis

SMX's shares have a low level of liquidity, with 6.06% of SMX's ordinary shares being traded in the last 90 days and 5.76% in the last 180 days on an annualised basis.

7. OVERVIEW OF LIONHEART

7.1 Background

Lionheart is a US blank cheque company formed for the purpose of identifying and entering into a merger. Lionheart was incorporated on 14 January 2021 and listed on the NASDAQ Stock Exchange on 3 November 2021.

Apart from identifying and evaluating potential transactions, Lionheart has not undertaken any activities to date.

7.2 Directors

The current board directors of Lionheart are set out below:

Name	Role	Appointment
Ophir Sternberg	Chairman and CEO	14 January 2021
James Stephen Anderson	Independent Director	3 November 2021
Thomas Clyde Byrne	Independent Director	3 November 2021
Thomas W. Hawkins	Independent Director	3 November 2021
Roger Meltzer	Independent Director	3 November 2021

Source: S&P Capital IQ

Following implementation of the Schemes, Lionheart has the right to appoint three directors, two of whom are independent directors.

7.3 Financial Information

Lionheart's auditor's report for the period from 14 January 2021 (date of incorporation) to 31 December 2021 was unqualified. An explanatory paragraph was included in regards to going concern, noting that Lionheart's business plan is dependent on completion of a business combination and that Lionheart has determined that mandatory liquidation and subsequent dissolution should the company not complete a business combination raises substantial doubt about Lionheart's ability to continue as a going concern.

Lionheart's interim financial statements for the six months to 30 June 2022 are unaudited.

Lionheart prepares its financial statements in accordance with US GAAP.

7.3.1 Trading results

Set out below are the audited profit and loss accounts of Lionheart for the period from 14 January 2021 to 31 December 2021 and the unaudited profit and loss account for the six months ended 30 June 2022:

	Period from 14 January 2021 to 31 December 2021 (Audited)	Six months ended 30 June 2022 (Unaudited)
US\$000		
Operating and formation costs	(1)	(1,513)
Interest earned on marketable securities	-	174
Loss before provision for income taxes	(1)	(1,339)
Provision for income taxes	-	(14)
Net loss	(1)	(1,353)

Source: Lionheart's 10K for 31 December 2021 and 10Q at 30 June 2022

As Lionheart has no operations, it has only incurred expenditure. Other income relates to returns on marketable securities held in a trust account in relation to redeemable Class A common stock.

7.3.2 Balance sheet

Set out below is the audited balance sheet of Lionheart at 31 December 2021 and the unaudited balance sheet at 30 June 2022:

US\$000	Notes	31 December 2021 (Audited)	30 June 2022 (Unaudited)
Cash		1,417	906
Prepaid expenses		269	241
Total current assets		1,686	1,147
Prepaid expenses - long-term		82	-
Marketable securities held in trust account	1	126,252	126,425
Total non-current assets		126,334	126,425
Total assets		128,020	127,572
Accrued expenses		(291)	(1,196)
Accrued offering costs		(61)	(46)
Income taxes payable		-	(14)
Total current liabilities		(352)	(1,256)
Deferred underwriting fee payable	2	(4,375)	(4,375)
Total non-current liabilities		(4,375)	(4,375)
Total liabilities		(4,727)	(5,631)
Net assets		123,293	121,941
Class A common stock subject to possible redemption	3	126,250	126,250
Class A common stock	4	-	-
Class B common stock	4	-	-
Accumulated deficit		(2,957)	(4,309)
Total equity		123,293	121,941

Source: Lionheart's 10K for 31 December 2021 and 10Q at 30 June 2022

Notes:

1. Relates to funds held in trust in respect of Class A common stock subject possible redemption.
2. The deferred underwriting fee relates to the underwriters of the IPO and will be become payable to the underwriters from the amounts held in trust only if Lionheart completes a business combination.
3. Under US GAAP, conditionally redeemable stock, including redemption features outside the control of the company, is classified as temporary equity. The amount reflects 12,500,000 shares with a US\$10.10 redemption obligation.
4. Issued for nominal consideration.

7.4 Capital Structure

Lionheart's issued capital at 30 June 2022 comprised:

- 12,500,000 Class A common stock subject to possible redemption
- 3,525,000 Class B common stock
- 6,250,000 public warrants
- 2,200,000 private placement warrants

7.4.1 Class A common stock and Class B common stock

The following shareholders held a voting interest of more than 5% in Lionheart at 7 September 2022:

Shareholder	Quantity held	% ownership
Ophir Sternberg	3,400,000	21.2%
Saba Capital Management LP	1,132,075	7.1%
Significant shareholders	4,532,075	28.3%
Other	11,492,925	71.7%
Total shares	16,025,000	100.0%

Source: Scheme Booklet

Class A common stock and Class B common stock all have the same rights except as follows:

- Class A common stock has the right to redemption of their shares for the amount of funds in the trust account divided by the number of securities with the redemption right. Initially the trust account holds US\$10.10 per redeemable Class A common stock. The redemption right can be exercised on a business combination or after 12 months if a business combination has not occurred or an extension to complete a transaction is not approved.
- Class B common stock has restrictions on transferability. On a business combination the Class B common stock automatically converts to Class A common stock. If the Class A common stock is the same as at the time of listing then this is on a one for one basis. If there has been an increase in Class A Common Stock, then the Class B common stock converts to be 20% of all Class A common stock.

Under the Schemes, Class A and Class B common stockholders will receive one ordinary share in Empatan for each share that they hold.

7.4.2 Public and private placement warrants

The public and private placement warrants have the same terms except that the private warrants have restrictions on transferability.

The key terms of the warrants are:

- exercise price of \$11.50 a share;
- exercisable 30 days after a business combination or 12 months from listing date; and
- expire after 5 years.

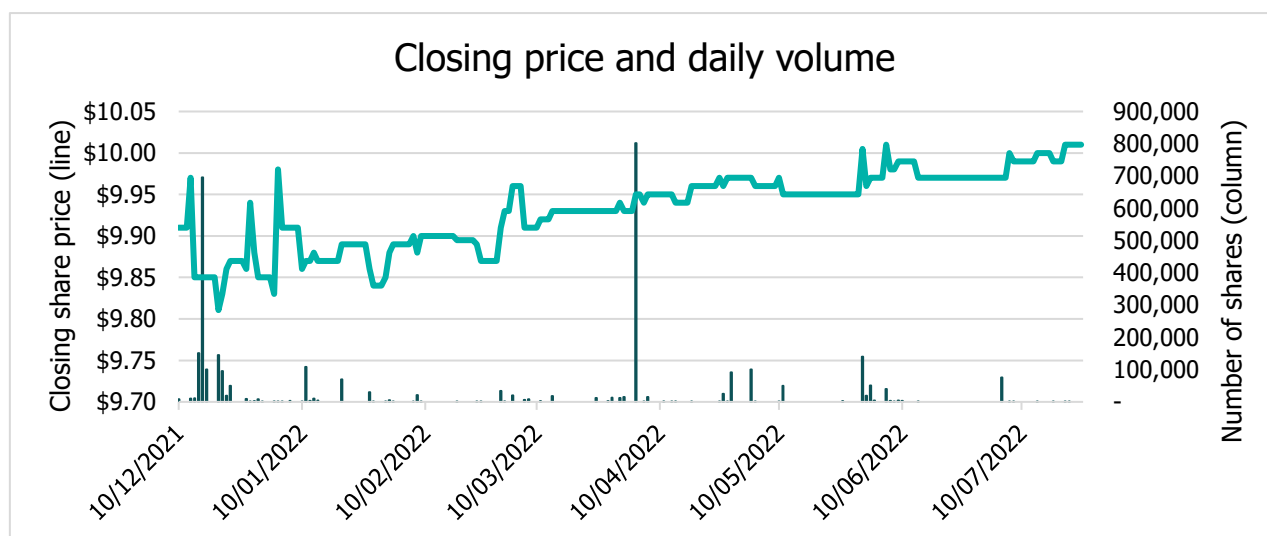
Under the Schemes all Lionheart warrants will be converted to public warrants and holders will receive a warrant in Empatan on the same terms as the warrant held.

7.4.3 Public offer

Under the public offering for the IPO, shares were issued for US\$10 which comprised one Class A share and half a warrant per share.

7.5 Share Price and Volume Trading Analysis

The following chart provides a summary of the trading volumes and prices for Lionheart shares from 9 December 2021 (the first day of trading) to 25 July 2022, the last full day of trading prior to the announcement of the Schemes:



Source: S&P CapitalIQ

The chart above indicates that the closing share price of Lionheart has traded within a range of US\$9.84 and US\$10.01 over the 180 days to 25 July 2022 (the last full day of trading before the announcement of the Schemes) with a closing price of A\$10.01.

Prices and volumes of trading in Lionheart's shares for the last 180 days prior to 25 July 2022 are summarised in the table below.

Period prior to 25 July 2022	Share Price Low	Share Price High	Cumulative volume traded	VWAP
1 Day	US\$10.010	US\$10.010	-	\$ -
30 Days	US\$ 9.970	US\$10.010	77,040	US\$ 9.971
60 Days	US\$ 9.950	US\$10.010	342,950	US\$ 9.989
90 Days	US\$ 9.950	US\$10.010	588,660	US\$ 9.979
180 Days	US\$ 9.840	US\$10.010	1,637,780	US\$ 9.956

Lionheart's shares have a low level of liquidity, with 14.9% (on an annualised basis) of Lionheart's capital being traded in the last 90 days.

8. VALUATION METHODOLOGIES

8.1 Definition of market value

In forming our opinion as to whether or not the Schemes are fair and reasonable to the SMX Shareholders and SMX Optionholders, we have assessed the value of the issued shares and options of SMX on a fair value basis. RG 111 defines fair value as the amount:

"assuming a knowledgeable and willing, but not anxious, buyer and a knowledgeable and willing, but not anxious, seller acting at arm's length..."

8.2 Selection of Methodology

RG 111 provides guidance on the valuation methods that an independent expert should consider. These methods include:

- the discounted cash flow method and the estimated realisable value of any surplus assets;
- the application of earnings multiples (appropriate to the business or industry in which the entity operates) to the estimated future maintainable earnings or cash flows of the entity, added to the estimated realisable value of any surplus assets;
- the amount that would be available for distribution to security holders on an orderly realisation of assets;
- the quoted price for listed securities, when there is a liquid and active market and allowing for the fact that the quoted price may not reflect their value, should 100% of the securities be available for sale;
- any recent genuine offers received by the target for the entire business, or any business units or assets as a basis for valuation of those business units or assets; and
- the amount that an alternative bidder might be willing to offer if all the securities in the target were available for purchase.

Each methodology is appropriate in certain circumstances. The decision as to which methodology to apply generally depends on the nature of the asset being valued, the methodology most commonly applied in valuing such an asset and the availability of appropriate information.

In determining the fair value of SMX, we have applied the quoted price and recent genuine offers methodologies. We have determined these to be the most appropriate methodologies as:

- SMX is yet to generate revenue as it is commercialising its technology;
- Management has not prepared long-term forecasts on the business through to commercial sales that can be used for a discounted cash flow valuation;
- There has been trading in SMX's shares, albeit a low volume; and
- SMX has issued new equity to investors.

In determining the fair value of Lionheart, we have applied the quoted price and genuine recent offers methodologies. We have determined these to be the most appropriate methodologies as:

- Lionheart's value reflects the cash held and its NASDAQ listing;
- Lionheart's issue price at IPO is a recent genuine offer for Lionheart Shares; and
- There has been in trading Lionheart's shares, albeit a low volume.

In determining the fair value of options held in SMX, we have applied the binomial valuation methodology. We have applied this methodology as options are exercisable at any time up to expiry. The binomial valuation methodology reflects these exercise rights in determining a fair value.

9. ASSESSMENT OF SHARE SCHEME

9.1 Fairness of the Share Scheme

As noted in section 5, in determining the fairness of the Share Scheme we have compared the fair value of a SMX share on a control basis before the implementation of the Schemes to the fair value of a share in Empatan on a minority basis after the implementation of the Schemes.

9.1.1 Fair value of a SMX share before the implementation of the Schemes

We have determined the fair value of a SMX share on a control basis to be as follows:

		Low	Preferred	High
Fair value of SMX share on a minority basis	1	A\$0.15	A\$0.18	A\$0.22
Control premium	2	20%	25%	30%
Fair value of SMX share on a control basis		A\$0.17	A\$0.23	A\$0.29

Notes:

1. The fair value of a share on a minority basis reflects the 90-day VWAP as at 25 July 2022, the last trading day before announcement of the Schemes, at the low end of the valuation range. The high end of the range has been determined based on the issue price for the capital raise in October 2021.
2. A control premium has been applied at 20% to 30% based on long term academic studies which show average control premiums between these ranges. This is also consistent with experience of ASX companies with the average control premium over the last 10 years falling within this range.

As described in section 6.5.1 in August 2022, SMX entered into a standby equity facility. Under this arrangement shares are issued at a VWAP at each placement date or a minimum of A\$0.17. We note that the minimum issue price falls within the range for an SMX share identified above.

9.1.2 Fair value of Empatan after implementation of the Schemes

The fair value of a share in Empatan on a minority basis after the implementation of the Schemes is summarised below.

A\$000		Low	Preferred	High
Fair value of Empatan on a minority basis	1	-	-	-
Fair value of Lionheart on a minority basis	2	233,752	233,995	234,237
Fair value of SMX on a minority basis	3	24,377	30,653	36,928
Aggregated fair value of Combined Group before implementation of the Schemes		258,129	264,647	271,165
Funds raised under standby equity facility	4	-	830	1,660
Conversion of convertible notes	5	828	828	828
Less:				
Transaction costs	6	(16,079)	(16,079)	(16,079)
Bonus payment on settlement of related party loans	7	(1,084)	(1,084)	(1,084)
Redemption of Lionheart Class A shares	9	(157,641)	(99,665)	(41,689)
Fair value of warrants under loan facility	10	(9,136)	(4,568)	-
Fair value after implementation of the Schemes		75,018	144,910	214,802
Number of shares				
Merger with Lionheart shareholders	2	16,025,000	16,025,000	16,025,000
Shares issued under the Share Scheme	8	16,219,327	15,845,555	15,488,623
Issue of shares under standby equity facility	8	-	460,896	901,029
Issue of shares to convertible noteholders	8	96,627	94,400	92,274
Issue of shares under to option holders under the Option Scheme	8	2,388,199	2,333,163	2,280,607
Redemption of Lionheart Class A shares	9	(10,678,020)	(6,750,930)	(2,823,840)
Number of shares after implementation of Schemes		24,051,133	28,008,086	31,963,693
Fair value of a share in Empatan on a minority basis after implementation of the Schemes		A\$3.12	A\$5.17	A\$6.72

Notes:

1. Empatan is a newly formed company for the purposes of implementing the Schemes and therefore has no value prior to the implementation of the Schemes.
2. The fair value of Lionheart on a minority basis has been determined as follows:

A\$000		Low	Preferred	High
Fair value of a share in Lionheart on a minority basis	(a)	A\$14.59	A\$14.60	A\$14.62
Number of shares	(b)	16,025,000	16,025,000	16,025,000
Fair value of Lionheart on a minority basis		233,752	233,995	234,237

- (a) The fair value of a share in Lionheart is based on the 90-day VWAP as set out in section 7.5 at the low end of the range and the issue price under the public offer of US\$10 at the high end of the range. The share price reflects a minority interest in Lionheart.

Under the public offer, shareholders received half a warrant for every share with an exercise price of US\$11.50 and exercise period of 30 days after a business combination or 12 months from the

public offer. We have valued these warrants as having a value of US\$0 using a Black-Scholes option pricing model. In calculating the warrant valuation we used a risk-free rate of 0.17% based on the US 1-year Treasury Bill rate at 3 November 2021 (the date of listing) and a volatility rate of 2% based on the average 12-month volatility rate of SPACs listed on the NASDAQ.

All amounts have been converted at the rate of A\$1:46:US\$1 based on the exchange rate at 2 September 2022.

- (b) Under the terms of the business combination agreement all Lionheart class A and class B shareholders will be offered 1 ordinary shares in Empatan for each share held. The number of shares reflects the total class A and class B shares as set out in section 7.4 before any redemptions.

3. The fair value of SMX on a minority basis has been determined as follows:

A\$000		Low	Preferred	High
Fair value of a share in SMX on a minority basis	(a)	A\$0.15	A\$0.18	A\$0.22
Number of shares on issue	(b)	167,854,581	167,854,581	167,854,581
Fair value of SMX on a minority basis	(c)	24,377	30,653	36,928

- (a) The fair value of a share on a minority basis for SMX reflects the fair value of a share as set out in section 9.1.1 before the application of a control premium.

- (b) The number of shares on issue in SMX before the implementation of the Schemes as set out in section 6.5.

- (c) The fair value of a share on a minority basis has been presented rounded to two decimal places. As a result, the calculated fair value determined by the multiplication of the presented share price by the number of shares differs due to rounding differences.

4. As set out in section 6.5.1, on 12 August 2022, SMX entered into a standby equity facility with Evolution Capital Pty Ltd. Under the facility, a remaining 9,764,705 shares can be issued at a minimum of A\$0.17 a share. The range at the higher end reflects the issue of a maximum of the remaining 9,764,705 shares under the agreement at the minimum issue price of A\$0.17 a share.
5. Under the Schemes, convertible notes in SMX as set out in section 6.5.5 will be converted into shares immediately before the implementation of the Share Scheme, reducing SMX's liabilities and therefore increasing its equity value.
6. Transaction costs of US\$11 million are expected to be incurred in implementing the Schemes. The estimated transaction costs have been converted at the rate of A\$1:46:US\$1 based on the exchange rate at 2 September 2022.
7. As set out in section 6.4.2, on implementation of the Schemes a bonus payment of ILS 2.5 million will be paid in settlement of SMX related party loans. This will reduce the cash balance of Empatan and therefore the equity value. The amount has been converted at the rate of A\$0.43:ILS1 based on the exchange rate at 2 September 2022.

8. Under the terms of the Share Scheme, SMX shareholders immediately prior to implementation of the Schemes, shares to be issued under the Option Scheme and shares that are issuable under employee, founder and service provider options will receive the proportion of their interest in SMX allocated across a total of 20 million Empatan shares. As more shares may be issued under the standby equity facility prior to implementation of the Schemes, this impacts the number of shares that each security holder will ultimately receive on implementation of the Schemes. At the high end of the range the maximum number of shares to be issued under the standby equity facility reflects the remaining 9,764,705 shares to be issued in SMX.

	Low	Preferred	High
Shareholders prior to implementation of the Schemes	167,854,581	167,854,581	167,854,581
Shares under standby equity facility	-	4,882,353	9,764,705
Convertible noteholders	1,000,000	1,000,000	1,000,000
Shares issued under Option Scheme	24,715,584	24,715,584	24,715,584
Shares allocated to employee, founder and service provider optionholders	13,410,782	13,410,782	13,410,782
Number of SMX shares before implementation of Schemes	206,980,947	211,863,300	216,745,652
Shareholders prior to implementation of the Schemes	16,219,327	15,845,555	15,488,623
Shares under standby equity facility	-	460,896	901,029
Convertible noteholders	96,627	94,400	92,274
Shares issued under Option Scheme	2,388,199	2,333,163	2,280,607
Shares allocated to employee, founder and service provider optionholders	1,295,847	1,265,984	1,237,467
Number of shares SMX shareholders hold in Empatan after the implementation of the Schemes	20,000,000	20,000,000	20,000,000
Exchange ratio	10.3490	10.5932	10.8373

9. As set out in section 7.4.1, Lionheart has on issue 12,500,000 class A shares which have redemption rights on a business combination. The initial redemption value established by funds held in trust is US\$10.10. The redemption adjustment is calculated as follows:

A\$000	Low	Preferred	High
Class A shares in Lionheart subject to redemption	12,500,000	12,500,000	12,500,000
Redemption rate assumed	85%	54%	23%
Number of shares redeemed	10,678,020	6,750,930	2,823,840
Amount per class A share redeemed	A\$14.76	A\$14.76	A\$14.76
Assumed redemption amount	157,641	99,665	41,689

We have analysed the redemption rates of NASDAQ listed SPACs that completed a reverse merger such as proposed under the Schemes since January 2022, where publicly available information was available, to determine the redemption rates in those transactions. These are summarised in the table below:

Completion date	SPAC	Buyer	Transaction value (US\$m)	Redemption rate
13/01/2022	Decarbonization Plus Acquisition Corporation II (De-SPAC)	Tritium DCFC Limited (NASDAQGM:DCFC)	1,159	32%
18/01/2022	Gores Metropoulos II, Inc. (De-SPAC)	Sonder Holdings Inc. (NASDAQGS:SOND)	2,469	19%
19/01/2022	Power & Digital Infrastructure Acquisition Corp. (De-SPAC)	Core Scientific, Inc. (NASDAQGS:CORZ)	4,000	36%
27/01/2022	Sports Entertainment Acquisition Corp. (De-SPAC)	Super Group (SGHC) Limited (NYSE:SGHC)	4,656	79%
2/02/2022	Environmental Impact Acquisition Corp. (De-SPAC)	GreenLight Biosciences Holdings (NASDAQGM:GRNA)	1,164	9%
3/02/2022	Vistas Media Acquisition Company Inc. (De-SPAC)	Anghami Inc. (NASDAQGM:ANGH)	180	98%
4/02/2022	ECP Environmental Growth Opportunities Corp. (De-SPAC)	Fast Radius, Inc. (NASDAQGM:FSRD)	556	91%
10/02/2022	Growth Capital Acquisition Corp. (De-SPAC)	Cepton, Inc. (NASDAQCM:CPTN)	1,458	90%
11/02/2022	Novus Capital Corporation II (De-SPAC)	Energy Vault Holdings, Inc. (NYSE:NRGV)	1,148	46%
21/03/2022	Motive Capital Corp. (De-SPAC)	Forge Global Holdings, Inc. (NYSE:FRGE)	1,464	98%
29/03/2022	FirstMark Horizon Acquisition Corp. (De-SPAC)	Starry Group Holdings, Inc. (NYSE:STRY)	1,760	19%
29/04/2022	TradeUP Global Corporation (De-SPAC)	SAI.TECH Global Corporation (NASDAQCM:SAI)	220	37%
23/05/2022	Lionheart Acquisition Corporation II (De-SPAC)	MSP Recovery, Inc. (NASDAQGM:MSPR)	32,143	48%
Mean				54%

Source: S&P Capital IQ and Nexia analysis

There is a significant range in redemptions on completed SPAC transactions identified from 98% as a maximum to a minimum of 9%. In our analysis we have applied the mean of identified transactions as the mean redemption assumption. The high and low range represents one standard deviation of the transaction identified.

The redemption amount of US\$10.10 has been converted at the rate of A\$1:46:US\$1 based on the exchange rate at 2 September 2022.

10. As set out in section 6.4.2, SMX and Empatan are seeking investment of up to US\$5 million. The investment is in the form of a loan, with interest and principal repayable over two years. Attached to the investment are redeemable warrants in Empatan of a maximum of 1,250,000 (including bonus warrants). A term sheet has been signed for US\$1 million to date but no amount has been drawn down.

The warrants have a term of five years and an exercise price of US\$11.50. The investor has the right to redeem a warrant for US\$5 each at various periods. We have determined the fair value of a warrant granted in Empatan to be the maximum of the fair value of a warrant determined based on the binomial valuation methodology and the redemption amount of US\$5 a warrant. In determining the fair value of a warrant we have assumed:

- fair value of a share in Empatan to be that after the implementation of the Scheme but before the warrants;
- risk free rate of 3.5% based on the Australian Government 5-year debt rate; and
- Volatility of 66% based on SMX's 2-year share price volatility rate.

At the low, preferred and high range the redemption rate of US\$5 a warrant is higher than the fair value of a warrant calculated under the binomial valuation methodology. Therefore, the redemption rate has

been determined to be the fair value of a warrant with the low range reflecting all funds being drawn down, and all warrants granted, and the high range reflecting no drawn down.

9.1.3 Conclusion on fairness of Share Scheme

As discussed in section 5, in determining whether the Share Scheme is fair to SMX shareholders, we have compared the fair value of a share on a control basis before the implementation of the Share Scheme to the fair value of the share in Empatan on a minority basis following the implementation of the Share Scheme. This is summarised below:

	Low	Preferred	High
Fair value of a share in SMX on a control basis	A\$0.17	A\$0.23	A\$0.29
Exchange ratio	10.3490	10.5932	10.8373
Fair value of shares in SMX on a control basis for each Empatan share	A\$1.80	A\$2.42	A\$3.10
Fair value of a share in Empatan on a minority basis	A\$3.12	A\$5.17	A\$6.72

The fair value of shares on a minority basis that SMX shareholders will hold in Empatan after the implementation of the Share Scheme is greater than the fair value of a share held in SMX on a control basis applying the exchange ratio.

Therefore, **we have concluded that the Share Scheme is fair.**

9.2 Reasonableness of the Share Scheme

9.2.1 Approach to assessing Reasonableness

In forming our conclusions in this Report, we have compared the advantages and disadvantages to shareholders if the Share Scheme proceeds.

9.2.2 Advantages of the Share Scheme

We outline below potential advantages of the Share Scheme:

Advantage	Explanation
The Share Scheme is fair	As noted in section 9.1.3, the Share Scheme is fair.

Advantage	Explanation
Access to capital to continue to develop SMX's technology through to commercialisation.	<p>Following the implementation of the Share Scheme, SMX will have access to funding from the unredeemed Class A shares in Lionheart as well as the potential fundraising.</p> <p>The Share Scheme is not conditional on the fund raising and the level of funding is currently uncertain. The fundraising is taking place at US\$10 a share and potentially associated warrants. Although the final terms are not finalised, as the fundraising is intended to be at a price above the fair value we have determined for Empatan after the implementation of the Share Scheme, this will not dilute the fair value of Empatan's shares.</p> <p>The additional funding will provide greater opportunity for SMX to develop its technology to commercialisation and increase value for SMX shareholders in the future.</p>
Listing on the NASDAQ exchange providing a deeper capital pool for further fundraising.	<p>The NASDAQ market is a larger market than the ASX on which SMX is currently listed. As a result, there are more potential investors that may be approached for future investment in Empatan and therefore more funding available to further develop SMX's technology.</p> <p>NASDAQ has a reputation for attracting investment in technology companies and exposure to this investor market may also increase funding sources and opportunities.</p>
Potential for future liquidity in shares as a result of being listed on a larger exchange	<p>The exposure to a larger market and investors with a stronger interest in earlier stage technology companies such as SMX may increase demand for shares in Empatan and therefore increase the volume of trading in Empatan's shares improving the opportunity for SMX shareholders to realise their investment.</p>

9.2.3 Disadvantages of the Share Scheme

We outline following the potential disadvantages of the Share Scheme:

Disadvantage	Explanation
The level of redemptions is unknown and therefore the level of capital available to the ongoing operations may be insufficient.	<p>There is no minimum level of funds that are required within Lionheart to implement the Share Scheme. The actual level of redemptions will not be known until after Lionheart's shareholders have voted on the Share Scheme.</p> <p>If Lionheart's Class A shareholders exercise their rights beyond that assumed in our analysis of the fair value of Empatan in section 9.1.2 of a maximum of 85% then this will impact the fair value of Empatan after the implementation of the Share Scheme. The fair value of a share in Empatan after the implementation of the Share Scheme would reduce to A\$2.16 if 100% of Lionheart's Class A shares are redeemed.</p> <p>A higher redemption rate will also impact the amount of funding available to further develop SMX's technology and may require further fundraising activity to be undertaken in the short term.</p>

Disadvantage	Explanation
Dilution of ownership through the issue of shares to Lionheart shareholders.	<p>Following the implementation of the Scheme, SMX shareholders' interest in the underlying operations will reduce.</p> <p>The level of ongoing ownership that SMX shareholders will have will be dependent on the level of Lionheart shareholders that exercise their redemption rights and the level of funding drawn down under the standby equity facility.</p> <p>Based on the redemption assumptions we have applied in our determination of the fair value of Empatan after the implementation of the Share Scheme of 85% at the low end of the range to 23% at the higher end of the range then SMX Shareholders will retain an interest of 67% to 48%, respectively.</p>
SMX Shareholders will hold a security in a foreign entity and on a foreign exchange following implementation of the Share Scheme	<p>Following the implementation of the Share Scheme, SMX shareholders will hold shares in an Irish company and shares will be traded on the NASDAQ exchange.</p> <p>There may be implications for holding shares in a foreign company for individual shareholders as well as unfamiliarity with local practices, as opposed to those in Australia, governing corporations.</p> <p>SMX shareholders may be unfamiliar with the trading practices on NASDAQ compared to the ASX, which may impact on the decision to own shares in Empatan following the implementation of the Share Scheme.</p>

9.2.4 Other considerations

The tax implications of the Share Scheme for Australian shareholders are set out in Part A of Annexure A of the Scheme Booklet. The general advice notes that Australian SMX shareholders should be able to obtain capital gains tax roll-over relief and therefore, suffer no adverse tax consequence from the implementation of the Share Scheme. Individual SMX shareholders should seek their own independent tax advice.

9.2.5 Alternatives to the transaction

The Directors have advised us that there are currently no alternatives to the Share Scheme, other than the status quo.

9.2.6 Implications of the transaction not proceeding

If the Share Scheme is not approved, SMX is likely to need further funding to support its ongoing operations and development activities. Any subsequent fundraising may be dilutive to shareholders.

Depending on the circumstances of the Share Scheme not proceeding, SMX may be either required to pay or may receive a break fee of US\$2 million.

9.2.7 Conclusion as to Reasonableness

In accordance with RG 111, a transaction is reasonable if:

- the transaction is fair; or
- despite not being fair, but considering other significant factors, shareholders should obtain an overall benefit if the transaction proceeds.

As the Share Scheme is fair and, taking into account other significant factors, **we have concluded that the Share Scheme is reasonable.**

9.3 **Opinion on Share Scheme**

Accordingly, in our opinion, **the Share Scheme is fair and reasonable and in the best interests** of the SMX shareholders.

The ultimate decision on whether to approve the Share Scheme should be based on shareholders' own assessment of their circumstances. We strongly recommend that shareholders consult their own professional advisers, carefully read all relevant documentation provided, including the Scheme Booklet, and consider their own specific circumstances before voting in favour of or against the Share Scheme.

10. ASSESSMENT OF OPTION SCHEME

10.1 Fairness of the Option Scheme

As noted in section 5, in determining the fairness of the Option Scheme we have compared the fair value of a relevant SMX option on a control basis before the implementation of the Schemes to the fair value of the shares SMX optionholders will hold in Empatan on a minority basis after the implementation of the Schemes.

The table below shows the fair value of each option subject to the Option Scheme on a control basis and the fair value of shares that each SMX optionholder will hold in Empatan on implementation of the Scheme.

Expiry date	Number of options	Exercise Price	Fair value on a control basis			Number of Empatan shares	Fair value of Empatan shares on minority basis per share		
			Low	Preferred	High		Low	Preferred	High
2/10/2022	100,000	A\$0.50	A\$0.00	A\$0.00	A\$0.01	73,917	A\$0.25	A\$0.37	A\$0.45
2/10/2022	200,000	A\$0.50	A\$0.00	A\$0.00	A\$0.01	149,841	A\$0.25	A\$0.37	A\$0.46
12/03/2023	4,926,466	A\$0.60	A\$0.02	A\$0.03	A\$0.05	3,460,245	A\$0.24	A\$0.35	A\$0.43
25/03/2023	1,391,255	A\$0.60	A\$0.02	A\$0.03	A\$0.06	977,188	A\$0.24	A\$0.35	A\$0.43
29/05/2023	3,250,000	A\$0.60	A\$0.01	A\$0.02	A\$0.04	2,282,731	A\$0.24	A\$0.35	A\$0.43
14/10/2023	1,698,829	A\$0.20	A\$0.04	A\$0.07	A\$0.12	1,526,495	A\$0.30	A\$0.45	A\$0.55
23/11/2023	3,089,591	A\$0.60	A\$0.00	A\$0.01	A\$0.02	2,170,063	A\$0.24	A\$0.35	A\$0.43
27/11/2023	500,000	A\$0.60	A\$0.00	A\$0.01	A\$0.02	351,189	A\$0.24	A\$0.35	A\$0.43
27/11/2023	1,000,000	A\$0.60	A\$0.00	A\$0.01	A\$0.02	702,379	A\$0.24	A\$0.35	A\$0.43
10/12/2023	1,150,000	A\$0.35	A\$0.02	A\$0.03	A\$0.06	895,057	A\$0.26	A\$0.39	A\$0.48
29/12/2023	1,341,815	A\$0.70	A\$0.00	A\$0.01	A\$0.02	897,823	A\$0.22	A\$0.33	A\$0.41
4/01/2024	500,000	A\$0.60	A\$0.00	A\$0.01	A\$0.03	351,189	A\$0.24	A\$0.35	A\$0.43
4/01/2024	1,000,000	A\$0.70	A\$0.00	A\$0.01	A\$0.02	669,111	A\$0.22	A\$0.33	A\$0.41
5/06/2024	125,000	A\$0.31	A\$0.03	A\$0.06	A\$0.09	107,093	A\$0.29	A\$0.43	A\$0.53
9/07/2024	1,000,000	A\$0.60	A\$0.01	A\$0.02	A\$0.04	702,491	A\$0.24	A\$0.35	A\$0.43
31/12/2024	100,000	A\$0.50	A\$0.02	A\$0.04	A\$0.07	77,038	A\$0.26	A\$0.39	A\$0.47
18/01/2025	300,000	A\$0.28	A\$0.04	A\$0.08	A\$0.11	250,571	A\$0.28	A\$0.42	A\$0.51
28/01/2025	150,000	A\$0.39	A\$0.03	A\$0.06	A\$0.09	124,536	A\$0.28	A\$0.42	A\$0.51
1/06/2025	2,500,000	A\$0.20	A\$0.07	A\$0.10	A\$0.15	2,246,183	A\$0.30	A\$0.45	A\$0.55
25/10/2025	100,000	A\$0.36	A\$0.04	A\$0.07	A\$0.11	83,981	A\$0.28	A\$0.42	A\$0.52
25/03/2027	8,000,001	A\$0.40	A\$0.06	A\$0.10	A\$0.14	6,616,462	A\$0.28	A\$0.41	A\$0.51
32,422,957						24,715,584			

10.1.1 Fair value of options on a control basis before implementation of the Option Scheme

In determining the fair value of each option, the expiry date and exercise price are as set out in the table above. Other key assumptions applied in determining the fair value of the options prior to the implementation of the Options Scheme are as follows:

Fair value of an SMX Share

The fair value of a share on a control basis as set out in section 9.1.1 has been applied in determining the fair value of the options. As the underlying share price reflects a control premium and the option derives its value from the underlying security then the fair value of the option is also on a control basis.

Risk-free rate

The risk-free rate applied to each option reflects the following Australian government debt rates:

Debt term	Rate
Australia Government Debt - 2 Year	0.008%
Australia Government Debt - 3 Year	0.271%
Australia Government Debt - 5 Year	3.366%

Source: S&P Capital IQ at 29 August 2022

The relative risk-free rate applied to each option is based on the debt term nearest to the days to expiry for each option and an average if the period to expiry falls between debt-terms.

Volatility

The volatility rate applied reflects volatility in SMX's share price for the following periods to 25 July 2022, the last day of trading prior to announcement of the Schemes:

Volatility period	Rate
3 months	160%
6 months	138%
12 months	62%
24 months	66%

The relative volatility applied to each option is based on the volatility period nearest to the days to expiry for each option and an average if the period to expiry falls between volatility periods.

10.1.2 Fair value of shares held in Empatan following implementation of the Option Scheme

The fair value of shares held in Empatan after the implementation of the Schemes for each option is calculated as the number of SMX shares issued per option, dividend by the exchange ratio set out in section 9.1.2 divided by the number of options for each expiry date.

As an example, for the 100,000 options maturing on 2 October 2022 with an exercise price of A\$0.50, the fair value of shares held on a minority basis is calculated as follows:

		Low	Preferred	High
Number of SMX shares received	A	73,917	73,917	73,917
Exchange ratio ⁽¹⁾	B	10.3490	10.5932	10.8373
Number of Empatan shares received	C=A / B	7,142	6,978	6,821
Fair value of an Empatan share after implementation of the Schemes ⁽²⁾	D	A\$3.47	A\$5.30	A\$6.67
Fair value of shares held after implementation of the Schemes	E=C x D	A\$24,810.66	A\$36,948.22	A\$45,465.18
Number of options held before implementation of the Schemes	F	100,000	100,000	100,000
Fair value of Empatan shares held per option	G=E / F	A\$0.25	A\$0.37	A\$0.45

⁽¹⁾ See section 9.1.2 for calculation of exchange ratio

⁽²⁾ Fair value of a share in Empatan on a minority basis after implementation of the Schemes as set out in section 9.1.2.

10.1.3 Conclusion on fairness of the Option Scheme

As the fair value of Empatan shares on a minority basis held for each option is higher than the fair value of each option subject to the Option Scheme on a control basis prior to the implementation of the Schemes, **we have concluded that the Option Scheme is fair.**

10.2 **Assessment of reasonableness of the Option Scheme**

In considering the reasonableness of the Option Scheme, we note that the advantages and disadvantages as set out for the Share Scheme in section 9.2.2 and 9.2.3 along with the other considerations in 9.2.4, alternatives to the transaction in section 9.2.5 and implications of the transaction not proceeding in 9.2.6, are applicable.

The Option Scheme has the additional advantage for the SMX optionholders in that they receive shares in SMX and ultimately in Empatan without having to pay for the exercise of the options.

In accordance with RG 111, a transaction is reasonable if:

- the transaction is fair; or
- despite not being fair, but considering other significant factors, shareholders should obtain an overall benefit if the transaction proceeds.

As the Option Scheme is fair and, taking into account other significant factors, **we have concluded that the Option Scheme is reasonable.**

10.3 **Opinion on Option Scheme**

Accordingly, in our opinion, **the Option Scheme is fair and reasonable and in the best** interests of the SMX optionholders.

The ultimate decision on whether to approve the Option Scheme should be based on optionholders' own assessment of their circumstances. We strongly recommend that optionholders consult their own professional advisers, carefully read all relevant documentation provided, including the Scheme Booklet, and consider their own specific circumstances before voting in favour of or against the Option Scheme.

APPENDIX A – GLOSSARY

Term	Definition
Scheme Booklet	Document to be sent to shareholders and optionholders on or about the date of this Report in which this Report is included
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
Combined Group	The group comprising Empatan, SMX and Lionheart following implementation of the Schemes
Company or SMX	Security Matters Limited
Corporations Act	Corporations Act 2001 (Cth)
Empatan or Parent	Empatan PLC
FSG	Financial Services Guide
FY2019	the financial year ended or as at 31 December 2019
FY2020	the financial year ended or as at 31 December 2020
FY2021	the financial year ended or as at 31 December 2021
Group	SMX and its subsidiaries
Lionheart	Lionheart III Inc
Option Scheme	The scheme of arrangement whereby certain SMX option holders, participate in a cashless exercise to acquire SMX shares which then participate in the Share Scheme as set out in Section 1.
NASDAQ	NASDAQ exchange
NSCA	Nexia Sydney Corporate Advisory Pty Ltd (ABN 68 114 696 945)
NSFS	Nexia Sydney Financial Solutions Pty Ltd (AFSL 247300)
Report	Independent Expert's Report
RG 111	ASIC Regulatory Guide 111: Content of expert Reports
RG 112	ASIC Regulatory Guide 112: Independence of Experts
Share Scheme	The scheme of arrangement whereby Empatan acquires 100% of SMX as set out in Section 1
Schemes	Share Scheme and Option Scheme
SPAC	Special purpose acquisition company
VWAP	Volume Weighted Average Price of shares

APPENDIX B - SOURCES OF INFORMATION

- Australian Securities and Investments Commission's (ASIC) database
- Audited financial statements of Security Matters Limited for the years ended 31 December 2019, 2020 and 2021
- Reviewed financial statements of Security Matters Limited for the half-year ended 30 June 2022
- Audited financial statements of Lionheart as at 31 December 2021 and unaudited interim financial statements for the six months ended 30 June 2022
- Scheme Booklet prepared by SMX
- Shareholder listing for SMX at 29 August 2022
- Optionholder listing for SMX at 29 August 2022
- S&P Capital IQ

APPENDIX C - STATEMENT OF DECLARATION & QUALIFICATIONS

Confirmation of Independence

Prior to accepting this engagement Nexia Sydney Corporate Advisory Pty Ltd ("NSCA") determined its independence with respect to SMX and Lionheart with reference to ASIC Regulatory Guide 112: Independence of Experts ("RG 112"). NSCA considers that it meets the requirements of RG 112 and that it is independent of SMX and Lionheart.

Also, in accordance with s648(2) of the Corporations Act, we confirm we are not aware of any business relationship or financial interest of a material nature with SMX or Lionheart, its related parties or associates that would compromise our impartiality.

Mr Brent Goldman, authorised representative of NSCA, has prepared this Report. Neither he nor any related entities of NSCA have any interest in the promotion of the Schemes nor will NSCA receive any benefits, other than normal professional fees, directly or indirectly, for or in connection with the preparation of this Report. Our fee is not contingent upon the success or failure of the Schemes, and has been calculated with reference to time spent on the engagement at normal professional fee rates for work of this type. Accordingly, NSCA does not have any pecuniary interests that could reasonably be regarded as being capable of affecting our ability to give an unbiased opinion under this engagement.

NSCA provided a draft copy of this Report to the Directors and management of SMX for their comment as to factual accuracy, as opposed to opinions, which are the responsibility of NSCA alone. Changes made to this Report, as a result of the review by the Directors and management of SMX, have not changed the methodology or conclusions reached by NSCA.

Qualifications

NSCA carries on business at Level 16, 1 Market Street, Sydney NSW 2000. NSCA is an authorised corporate representative of Nexia Sydney Financial Solutions Pty Ltd, which holds Australian Financial Services Licence No 247300 authorising it to provide financial product advice on securities to retail clients. NSCA's representatives are therefore qualified to provide this Report.

Brent Goldman specifically was involved in preparing and reviewing this Report. Brent Goldman is a Fellow of the Institute of Chartered Accountants in Australia and New Zealand, a Business Valuation Specialist of the Institute of Chartered Accountants in Australia and New Zealand and a Fellow of the Financial Services Institute of Australasia. He has over 20 years of corporate finance experience in both Australia and the UK.

Consent and Disclaimers

The preparation of this Report has been undertaken at the request of the Independent Directors of SMX. It also has regard to relevant ASIC Regulatory Guides. It is not intended that the Report should be used for any other purpose than to accompany the Scheme Booklet to be sent to SMX shareholders and optionholders. In particular, it is not intended that this Report should be used for any purpose other than as an expression of NSCA's opinion as to whether or not the Schemes are fair and reasonable and in the best interests of SMX's shareholders and optionholders.

NSCA consents to the issue of this Report in the form and context in which it is included in the Scheme Booklet to be sent to SMX's shareholders and optionholders.

Shareholders and optionholders should read all documents issued by SMX and consider the options in their entirety, prior to proceeding with a decision. NSCA had no involvement in the preparation of these documents, with the exception of our Report.

This Report has been prepared specifically for the shareholders and optionholders of SMX. Neither NSCA, nor any member or employee thereof undertakes responsibility to any person, other than a shareholder or optionholder of SMX, in respect of this Report, including any errors or omissions howsoever caused. This Report is "General Advice" and does not take into account any person's particular investment objectives, financial situation and particular needs. Before making an investment decision based on this advice, you should consider, with or without the assistance of a securities advisor, whether it is appropriate to your particular investment needs, objectives and financial circumstances.

APES 225

Our report has been prepared in accordance with APES 225 Valuation Services.

APPENDIX D - VALUATION METHODOLOGIES

In preparing this Report we have considered valuation methods commonly used in practice and those recommended by RG 111. These methods include:

- the discounted cash flow method;
- the capitalisation of earnings method;
- asset based methods; and
- analysis of share market trading.

Discounted Cash Flow Method

Description

Of the various methods noted above, the discounted cash flow method has the strongest theoretical standing. It is also widely used in practice by corporate acquirers and company analysts. The discounted cash flow method estimates the value of a business by discounting expected future cash flows to a present value using an appropriate discount rate. A discounted cash flow valuation requires:

- a forecast of expected future cash flows;
- an appropriate discount rate; and
- an estimate of terminal value.

It is necessary to project cash flows over a suitable period of time (generally regarded as being at least five years) to arrive at the net cash flow in each period. For a finite life project or asset this would need to be done for the life of the project. This can be a difficult exercise requiring a significant number of assumptions such as revenue growth, future margins, capital expenditure requirements, working capital movements and taxation.

The discount rate used represents the risk of achieving the projected future cash flows and the time value of money. The projected future cash flows are then valued in current day terms using the discount rate selected.

A terminal value reflects the value of cash flows that will arise beyond the explicit forecast period. This is commonly estimated using either a constant growth assumption or a multiple of earnings (as described under capitalisation of future maintainable earnings below). This terminal value is then discounted to current day terms and added to the net present value of the forecast cash flows.

The discounted cash flow method is often sensitive to a number of key assumptions such as revenue growth, future margins, capital investment, terminal growth and the discount rate. All of these assumptions can be highly subjective, sometimes leading to a valuation conclusion presented as a range that is too wide to be useful.

Use of the Discounted Cash Flow Method

A discounted cash flow approach is usually preferred when valuing:

- early stage companies or projects;
- limited life assets such as a mine or toll concession;
- companies where significant growth is expected in future cash flows; or
- projects with volatile earnings.

It may also be preferred if other methods are not suitable, for example if there is a lack of reliable evidence to support a capitalisation of earnings approach. However, it may not be appropriate if reliable forecasts of cash flow are not available and cannot be determined.

Capitalisation of Earnings Method

Description

The capitalisation of earnings method is a commonly used valuation methodology that involves determining a future maintainable earnings figure for a business and multiplying that figure by an appropriate capitalisation multiple. This methodology is generally considered a short form of a discounted cash flow, where a single representative earnings figure is capitalised, rather than a stream of individual cash flows being discounted. The capitalisation of earnings methodology involves the determination of:

- a level of future maintainable earnings; and
- an appropriate capitalisation rate or multiple.

A multiple can be applied to any of the following measures of earnings:

Revenue – most commonly used for companies that do not make a positive EBITDA or as a cross-check of a valuation conclusion derived using another method.

EBITDA - most appropriate where depreciation distorts earnings, for example in a company that has a significant level of depreciating assets but little ongoing capital expenditure requirement.

EBIT - in most cases EBIT will be more reliable than EBITDA as it takes account of the capital intensity of the business.

NPAT - relevant in valuing businesses where interest is a major part of the overall earnings of the group (e.g. financial services businesses such as banks).

Multiples of EBITDA, EBITA and EBIT value the whole businesses, or its enterprise value irrespective of the gearing structure. NPAT (or P/E) values the equity of a business

The multiple selected to apply to maintainable earnings reflects expectations about future growth, risk and the time value of money all wrapped up in a single number. Multiples can be derived from three main sources.

Using the guideline public company method, market multiples are derived from the trading prices of stocks of companies that are engaged in the same or similar lines of business and that are actively traded on a free and open market, such as the ASX or the NSX. The merger and acquisition method is a method whereby

multiples are derived from transactions of significant interests in companies engaged in the same or similar lines of business. In Australia this has been called the comparable transaction methodology.

Use of the Capitalisation of Earnings Method

The capitalisation of earnings method is widely used in practice. It is particularly appropriate for valuing companies with a relatively stable historical earnings pattern which is expected to continue. This method is less appropriate for valuing companies or assets if:

- there are no suitable listed company or transaction benchmarks for comparison;
- the asset has a limited life;
- future earnings or cash flows are expected to be volatile; or
- there are negative earnings or the earnings of a business are insufficient to justify a value exceeding the value of the underlying net assets.

Asset Based Methods

Description

Asset based valuation methods estimate the value of a company based on the realisable value of its net assets, less its liabilities. There are a number of asset based methods including:

- orderly realisation;
- liquidation value;
- net assets on a going concern basis;
- replacement cost; and
- reproduction cost.

The orderly realisation of assets method estimates Fair Market Value by determining the amount that would be distributed to shareholders, after payment of all liabilities including realisation costs and taxation charges that arise, assuming the company is wound up in an orderly manner. The liquidation method is similar to the orderly realisation of assets method except the liquidation method assumes the assets are sold in a shorter time frame.

Since wind up or liquidation of the company may not be contemplated, these methods in their strictest form may not necessarily be appropriate. The net assets on a going concern basis method estimates the market values of the net assets of a company but does not take account of realisation costs.

The asset / cost approach is generally used when the value of the business's assets exceeds the present value of the cash flows expected to be derived from the ongoing business operations, or the nature of the business is to hold or invest in assets. It is important to note that the asset approach may still be the relevant approach even if an asset is making a profit. If an asset is making less than an economic rate of return and there is no realistic prospect of it making an economic return in the foreseeable future, an asset approach would be the most appropriate method.

Use of Asset Based Methods

An asset-based approach is a suitable valuation method when:

- an enterprise is loss making and is not expected to become profitable in the foreseeable future;
- assets are employed profitably but earn less than the cost of capital;
- a significant portion of the company's assets are composed of liquid assets or other investments (such as marketable securities and real estate investments); or
- it is relatively easy to enter the industry (for example, small machine shops and retail establishments).

Asset based methods are not appropriate if:

- the ownership interest being valued is not a controlling interest, has no ability to cause the sale of the company's assets and the major holders are not planning to sell the company's assets; or
- a business has (or is expected to have) an adequate return on capital, such that the value of its future income stream exceeds the value of its assets.

Analysis of Share Trading

The most recent share trading history provides evidence of the Fair Market Value of the shares in a company where they are publicly traded in an informed and liquid market. There should also be some similarity between the size of the parcel of shares being valued and those being traded. Where a company's shares are publicly traded then an analysis of recent trading prices should be considered, at least as a cross-check to other valuation methods.

Annexure C – Independent Limited Assurance Report

7 September 2022

The Directors
Security Matters Limited
Level 25, 525 Collins Street
MELBOURNE VIC 3000

Dear Directors

Independent Limited Assurance Report

1. Introduction

This report has been prepared at the request of the Directors of Security Matters Limited (the “Company” or “SMX”) for inclusion in a Scheme Booklet to be issued by the Company (“Scheme Booklet”) in respect of the proposed acquisition by Empatan Plc of all the issued shares in the Company (“Proposed Transaction”).

Expressions defined in the Scheme Booklet have the same meaning in this report.

The report does not address the rights attaching to the shares to be issued in accordance with the Proposed Transaction, nor the risks associated with accepting the Offer. Moore Australia Corporate Finance (WA) Pty Ltd has not been requested to consider the prospects for SMX, nor the merits and risks associated with becoming a shareholder of Empatan Plc and accordingly has not done so, nor purports to do so.

Consequently, Moore Australia Corporate Finance (WA) Pty Ltd has not made and will not make any recommendation, through the issue of this report, to potential investors of the Company, as to the merits of the Proposed Transaction and takes no responsibility for any matter or omission in the Scheme Booklet other than responsibility for this report.

2. Scope of Report

The Directors of the Company have requested Moore Australia Corporate Finance (WA) Pty Ltd prepare an Independent Limited Assurance Report on:

Historical Financial Information

The Directors have requested that Moore Australia Corporate Finance (WA) Pty Ltd review:

- The Historical Consolidated Statements of Profit or Loss and Other Comprehensive Income of SMX for the years ended 31 December 2020 and 2021 and for the half year ended 30 June 2022;
- The Historical Consolidated Statements of Cash flows of SMX for the years ended 31 December 2020 and 2021 and for the half year ended 30 June 2022; and
- The Historical Consolidated Statements of Financial Position of SMX as at 31 December 2020 and 2021 and as at 30 June 2022

which is collectively termed the “Historical Financial Information”.

The Historical Financial Information is presented in an abbreviated form insofar as it does not include all of the disclosures required by Australian Accounting Standards applicable to financial reports in accordance with the *Corporations Act 2001*.

The Historical Financial Information has been extracted from the audited general purpose financial statements of the Company for the years ended 31 December 2020 and 2021 and from the reviewed financial report for the half year ended 30 June 2022.

The financial reports of SMX for the years ended 31 December 2020 and 2021 were audited by BDO Melbourne whilst the financial report for the half year ended 30 June 2022 was reviewed by the same firm. BDO Melbourne issued unmodified audit and review opinions for each of the periods specified.

The Historical Consolidated Statement of Profit or Loss and Other Comprehensive Income of SMX for the years ended 31 December 2020 and 2021 and for the half year ended 30 June 2022 are included at section 5.15 (c) of the Scheme Booklet and are presented without adjustment.

The Historical Consolidated Statements of Financial Position of SMX as at 31 December 2020 and 2021 and as at 30 June 2022 are included in section 5.15 (e) of the Scheme Booklet and are presented without adjustment.

The Historical Consolidated Statement of Cash flows of SMX the for years ended 31 December 2020 and 2021 and for the half year ended 30 June 2022 are included at section 5.15 (f) of the Scheme Booklet and are presented without adjustment.

Pro Forma Historical Financial Information

The Directors have requested that Moore Australia Corporate Finance (WA) Pty Ltd review:

- The Pro Forma Historical Consolidated Statement of Financial Position of SMX as at 30 June 2022, included at section 9 of the Scheme Booklet, adjusted to include completion of the Proposed Transaction, as if the Proposed Transaction occurred as at 30 June 2022; and
- The Pro Forma Historical Consolidated Statement of Profit or Loss and Other Comprehensive Income of SMX for the year ended 31 December 2021, included at section 9 of the Scheme Booklet, adjusted to include completion of the Proposed Transaction, as if the Proposed Transaction occurred as at 30 June 2022

which is collectively termed the “Pro Forma Historical Financial Information”.

The Pro Forma Historical Consolidated Statement of Financial Position is derived from the Historical Statement of Financial Position of the Company as at 30 June 2022, adjusted on the basis of the completion of the Proposed Transaction, as if the Proposed Transaction occurred as at 30 June 2022.

The Pro Forma Historical Consolidated Statement of Profit or Loss and Other Comprehensive Income is derived from the Historical Statement of Profit or Loss and Other Comprehensive Income of the Company for the year ended 31 December 2021, adjusted on the basis of the completion of the Proposed Transaction, as if the Proposed Transaction occurred as at 31 December 2021

The Pro Forma Statement of Financial Position and Pro Forma statement of Profit or Loss and Other Comprehensive Income are provided for illustrative purposes only and are not represented as being necessarily indicative of SMX's future financial position or financial results.

3. Scope of Review

Directors' Responsibilities

The Directors of SMX are responsible for the preparation and presentation of the Historical and Pro Forma Historical financial information, including the determination of the pro forma transactions. The Directors are also responsible for the information contained within the Scheme Booklet.

This responsibility includes for the operation of such internal controls as the Directors determine are necessary to enable the preparation of the Financial Information presented in the Scheme Booklet that is free from material misstatement whether due to fraud or error.

Our Responsibilities

We have conducted our engagement in accordance with Australian Auditing Standard ASRE 2405 *Review of Historical Financial Information Other than a Financial Report*. We have also considered and complied with the requirements of ASAE 3420 *Assurance Engagements to Report on the Compilation of Pro Forma Historical Financial Information included in a Prospectus or other Document* and ASAE 3450 *Assurance Engagements involving Corporate Fundraisings and/or Prospective Financial Information*.

For the purposes of this engagement, we are not responsible for updating or reissuing any reports or opinions on any Historical Financial Information used to compile the Pro forma Historical Financial Information, nor have we, in the course of this engagement, performed an audit of the financial information used in compiling the Pro Forma Historical Financial Information, or the Pro Forma Historical Financial Information itself.

The purpose of the compilation of the Pro Forma Historical Financial Information is solely to illustrate the impact of the Proposed Transaction and accounting policies on unadjusted financial information of the Company as if the event or application of accounting policies had occurred at an earlier date selected for purposes of the illustration. Accordingly, we do not provide any assurance that the actual outcome of the Proposed Transaction and accounting policies would be as presented.

We made such inquiries and performed such procedures as we, in our professional judgement, considered reasonable in the circumstances including:

- a review of contractual arrangements;
- a review of financial statements, management accounts, work papers, accounting records and other documents, to the extent considered necessary;
- analytical procedures, to the extent considered necessary;
- a review of the audited and reviewed financial statements of SMX and its controlled entities, including a review of the auditor's work papers and making enquiries of the auditor, to the extent considered necessary;
- a comparison of consistency in application of the recognition and measurement principles in Accounting Standards and other mandatory professional reporting requirements in Australia, with the accounting policies adopted by the Company;
- a review of the assumptions and pro forma adjustments used to compile the Pro Forma Historical Financial Information; and
- enquiry of Directors, management and advisors of SMX.

These procedures do not provide all the evidence that would be required in an audit, thus the level of assurance provided is less than that given in an audit. We have not performed an audit and, accordingly, we do not express an audit opinion.

These procedures have been undertaken to form a limited assurance conclusion as to whether we have become aware of any matters that indicate the Historical and Pro Forma Historical Financial Information, set out in sections 5.15 and 9.4 of the Scheme Booklet, does not present fairly, in all material respects, in accordance with Australian Accounting Standards and the accounting policies adopted by the Company. This view is consistent with our understanding of the financial position of the Company as at 31 December 2020 and 2021 and as at 30 June 2022, the pro forma financial position as at 30 June 2022, the pro forma financial results for the year ended 31 December 2021, and of its financial results and cash flows for the years ended 31 December 2020 and 2021 and for the half year ended 30 June 2022.

4. Conclusions

Based on our review, which is not an audit:

- Nothing has come to our attention which causes us to believe that the Historical Consolidated Statements of Profit or Loss and other comprehensive income of SMX for the years ended 31 December 2020 and 2021 and for the half year ended 30 June 2022, as set out in section 5.15 (c) of the Scheme Booklet, do not present fairly the results of the Company for the periods then ended in accordance with the accounting methodologies required by Australian Accounting Standards and adopted by the Company.
- Nothing has come to our attention which causes us to believe that the Historical Statements of Financial Position of the Company, as set out in section 5.15 (e) of the Scheme Booklet, do not present fairly the assets and liabilities of the Company as at 31 December 2020 and 2021 and as at 30 June 2022 in accordance with the accounting methodologies required by Australian Accounting Standards and adopted by the Company.

- Nothing has come to our attention which causes us to believe that the Historical Consolidated Statements of Cash Flows of SMX for the years ended 31 December 2020 and 2021 and for the half year ended 30 June 2022, as set out in section 5.15 (f) of the Scheme Booklet, do not present fairly the cash flows of the Company for the periods then ended in accordance with the accounting methodologies required by Australian Accounting Standards and adopted by the Company.
- Nothing has come to our attention which causes us to believe that the Pro Forma Historical Statement of Financial Position of the Company, as set out in section 9 of the Scheme Booklet, does not present fairly the assets and liabilities of the Company, as at 30 June 2022 in accordance with the accounting methodologies required by Australian Accounting Standards and adopted by the Company, adjusted on the basis of the completion of the Proposed Transaction, as if the Proposed Transaction occurred as at 30 June 2022.
- Nothing has come to our attention which causes us to believe that the Pro Forma Historical Statement of Profit or Loss and other comprehensive income of the Company, as set out in section 9 of the Scheme Booklet, does not present fairly the results of the Company, as at 31 December 2021 in accordance with the accounting methodologies required by Australian Accounting Standards and adopted by the Company, adjusted on the basis of the completion of the Proposed Transaction, as if the Proposed Transaction occurred as at 31 December 2021.

5. Subsequent Events

To the best of our knowledge and belief, there have been no other material items, transactions or events, related to the Proposed Transaction, subsequent to 30 June 2022 not otherwise disclosed in this report or the Scheme Booklet that have come to our attention during the course of our review which would cause the information included in this report to be misleading.

6. Other Matters

Moore Australia Corporate Finance (WA) Pty Ltd does not have any pecuniary interest that could reasonably be regarded as being capable of affecting our ability to give an unbiased opinion.

Moore Australia Corporate Finance (WA) Pty Ltd will receive a professional fee for the preparation of this Independent Limited Assurance Report.

Moore Australia Corporate Finance (WA) Pty Ltd was not involved in the preparation of any other part of the Scheme Booklet and accordingly makes no representations or warranties as to the completeness and accuracy of any information contained in any other part of the Scheme Booklet.

Moore Australia Corporate Finance (WA) Pty Ltd consents to the inclusion of this report in the Scheme Booklet in the form and context in which it is included and at the date of this report has not withdrawn this consent.

Yours faithfully



Neil Pace
Director
Moore Australia Corporate Finance (WA) Pty Ltd

MOORE AUSTRALIA CORPORATE FINANCE (WA) PTY LTD

Australian Financial Services Licence No. 240773

FINANCIAL SERVICES GUIDE

This Financial Services Guide is issued in relation to our Independent Limited Assurance Report for Security Matters Limited ("SMX"). Our report has been prepared at the request of the Directors of SML for inclusion in the Scheme Booklet to be dated on or about 8 September 2022 in relation to the proposed acquisition by Empatan Plc of all the issued shares in SML.

Moore Australia Corporate Finance (WA) Pty Ltd

Moore Australia Corporate Finance (WA) Pty Ltd ("MACF") has been engaged by the directors of SMX to prepare an Independent Limited Assurance Report in relation to the proposed acquisition by Empatan Plc of all the issued shares in SMX.

MACF holds an Australian Financial Services Licence – Licence No 240773.

Financial Services Guide

As a result of our report being provided to you we are required to issue to you, as a retail client, a Financial Services Guide ("FSG"). The FSG includes information on the use of general financial product advice and is issued so as to comply with our obligations as holder of an Australian Financial Services Licence.

Financial Services we are licensed to provide

MACF holds an Australian Financial Services Licence which authorises us to provide reports for the purposes of acting for and on behalf of clients in relation to proposed or actual mergers, acquisitions, takeovers, corporate restructures or share issues, and to carry on a financial services business to provide general financial product advice for securities to retail and wholesale clients.

We provide financial product advice by virtue of an engagement to issue a report in connection with the issue of securities of a company or other entities.

Our report includes a description of the circumstances of our engagement and identifies the party who has engaged us. You have not engaged us directly but will be provided with a copy of our report as a retail client because of your connection with the matters on which our report has been issued. We do not accept instructions from retail clients and do not receive remuneration from retail clients for financial services.

Our report is provided on our own behalf as an Australian Financial Services Licensee authorised to provide the financial product advice contained in this report.

General Financial Product Advice

Our report provides general financial product advice only, and does not provide personal financial product advice, because it has been prepared without taking into account your particular personal circumstances or objectives either financial or otherwise, your financial position or your needs.

Some individuals may place a different emphasis on various aspects of potential investments.

An individual's decision in relation to the proposed transaction may be influenced by their particular circumstances and, therefore, individuals should seek independent advice.

Benefits that we may receive

We will charge fees for providing our report. The basis on which our fees will be determined has been agreed with, and will be paid by, the person who engaged us to provide the report. Our fees have been agreed on either a fixed fee or time cost basis. We estimate that our fees for the preparation of this report will be approximately AU\$45,000 plus GST.

Remuneration or other benefits received by our employees

All our employees receive a salary. Employees may be eligible for bonuses based on overall productivity and contribution to the operation of MACF or related entities but any bonuses are not directly in connection with any assignment and in particular are not directly related to the engagement for which our report was provided.

Referrals

We do not pay commissions or provide any other benefits to any parties or person for referring customers to us in connection with the reports that we are licensed to provide.

Associations and relationships

MACF is the licensed corporate advisory arm of Moore Australia (WA) Pty Ltd, Chartered Accountants. The directors of MACF may also be partners in Moore Australia (WA) Pty Ltd Chartered, Accountants.

Moore Australia (WA) Pty Ltd, Chartered Accountants is comprised of a number of related entities that provide audit, accounting, tax, and financial advisory services to a wide range of clients.

MACF's contact details are set out on our letterhead.

Complaints resolution

As the holder of an Australian Financial Services Licence, we are required to have a system for handling complaints from persons to whom we provide financial product advice. All complaints must be in writing, addressed to The Complaints Officer, Moore Australia (WA) Pty Ltd, PO Box 5785, St George's Terrace, Perth WA 6831.

On receipt of a written complaint we will record the complaint, acknowledge receipt of the complaint and seek to resolve the complaint as soon as practical.

If we cannot reach a satisfactory resolution, you can raise your concerns with Australian Financial Complaints Authority Limited ("AFCA"). AFCA is an independent body established to provide advice and assistance in helping resolve complaints relating to the financial services industry. MACF is a member of AFCA. AFCA may be contacted directly via the details set out below.

Australian Financial Complaints Authority Limited
GPO Box 3
Melbourne VIC 3001
Toll free: 1800 931 678
Email: info@afca.org.au

Annexure D – Scheme Implementation Deed

K&L GATES

Scheme Implementation Deed

Lionheart III Corp (“**Lionheart**”)

and

Empatan PLC (“**Parent**”)

and

Security Matters Limited (“**SMX**”)
ACN 626 192 998

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Scheme Implementation Deed

Date 26 July 2022

Parties

1. **Lionheart III Corp** a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137 (**Lionheart**)
2. **Empatan PLC** a public limited company incorporated in Ireland with registered number 722009 and a registered address at Mespil Business Centre, Mespil House, Sussex Road, Dublin 4, Ireland, D04 T4A6 (**Parent**)
3. **Security Matters Limited** ACN 626 192 998 of Level 25, 525 Collins Street, Melbourne, Victoria 3000, Australia

Recitals

- A. SMX proposes to effect a redomiciliation by scheme of arrangement under Part 5.1 of the Corporations Act which would change the jurisdiction of the holding company of the SMX Group from Australia to Ireland and result in a listing on the NASDAQ.
- B. Lionheart, Parent and SMX have agreed that the Scheme will involve SMX undertaking a reduction of capital under which all SMX Shares will be cancelled in consideration for the issue by Parent of Parent Shares.
- C. At the request of Lionheart and Parent, SMX intends to propose the Capital Reduction, the Scheme and the Option Scheme.
- D. SMX, Lionheart and Parent have agreed to implement the Capital Reduction, the Scheme and Option Scheme on the terms and conditions of this document.
- E. As a result of the Capital Reduction and Schemes, SMX will become a wholly-owned subsidiary of Parent.

General terms

1. Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

Accounting Standards means:

- (a) the requirements of the Corporations Act relevant to the preparation and contents of financial reports; and
- (b) the accounting standards approved under the Corporations Act, being the Australian Accounting Standards and any authoritative interpretation issued by the Australian Accounting Standards Board.

ASIC means the Australian Securities & Investments Commission.

Associate has the meaning set out in section 12 of the Corporations Act, as if section 12(1) of the Corporations Act included a reference to this document.

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

ATO means Australian Taxation Office.

Authorised Officer means a director, officer or secretary of a party or any other person nominated by a party to act as an Authorised Officer for the purposes of this document.

BCA means the Business Combination Agreement, executed as of the date hereof, by and among the parties hereto and the other parties thereto.

Business Day means a business day as defined in the Listing Rules; provided that such day is neither:

- (a) a day on which the banks in Melbourne, Victoria, Australia, are authorised or required to close; nor
- (b) a day on which the banks in Delaware, United States of America, are authorised or required to close; nor
- (c) a day on which the banks in Dublin, Ireland, are authorised or required to close.

Capital Reduction means the equal reduction of capital under section 256B of the Corporations Act pursuant to which all SMX Shares are to be cancelled in accordance with the terms of the Capital Reduction Resolution.

Capital Reduction Resolution means the resolution of SMX Shareholders to approve the Capital Reduction in the form approved by Lionheart in writing.

Cancellation Consideration has the meaning given in the Option Scheme.

Cashless Exercise has the meaning given in the Option Scheme.

CHESS means the clearing house electronic sub-register system of share transfers operated by ASX Clear Pty Limited ACN 001 314 503 and ASX Settlement Pty Limited ACN 008 504 532.

Code means the Internal Revenue Code of 1986, as amended.

Conditions Precedent means the conditions precedent set out in clause 3.1 in respect of the Scheme and the Option Scheme Conditions in respect of the Option Scheme.

Confidential Information means Lionheart Confidential Information or SMX Confidential Information.

Confidentiality Agreement means the Mutual Confidentiality and Nondisclosure Agreement between the parties dated 9 December 2021 (as amended).

Controller or **Control** has the meaning it has in the Corporations Act.

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

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

Costs includes costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

Court means the Supreme Court of Victoria, or another court of competent jurisdiction under the Corporations Act agreed by the parties.

COVID-19 means SARS-CoV-2 or COVID-19, and any evolutions, variation, derivative or mutations thereof (including any subsequent waves or outbreaks thereof).

COVID-19 Measures means any quarantine, “shelter in place”, “stay at home”, workforce reduction, social distancing, travel restriction, vaccination program, shut down, closure, sequester, safety or similar laws, rules, regulations, directives, guidelines or recommendations promulgated by any Governmental Authority of competent jurisdiction, including the U.S. Centers for Disease Control and Prevention, the Australian Government Department of Health and the World Health Organization in connection with or in response to COVID-19.

Data Protection Laws means all laws related to data protection or privacy (including laws relating to the privacy and security of data or information that constitutes personal data or personal information under applicable law), including, without limitation:

- (a) in Australia, the *Privacy Act 1988* (Cth) (“**Privacy Act**”);
- (b) in Europe, the *General Data Protection Regulation (EU) 2016/679* (“**GDPR**”); and
- (c) any privacy and/or data protection legislation in any relevant jurisdiction.

Deed Poll means a deed poll in respect of the Scheme substantially in the form of Annexure 3 to this document or in such other form as Lionheart and SMX agree in writing.

Delaware General Corporation Law means the General Corporation Law of the State of Delaware.

Disclosed means fully and fairly disclosed, with sufficient detail and context as to enable a sophisticated investor entering into a transaction of the nature contemplated by this document to understand the nature, scope and financial significance of the relevant matter, event or circumstance:

- (a) in the case of SMX:
 - (i) in the SMX Disclosure Letter; or
 - (ii) in any announcement made by SMX on ASX prior to the date of this document (other than any forward looking, projected or hypothetical information); and
- (b) in the case of Lionheart:
 - (i) in the Lionheart Disclosure Letter; or
 - (ii) in any statement, prospectus, report, schedule or another form filed with or furnished to the SEC by Lionheart pursuant to the Securities Act or the Exchange Act prior to the date of this document (other than any forward looking, projected or hypothetical information).

Duty means any stamp, transaction or registration duty or similar charge which is imposed by any Governmental Authority and includes any associated interest, penalty, charge or other amount which is imposed.

Effective, when used in relation to the Scheme or the Option Scheme, means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme or the Option Scheme (as relevant), but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

Effective Date means the date on which the Scheme or the Option Scheme (as applicable) becomes Effective.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement, “security interest” as defined in sections 12(1) or 12(2) of the PPSA, right of first refusal, pre-emptive right, any similar restriction, or any agreement to create any of them or allow them to exist.

End Date means 8 May 2023 or such later date agreed in writing by Lionheart and SMX.

ESOP Options means an option granted under by a member of the SMX Group under an SMX Employee Plan to acquire an SMX Share subject to the terms of the applicable SMX Employee Plan and the terms of grant.

ERISA means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

Exchange Act means the United States Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

Excluded SMX Option means an SMX Option that Lionheart and SMX agree should not be subject to the Option Scheme.

Excluded SMX Optionholder has the meaning given to Excluded Optionholder in the Option Scheme.

Exclusivity Period means the period from and including the date of this document to the earlier of:

- (a) the Implementation Date of the Scheme; and
- (b) the date of termination of this document in accordance with its terms.

Executive Employment Agreements has the meaning ascribed to such term in the BCA.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting and the Option Scheme Meeting is heard.

GAAP means United States generally accepted accounting principles.

General Meeting means the general meeting of SMX Shareholders to approve the Capital Reduction in accordance with section 256C(1) of the Corporations Act.

Governmental Authority means whether domestic or foreign:

- (a) any supranational, national, federal, state, territory, county, municipal, local, or provincial government or any minister, person or entity exercising executive, legislative, judicial, arbitral, regulatory, taxing, or administrative functions of or pertaining to government;
- (b) any public international governmental organisation;
- (c) any agency, division, bureau, department, committee, or other political subdivision of any government, entity or organisation described in the foregoing clauses (a) or (b) of this definition (including patent and trademark offices); or
- (d) quasi-governmental, self-regulatory agency, commission or authority, including any national securities exchange or national quotation system,

and includes ASX, ACCC, ASIC, the Takeovers Panel, FIRB, the Australian Taxation Office, Department of Justice, US Federal Trade Commission, NASDAQ and any state or territory revenue offices.

GST has the meaning given in the GST Act or value added tax as defined under any GST Law or imposed by any Governmental Authority.

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

GST Law means any law relating to GST.

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of SMX Shareholders present and voting, either in person, by direct vote or by proxy.

Implementation Date means the 5th Business Day following the Record Date or such other date after the Record Date as SMX and Lionheart agree in writing.

Incoming Directors means the directors of SMX to be mutually agreed among Lionheart and SMX and to be appointed on the Implementation Date.

Indebtedness of any person means, without duplication:

- (a) the outstanding principal amount of, accrued and unpaid interest on, and other payment obligations or liabilities (including any prepayment premiums, penalties, make-whole payments, termination fees, reimbursement obligations, breakage costs and other fees and expenses that are payable upon repayment of such obligations) of such person arising under, consisting of, pursuant to, or in respect of:
 - (i) indebtedness for borrowed money or indebtedness evidenced by notes, bonds, debentures or other debt securities;
 - (ii) the deferred purchase price of property or services (including any earn out obligations whether or not contingent and regardless of when due) (but excluding trade payables, accrued expenses and current accounts, in each case, incurred and paid in the ordinary course of business);

- (iii) any letter of credit, bank guarantee, bankers' acceptance or other similar instrument, in each case, to the extent drawn, issued for the account of such person;
 - (iv) any hedging agreement, derivative instrument or similar arrangement, including any interest rate swap, currency swap, forward currency or interest rate contracts or other interest rate or currency hedging arrangements (in each case valued at their termination value as of immediately prior to the date of determination);
 - (v) any transaction related to the securitization of assets (including inventory or receivables) for financing purposes to any third party, including all factoring and inventory agreements and similar agreements executed for the purpose of obtaining financing;
 - (vi) any obligations in respect of dividends declared but not paid; and
 - (vii) any obligations in respect of a capital or finance lease (in which case only the capitalized portion thereof shall constitute Indebtedness); and
- (b) any obligation of another person of the kind described in clause (a) for which such person is responsible or liable, directly or indirectly, as obligor, guarantor, surety or otherwise or in respect of which such person has pledged any of its assets as collateral therefor.

Independent Expert means the independent expert approved by Lionheart and appointed by SMX under clause 6.2(c).

Independent Expert's Report means the report from the Independent Expert for inclusion in the Scheme Booklet, including any update or supplementary report, stating whether in the Independent Expert's opinion:

- (a) the Capital Reduction and Scheme is in the best interests of SMX Shareholders; and
- (b) the Option Scheme is in the best interests of SMX Optionholders.

Ineligible Foreign Holder means an SMX Shareholder or a SMX Optionholder:

- (a) who (as at the Record Date or the Option Scheme Record Date (as applicable)) is (or is acting on behalf of) a citizen or resident of a jurisdiction other than residents of Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands, Israel and the United States; or
- (b) whose address shown in the Register (as at the Record Date or the Option Scheme Record Date) is a place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands, Israel and the United States or who is acting on behalf of such a person,

unless Lionheart determines that:

- (c) it is lawful and not unduly onerous or unduly impracticable to issue that SMX Shareholder with the Parent Shares on implementation of the Scheme, or to

issue the SMX Optionholder with Parent Shares on implementation of the Option Scheme (as relevant); and

- (d) it is lawful for that SMX Shareholder to participate in the Scheme or the SMX Optionholder to participate in the Option Scheme, by the law of the relevant place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands Israel and the United States.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to any part of its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this document);
- (d) an application or order has been made (and in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction.

Intellectual Property means:

- (a) trademarks, service marks, brand names, internet domain names, internet and social media usernames, logos, symbols, certification marks, trade dress and other indications of origin, the goodwill associated with the foregoing and registrations in any jurisdiction of, and applications in any jurisdiction to register, the foregoing, including any extension, modification or renewal of any such registration or application;
- (b) inventions, discoveries and ideas, whether patentable or not, in any jurisdiction;
- (c) patents, applications for patents (including divisions, continuations, continuations in part and renewal applications), all improvements thereto, and any renewals, extensions or reissues thereof, in any jurisdiction;

- (d) non-public information, trade secrets and know-how, including processes, technologies, protocols, formulae, prototypes and confidential information and rights in any jurisdiction to limit the use or disclosure thereof by any person;
- (e) copyright (whether future or existing) writings and other works, whether copyrightable or not and whether in published or unpublished works, in any jurisdiction;
- (f) rights of publicity, likeness rights, or other similar personality rights;
- (g) registrations or applications for registration of copyrights in any jurisdiction, and any renewals or extensions thereof;
- (h) Moral Rights; and
- (i) any similar intellectual property or proprietary rights.

Intended U.S. Tax Treatment has the meaning ascribed to Intended Tax Treatment in the BCA.

Investigating Accountant means the accounting firm to be appointed by SMX and Lionheart to prepare the Investigating Accountant's Report.

Investigating Accountant's Report means the report prepared by the Investigating Accountant in relation to the financial information regarding the Merged Group that is prepared from information provided by Lionheart and SMX for inclusion in the Scheme Booklet.

Legacy Performance Options means the:

- (a) 5,000,000 performance options issued by SMX to Haggai Alon; and
- (b) 5,000,000 performance options issued by SMX to Evarardus (Ed) Hofland,

and described under the 2018 SMX initial public offering prospectus and subject to performance milestones.

Lionheart A Shares means Lionheart's Class A common shares, par value \$0.0001 per share.

Lionheart B Shares means Lionheart's Class B common shares, par value \$0.0001 per share.

Lionheart Option Scheme Deed Poll means a deed poll in respect of the Option Scheme substantially in the form of Annexure 6 to this document or in such other form as Lionheart and SMX agree in writing

Lionheart Private Warrants has the meaning ascribed to SPAC Private Warrants in the BCA.

Lionheart Private Units has the meaning ascribed to SPAC Private Units in the BCA.

Lionheart Public Warrants has the meaning ascribed to SPAC Public Warrants in the BCA.

Lionheart Public Units has the meaning ascribed to SPAC Public Units in the BCA.

Lionheart Board means the board of directors of Lionheart.

Lionheart Break Fee means US\$2,000,000 plus GST, if applicable.

Lionheart Break Fee Arrangements means the amount of the Lionheart Break Fee or the circumstances in which it is to be paid in accordance with clause 11.

Lionheart Competing Acquisition means any acquisition by any member of the Lionheart Group of a business, entity or undertaking or assets comprising a business (whether by way of stock purchase, tender offer, exchange offer, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization or similar transaction) or joint venture or other transaction, or a series of any of the foregoing (other than the Scheme and Option Scheme) where:

- (a) such target is material to the Merged Group (provided that, for this purpose, the Merged Group, taken as a whole, shall be deemed a consolidated group of entities the same size as the SMX Group); or
- (b) such acquisition or other transaction would likely materially delay or create substantial risk of any Regulatory Approval not being obtained.

Lionheart Competing Transaction means an offer, proposal, transaction or arrangement (whether by way of stock purchase, tender offer, exchange offer, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization, takeover bid, scheme of arrangement, capital reduction, buy back, sale, lease or assignment of assets, sale or issue of securities, reverse takeover bid, dual listed company structure (or other synthetic merger), deed of company arrangement, debt for equity arrangement or otherwise), or a series of any of the foregoing or other transaction or arrangement (other than the Scheme, Option Scheme or other Transaction) which, if entered into or completed, would mean a person (other than Lionheart, its Related Bodies Corporate, or holders of Lionheart Shares as of the date of this document), whether alone or together with its Associates, would:

- (a) directly or indirectly acquire a Relevant Interest in or become the holder of or have a right to acquire a legal, beneficial or economic interest in, or control of, securities representing 20% or more of the total outstanding voting power of Lionheart (other than as a custodian, nominee or bare trustee); or
- (b) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an interest in (including through any license arrangement) 20% or more of the consolidated assets of the Lionheart Group.

Lionheart Confidential Information means the confidential, proprietary or non-public information furnished by Lionheart or its Representatives to SMX or its Representatives, including tangible, intangible, visual, electronic, present, or future information about Lionheart's business, business plans, pricing, customers, strategies, trade secrets, operations, records, finances, assets, technology, algorithms, data and information that reveals the processes, designs, methodologies, technology or know how by which Lionheart's existing or future products, services, applications and methods of operation are developed, conducted or operated, or any information which, by its nature or the circumstances surrounding its disclosure, is or could reasonably be expected to be, regarded as confidential to Lionheart, but shall not include information that:

- (a) is or becomes available to SMX or any of its Representatives on a non-confidential basis from a source (other than Lionheart or any of its

Representatives) which, to SMX's knowledge, is not prohibited from disclosing such information to SMX;

- (b) is known to SMX or any of its Representatives prior to disclosure by Lionheart or any of its Representatives;
- (c) is or has been independently developed by SMX without use of any information furnished to it by Lionheart (where SMX can prove the same in writing); or
- (d) is transmitted by Lionheart after delivery of notice by SMX that it no longer wishes to receive Lionheart Confidential Information.

Lionheart Deed Poll means a deed poll in respect of the Scheme substantially in the form of Annexure 5 to this document or in such other form as Lionheart and SMX agree in writing

Lionheart Disclosure Letter means Lionheart's disclosure letter to SMX, dated as of the date hereof and delivered in connection with this document.

Lionheart Group means Lionheart and its Subsidiaries.

Lionheart Indemnified Parties means Lionheart, its officers and directors, its Related Bodies Corporate and the officers and directors of each of its Related Bodies Corporate.

Lionheart Information means the information regarding Lionheart provided by Lionheart to SMX in writing specifically for inclusion in (a) the Scheme Booklet, being information regarding Lionheart required to be included in the Scheme Booklet under the Corporations Act, Corporations Regulations or ASIC Regulatory Guide 60 and (b) the Lionheart Registration/Proxy Statement, and including in each case information provided by Lionheart to SMX in writing specifically for use in preparation of the Merged Group Information. Lionheart Information does not include information about the SMX Group (except to the extent it relates to any statement of Lionheart's intention relating to the SMX Group following the Effective Date), the SMX Information or the Merged Group Information (except to the extent specifically provided in writing by Lionheart for use by SMX in preparing the Merged Group Information), the Independent Expert's Report or the Investigating Accountant's Report.

Lionheart Material Adverse Effect means any event, matter or circumstance which has, or would be reasonably likely to have, either individually or when aggregated with any other events, matters or circumstances, a material adverse effect on the assets and liabilities (taken as a whole), financial condition, business or results of operations of the Lionheart Group (taken as a whole) but does not include events, matters or circumstances to the extent resulting from or arising out of:

- (a) changes in general economic, industry, regulatory or political conditions, the securities or other capital markets in general or law;
- (b) any epidemic, pandemic (including COVID-19 or COVID-19 Measures), hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing);
- (c) geopolitical conditions, hostilities, civil or political unrest, any acts of war, sabotage, or terrorism (including any outbreak, escalation or worsening of any of the foregoing);

- (d) any change in taxation rates, interest rates or exchange rates;
- (e) any change in generally accepted accounting principles or the authoritative interpretation of them;
- (f) the taking of any action required under this document, the BCA, the Schemes or the transactions contemplated by them, including the Transactions (other than, to the extent not excluded by another clause of this definition, Lionheart's compliance with its obligations pursuant to clause 9);
- (g) any change in the market price or trading volume of Lionheart Shares or the Lionheart Warrants (but this exception will not prevent the underlying cause or contributing factor of any such change, if not falling within any other exception in this definition, from being taken into account in determining whether there has been a Lionheart Material Adverse Effect);
- (h) any failure, in and of itself, by Lionheart or a member of the Lionheart Group to meet any internal or published projections, forecasts, estimates or predictions of revenues, earnings or other financial or operating metrics for any period (but this exception will not prevent the underlying cause or contributing factor of any such failure, if not falling within any other exception in this definition, from being taken into account in determining whether there has been a Lionheart Material Adverse Effect);
- (i) the execution, delivery or performance of this document or the BCA, or the announcement of the Schemes or the other transactions contemplated by this document or the BCA (including in the impact of any of the foregoing on the relationship of Lionheart or a member of the Lionheart Group with their respective employees, customers, creditors, suppliers or contractual counterparties), provided that this clause (i) shall not apply with respect to any representation or warranty that addresses the consequences of the execution, delivery or performance of this document or the announcement or pendency of the Scheme or the BCA or the other transactions contemplated by this document or the BCA or with respect to the Conditions Precedent that relate to such representations or warranties;
- (j) the identity of, or any facts or circumstances relating to, SMX or any member of the SMX Group;
- (k) any actions, suits or claims arising from allegations of a breach of fiduciary duty or violation of securities laws, in each case relating to this document, the Schemes, the BCA or the transactions contemplated by this document or the BCA; or
- (l) any action (or the failure to take any action) with the written consent or at the written request of SMX,

except, in the case of each of the foregoing clauses (a), (b), (c), (d) and (e), if the effects of such events, matters or circumstances are disproportionately adverse to the Lionheart Group as compared to the effects on other companies in the industry in which the Lionheart Group operates, and then solely to the extent of such disproportionate effect.

Lionheart Merger has the meaning ascribed to "Merger" in the BCA.

Lionheart Prescribed Event means, except to the extent contemplated by this document, the BCA, the Schemes, or any other Transaction Documents, any of the following events:

- (a) **(conversion)** Lionheart converts all or any of its shares into a larger or smaller number of shares, other than a conversion of Lionheart B Shares to Lionheart A Shares pursuant to the terms of Lionheart's Certificate of Incorporation;
- (b) **(reduction of share capital)** Lionheart or another member of the Lionheart Group (other than a wholly owned Subsidiary of Lionheart) resolves to reduce its share capital in any way or resolves to reclassify, combine or split directly or indirectly any of its shares, other than in connection with the exercise of Redemption Rights that are required pursuant to the terms of Lionheart's Certificate of Incorporation;
- (c) **(buy-back)** Lionheart or another member of the Lionheart Group (other than a wholly owned Subsidiary of Lionheart) repurchases, redeems or otherwise acquires any shares of capital stock of Lionheart, or agrees to do any of the foregoing, except (i) for acquisitions of Lionheart A shares tendered by holders of equity awards under Lionheart executive or employee share plans in the ordinary course of business as such awards are in effect on the date of this document in order to satisfy obligations to pay the exercise price or Tax withholding obligations with respect thereto, (ii) transactions solely between Lionheart and a wholly owned Subsidiary of Lionheart or wholly owned Subsidiaries of Lionheart or (iii) in connection with the exercise of Redemption Rights that are required pursuant to the terms of Lionheart's Certificate of Incorporation;
- (d) **(issuing of securities)** any member of the Lionheart Group issues or agrees to issue Lionheart Shares, or other instruments convertible into Lionheart Shares other than in connection with (i) borrowing from Lionheart Equities, LLC, a Delaware limited liability company (**Sponsor**) pursuant to Section 9.1(b) of the SPAC Amended and Restated Certificate of Incorporation, and, to the extent required by such section, repaying such loan out of proceeds of the Trust Fund or converting all or a portion of such loan into no more than 247,500 Lionheart A Shares or Parent Shares, at Sponsor's election in accordance the terms thereof, or (ii) a PIPE Investment;
- (e) **(distribution)** Lionheart makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie), other than in connection with (i) the exercise of Redemption Rights that are required pursuant to the terms of Lionheart's Certificate of Incorporation, (ii) borrowing from Sponsor pursuant to Section 9.1(b) of the SPAC Amended and Restated Certificate of Incorporation, and, to the extent required by such section, repaying such loan out of proceeds of the Trust Fund or converting all or a portion of such loan into no more than 247,500 Lionheart A Shares or Parent Shares, at Sponsor's election in accordance the terms thereof or (iii) a PIPE Investment;
- (f) **(charter)** Lionheart adopts a new charter or modifies or repeals its charter or a provision of it, in each case in a manner that would materially and adversely impact the rights of the SMX Shareholders or would prevent, materially delay or materially impair the ability of the parties to perform their obligations under this document or to consummate the Schemes or the Transactions;

- (g) **(Lionheart Competing Acquisition)** any member of the Lionheart Group undertakes or agrees to undertake a Lionheart Competing Acquisition; or
- (h) **(Insolvency)** Lionheart or any of its Related Bodies Corporate becomes Insolvent,

provided that a Lionheart Prescribed Event will not include any matter:

- (i) that is expressly required or permitted by this document, the Scheme, the BCA, or the other Transaction Documents;
- (j) Disclosed to SMX;
- (k) required by law, regulation, changes in generally accepted accounting principles or by an order of a court or Governmental Authority;
- (l) made at the written request of SMX; or
- (m) the undertaking of which SMX has approved in writing (which approval must not be unreasonably withheld, delayed or conditioned);

Lionheart Proposals means the approval and adoption of (1) the BCA, the Share Scheme, the Option Scheme and the Merger, (2) the issuance of the Parent Shares, Parent Founder Warrants and Parent Public Warrants, (3) the SPAC Amended and Restated Certificate of Incorporation (as defined in the BCA), and (4) any other proposals the parties deem necessary to effectuate the Share Scheme, Option Scheme, Merger, BCA or SID or other transactions contemplated by the BCA or SID .

Lionheart Proxy Statement means the proxy statement to be sent to Lionheart Shareholders for the purpose of obtaining the Lionheart Shareholder Approval.

Lionheart Registration Statement means the registration statement on Form F-4 (or another applicable form if agreed by the parties) to be filed by Parent in connection with the registration under the Securities Act of the Parent Shares to be issued in connection with the Scheme.

Lionheart Registration/Proxy Statement means the Lionheart Proxy Statement and the Lionheart Registration Statement.

Lionheart Representations and Warranties means the representations and warranties of Lionheart set out in clause 13.3.

Lionheart Shares means the Lionheart A Shares or Lionheart B Shares, as applicable.

Lionheart Shareholder means each person registered as a holder of Lionheart Shares.

Lionheart Shareholder Approval means the approval of Lionheart Shareholders referred to in clause 3.1(a) which is required under the Listing Rules of NASDAQ, Lionheart's Certificate of Incorporation and the Delaware General Corporation Law.

Lionheart Shareholder Meeting means a special meeting of the Lionheart Shareholders to obtain the Lionheart Shareholder Approval.

Lionheart Warrants has the meaning ascribed to the "SPAC Warrants" under the BCA.

Lionheart's Certificate of Incorporation means Lionheart's Second Amended and Restated Certificate of Incorporation dated 3 November 2021.

Listing Rules means:

- (a) in respect of SMX, the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX; or
- (b) in respect of Lionheart or Parent, means the listing rules of NASDAQ

as the context requires.

Losses means all claims, demands, damages, losses, costs, expenses (including reasonable fees of counsel) and liabilities.

Material Contract means any agreement entered into by a member of the SMX Group (or a joint venture entity to which the SMX Group is a shareholder) (excluding any SMX Employee Plan):

- (a) which is, in the opinion of SMX management, critical to the business of the SMX Group;
- (b) which has a material strategic significance to the business of the SMX Group; including material agreements with a Key Payments Partner;
- (c) containing continuing material "earn out" milestones;
- (d) granting any right of first refusal, right of first offer or similar right with respect to any material assets, rights or properties of the SMX Group;
- (e) that obligates in any material respect any member of the SMX Group or that will obligate in any material respect any member of the Merged Group to conduct business with any third party on an exclusive basis or contains "most favoured nation" or similar provisions that are material in relation to the conduct of business with the relevant third party;
- (f) that is a settlement or similar agreement containing any material continuing obligations of the SMX Group;
- (g) pursuant to which any member of the SMX Group:
 - (i) has granted or grants any license, covenant not to assert, release, agreement not to enforce or prosecute or other immunity to any third party under or to any material Intellectual Property; or
 - (ii) is granted a license, covenant not to assert, release, agreement not to enforce or prosecute or immunity to or under any material Intellectual Property from any third party, other than, in each case, non-exclusive licenses in the ordinary course of business;
- (h) with a Related Body Corporate of SMX;
- (i) that is a material joint venture or a material profit sharing; or

- (j) containing a covenant not to compete or a covenant not to solicit clients or customers that is granted by any member of the SMX Group in favour of a third party, in each case that restricts the SMX Group in any material respects

Merged Group means Parent, the Lionheart Group and the SMX Group following implementation of the Scheme.

Merged Group Information means any information regarding the Merged Group:

- (a) contained in the Scheme Booklet (and any supplementary disclosure to SMX Shareholders and SMX Optionholders in respect of the Schemes) other than the Lionheart Information, the Independent Expert's Report and the Investigating Accountant's Report; and
- (b) contained in the Lionheart Registration/Proxy Statement (other than the Lionheart Information, the Independent Expert's Report and the Investigating Accountant's Report).

Moral Right means the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, which rights are created by the laws of the relevant jurisdiction.

NASDAQ means the NASDAQ Exchange or any other stock exchange in the United States of America upon which the Lionheart Shares are listed.

New Employment Agreements has the meaning ascribed to such term in the BCA.

Parent Founder Warrants has the meaning ascribed to the term "Parent Founder Warrants" in the BCA.

Parent Public Warrants has the meaning ascribed to the term "Parent Public Warrants" in the BCA.

Parent Representations and Warranties means the representations and warranties of Parent set out in clause 13.4.

Parent Shares has the meaning ascribed to the term "Parent Ordinary Shares" in the BCA.

Parent Warrants means the Parent Public Warrants and the Parent Founder Warrants.

PIPE Investment has the meaning given in clause 9.8.

officer has the meaning given to that term in section 9 of the Corporations Act.

Option Cancellation or Exercise Agreement means:

- (a) in respect of the ESOP Options: an agreement between the member of the SMX Group that granted the ESOP Option, a holder of ESOP Options and Parent under which, subject to the Scheme becoming Effective, the ESOP Options held by that holder are cancelled in consideration for the applicable Option Consideration;
- (b) in respect of the Legacy Performance Options: an agreement between SMX, the holder of Legacy Performance Options and Parent under which, subject to the

Scheme becoming Effective, the Legacy Performance Options held by the holder are cancelled in consideration for the applicable Option Consideration; and

- (c) in respect of each Excluded SMX Option: an agreement SMX, the holder of the Excluded SMX Option and Parent under which, subject to the Scheme becoming Effective, the Excluding SMX Options held by the holder are exercised in consideration for the applicable Option Consideration,

each in the form agreed by SMX and Lionheart prior to the date of this document.

Option Consideration means:

- (a) in respect of ESOP Options the consideration per such ESOP Option agreed by SMX and Lionheart prior to the date of this document;
- (b) in respect of the Legacy Performance Options: the consideration per Legacy Performance Option agreed by SMX and Lionheart prior to the date of this document; and
- (c) in respect of each Excluded SMX Option: the consideration per Excluded SMX Option agreed by SMX and Lionheart prior to the date of this document.

Option Exercise Shares has the meaning given in the Option Scheme;

Option Scheme means the scheme of arrangement under part 5.1 of the Corporations Act between SMX and Option Scheme Participants in respect of all the Scheme Options, substantially in the form set out Annexure 2, or in such other form as is agreed between Lionheart and SMX, together with any amendment or modification made pursuant to section 411(6) of the Corporations Act and approved by SMX and Lionheart.

Option Scheme Conditions means the conditions set out in clause 3.2 in respect of the Option Scheme.

Option Scheme Deed Poll means a deed poll in respect of the Option Scheme substantially in the form of Annexure 4 to this document or in such other form as Lionheart and SMX agree in writing.

Option Scheme Participant means an SMX Optionholder, other than an Excluded SMX Optionholder.

Option Scheme Meeting means the meeting of SMX Optionholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Option Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Option Scheme Record Date means 7.00pm on the 2nd Business Day following the Effective Date or any other date as agreed by SMX, Parent and Lionheart.

Outgoing Directors means the directors of SMX in office immediately prior to the implementation of the Scheme.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Post-Signing Returns has the meaning given to that term in clause 4.9.

Record Date means 7.00 pm on the date which is 2 Business Days after the

Effective Date, or such other Business Day agreed by Lionheart, Parent and SMX;

Redemption Rights has the meaning ascribed to such term in the BCA.

Register means the share register of SMX and **Registry** has a corresponding meaning.

Regulator's Draft means the draft of the Scheme Booklet in a form acceptable to both parties which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act.

Regulatory Approval means:

- (a) in respect of the Scheme, the Lionheart Merger or any other Transaction any approval of or notification to a Governmental Authority in respect of the Scheme, the Lionheart Merger or any other Transaction or any aspect of it or another applicable law, which Lionheart and SMX agree, acting reasonably, is necessary or desirable to implement the Scheme, the Lionheart Merger or any other Transaction; and
- (b) in respect of the Option Scheme, any approval or notification to a Governmental Authority in respect of the Option Scheme or any aspect of it or another applicable law, which Lionheart and SMX agree, acting reasonably, is necessary or desirable to implement the Option Scheme.

Related Body Corporate has the meaning it has in the Corporations Act.

Relevant Interest has the meaning it has in sections 608 and 609 of the Corporations Act.

Representative means, in relation to a party:

- (c) a Related Body Corporate;
- (d) a director, officer or employee of the party or any of the party's Related Bodies Corporate; or
- (e) an adviser (whether legal, financial or other expert adviser) or consultant to the party or any of the party's Related Bodies Corporate (for the avoidance of doubt, not including the Independent Expert).

Scheme means the scheme of arrangement under part 5.1 of the Corporations Act substantially in the form set out Annexure 1, or in such other form as is agreed between Lionheart and SMX, together with any amendment or modification made pursuant to section 411(6) of the Corporations Act and approved in writing by Lionheart, Parent and SMX.

Schemes means the Scheme and the Option Scheme.

Scheme Booklet means, in respect of the Schemes, the information booklet to be approved by the Court and despatched to SMX Shareholders and SMX Optionholders which includes the Schemes, an explanatory statement complying with the requirements of the Corporations Act, the Independent Expert's Report, the Investigating Accountant's Report and notices of meeting and proxy forms.

Scheme Consideration means the consideration to be provided to each Scheme Participant for the cancellation of each Scheme Share, being subject to clause 4.4 and 4.5, as determined in accordance with clause 4.2;

Scheme Meeting means the meeting to be convened by the Court under section 411(1) of the Corporations Act at which SMX Shareholders will vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Option means an SMX Option on issue at the Option Scheme Record Date which is held by an Option Scheme Participant.

Scheme Participant means each person who is an SMX Shareholder at the Record Date, other than Parent.

Scheme Participant Declaration means a declaration in accordance with the requirements of section 14-225 of Schedule 1 of the *Taxation Administration Act 1953* (Cth) that covers, at least, the date of this deed and the Implementation Date.

Scheme Share means an SMX Share held by a Scheme Participant at the Record Date.

SEC means the United States Securities and Exchange Commission.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Share Scheme and/or Option Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard.

Securities Act means the United States Securities Act of 1933, as amended, and the rules and regulations thereunder.

Share Splitting means the splitting by an SMX Shareholder of SMX Shares into two or more parcels of SMX Shares but which does not result in any change in beneficial ownership of the SMX Shares.

SMX Board means the board of directors of SMX.

SMX Break Fee means US\$2,000,000 plus GST, if applicable.

SMX Break Fee Arrangements means the amount of the SMX Break Fee or the circumstances in which it is to be paid in accordance with clause 12.

SMX Competing Transaction means an offer, proposal, transaction or arrangement (whether by way of stock purchase, tender offer, exchange offer, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization, takeover bid, scheme of arrangement, capital reduction, buy back, sale, lease or assignment of assets, sale or issue of securities, reverse takeover bid, dual listed company structure (or other synthetic merger), deed of company arrangement, debt for equity arrangement or otherwise), or a series of any of the foregoing or other transaction or arrangement (other than the Scheme, the Option Scheme or other Transaction), which, if entered into or completed, would mean:

- (a) a person (other than Lionheart or its Related Bodies Corporate), whether alone or together with its Associates, would:

- (i) directly or indirectly acquire a Relevant Interest in or become the holder of or have a right to acquire a legal, beneficial or economic interest in, or control of, 20% or more of the SMX Shares (other than as custodian, nominee or bare trustee) or Voting Power of 20% or more in SMX;
 - (ii) acquire control of SMX, within the meaning of section 50AA of the Corporations Act; or
 - (iii) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an interest in (including through any license arrangement) 20% or more of the consolidated assets of the SMX Group; or
 - (iv) be stapled with or merge with SMX; or
- (b) Lionheart would be required to abandon, or otherwise fail to proceed with, the Schemes or any other Transaction.

SMX Confidential Information means the confidential, proprietary or non-public information furnished by SMX or its Representatives to Lionheart or its Representatives, including tangible, intangible, visual, electronic, present, or future information about SMX's business, business plans, pricing, customers, strategies, trade secrets, operations, records, finances, assets, technology, algorithms, data and information that reveals the processes, designs, methodologies, technology or know how by which SMX's existing or future products, services, applications and methods of operation are developed, conducted or operated, or any information which, by its nature or the circumstances surrounding its disclosure, is or could reasonably be expected to be, regarded as confidential to SMX, but shall not include information that:

- (a) is or becomes available to Lionheart or any of its Representatives on a non-confidential basis from a source (other than SMX or any of its Representatives) which, to Lionheart's knowledge, is not prohibited from disclosing such information to Lionheart;
- (b) is known to Lionheart or any of its Representatives prior to disclosure by SMX or any of its Representatives;
- (c) is or has been independently developed by Lionheart without use of any information furnished to it by SMX (where Lionheart can prove the same in writing); or
- (d) is transmitted by SMX after delivery of notice by Lionheart that it no longer wishes to receive SMX Confidential Information.

SMX Constitution means the constitution of SMX.

SMX Convertible Notes means the A\$828,240 convertible notes issued by SMX in May 2022.

SMX Convertible Note Amendment Agreement means an agreement between SMX and each holder of SMX Convertible Notes on terms agreed by SMX and Lionheart prior to the date of this document.

SMX Data Room means the information provided by SMX in the data room for the purposes of Lionheart Group, on or before 25 July 2022.

SMX Disclosure Letter means SMX's disclosure letter to Lionheart, dated as of the date hereof and delivered in connection with this document.

SMX Employee Plans means the SMX 2018 Share Option Plan and the SMX Israel Global Share Incentive Plan (2016), on the terms set out in Data Room Section I.

SMX Group means SMX and its Subsidiaries.

SMX Group Intellectual Property means any Intellectual Property which has been developed by, for or on behalf of a member of SMX Group or which is otherwise owned by a member of SMX Group.

SMX Indemnified Parties means SMX, its directors and officers and its Related Bodies Corporate and the directors and officers of each of its Related Bodies Corporate.

SMX Information means:

- (a) all information contained in the Scheme Booklet (and any supplementary disclosure to SMX Shareholders and SMX Optionholders in respect of the Schemes) other than the Lionheart Information, the Independent Expert's Report and the Investigating Accountant's Report, and
- (b) all information relating to SMX Group and the Merged Group (excluding any Lionheart Information contained in or used in the preparation of the Merged Group Information) contained in the Lionheart Registration/Proxy Statement and specifically provided by SMX to Lionheart in writing for inclusion in the Lionheart Registration/Proxy Statement.

SMX Israel means SMX Security Matters Ltd. (Israel Corporate Number 515125771).

SMX Material Adverse Effect means any event, matter or circumstance which has, or would be reasonably likely to have, either individually or when aggregated with any other events, matters or circumstances, a material adverse effect on the assets and liabilities (taken as a whole), financial condition, business or results of operations of the SMX Group (taken as a whole) but does not include events, matters or circumstances to the extent resulting from or arising out of:

- (a) changes in general economic, industry, regulatory or political conditions, the securities or other capital markets in general or law;
- (b) any epidemic, pandemic (including COVID-19 or COVID-19 Measures), hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing);
- (c) geopolitical conditions, hostilities, civil or political unrest, any acts of war, sabotage, or terrorism (including any outbreak, escalation or worsening of any of the foregoing);
- (d) any change in taxation rates, interest rates or exchange rates;
- (e) any change in generally accepted accounting principles or the authoritative interpretation of them;
- (f) the taking of any action required under this document, the BCA, the Schemes or the transactions contemplated by them, including the Transactions (other than, to

the extent not excluded by another clause of this definition, SMX's compliance with its obligations pursuant to clause 9);

- (g) any change in the market price or trading volume of SMX Shares (but this exception will not prevent the underlying cause or contributing factor of any such change, if not falling within any other exception in this definition, from being taken into account in determining whether there has been an SMX Material Adverse Effect);
- (h) any failure, in and of itself, by SMX or a member of the SMX Group to meet any internal or published projections, forecasts, estimates or predictions of revenues, earnings or other financial or operating metrics for any period (but this exception will not prevent the underlying cause or contributing factor of any such failure, if not falling within any other exception in this definition, from being taken into account in determining whether there has been an SMX Material Adverse Effect);
- (i) the execution, delivery or performance of this document or the BCA, or the announcement of the Schemes or the other transactions contemplated by this document or the BCA (including the impact of any of the foregoing on the relationship of SMX or a member of the SMX Group with their respective employees, customers, creditors, suppliers or contractual counterparties), provided that this clause (i) shall not apply with respect to any representation or warranty that addresses the consequences of the execution, delivery or performance of this document or the announcement of the Schemes or the other transactions contemplated by this document or the BCA or with respect to the Conditions Precedent that relate to such representations or warranties;
- (j) the identity of, or any facts or circumstances relating to, Lionheart or any member of the Lionheart Group;
- (k) actions, suits or claims arising from allegations of a breach of fiduciary duty or violation of securities laws, in each case relating to this document, the Schemes or the BCA or the transactions contemplated by this document or the BCA; or
- (l) any action (or the failure to take any action) with the written consent or at the written request of Lionheart,

except, in the case of each of the foregoing clauses (a), (b), (c), (d) and (e), if the effects of such events, matters or circumstances are disproportionately adverse to the SMX Group as compared to the effects on other companies in the industry in which the SMX Group operates, and then solely to the extent of such disproportionate effect.

SMX Optionholder has the meaning given in the Option Scheme.

SMX Options means all of the unlisted options issued by SMX (being 39,607,007 SMX Options as at the date of this deed), but excluding the ESOP Options and the Legacy Performance Options.

SMX Prescribed Event means, except to the extent contemplated by this document, the BCA, the Schemes, or any other Transaction Document, any of the following events:

- (a) (**conversion**) SMX converts all or any of its shares into a larger or smaller number of shares;

- (b) **(reduction of share capital)** SMX or another member of the SMX Group (other than a wholly owned Subsidiary of SMX) resolves to reduce its share capital in any way or resolves to reclassify, combine, split or redeem or repurchase directly or indirectly any of its shares;
- (c) **(buy-back)** SMX or another member of the SMX Group (other than a wholly owned Subsidiary of SMX):
 - (i) repurchases, redeems or otherwise acquires any shares of capital stock of SMX, or agrees to do any of the foregoing;
 - (ii) enters into a buy-back agreement; or
 - (iii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(distribution)** SMX makes or declares, or announces an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie);
- (e) **(issuing or granting shares or options)** any member of the SMX Group:
 - (i) issues shares;
 - (ii) grants an option over its shares; or
 - (iii) agrees to make an issue of or grant an option over shares,

in each case to a person that is not SMX or a wholly owned Subsidiary of SMX other than an issue of SMX Shares due to the exercise of the SMX Options, ESOP Options or Legacy Performance Options on issue at the date of this deed or the conversion of the SMX Convertible Notes on issue at the date of this deed;
- (f) **(securities or other instruments)** any member of the SMX Group issues or agrees to issue securities or other instruments convertible into shares in each case to a person that is not SMX or a wholly owned Subsidiary of SMX;
- (g) **(constitution)** SMX or any non-wholly owned Subsidiary of SMX adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (h) **(acquisitions, disposals or tenders)** any member of the SMX Group:
 - (i) acquires or disposes of;
 - (ii) agrees to acquire or dispose of; or
 - (iii) offers, proposes, announces a bid or tenders for,

any business, entity or undertaking or assets (other than, in the case of assets, in the ordinary course of business consistent with past practice and which would not be material to the SMX Group in the aggregate);
- (i) **(encumbrances)** any member of the SMX Group creates, or agrees to create, any Encumbrance over or declares itself the trustee of all or a material part of the SMX Group's business or property;

- (j) **(merger)** any member of the SMX Group merges or consolidates with any other person (other than a wholly owned Subsidiary of SMX) or restructures, reorganises or completely or partially liquidates or dissolves;
- (k) **(Insolvency)** any member of the SMX Group becomes Insolvent,

provided that an SMX Prescribed Event will not include any matter:

- (l) that is expressly required or permitted by this document, the Scheme, the BCA, or the other Transaction Documents;
- (m) Disclosed to Lionheart;
- (n) except in the case of forgoing clause (k) **(Insolvency)**, required by law, regulation, changes in generally accepted accounting principles or by an order of a court or Governmental Authority;
- (o) made at the written request of Lionheart; or
- (p) the undertaking of which Lionheart has approved in writing (which approval will not be unreasonably withheld, delayed or conditioned, and will not be withheld if to do so would contravene competition laws).

SMX Representations and Warranties means the representations and warranties of SMX set out in clause 13.1.

SMX Share means an ordinary fully paid share in the capital of SMX.

SMX Shareholder means each person registered in the Register as a holder of a SMX Share.

SMX Superior Proposal means a genuine SMX Competing Transaction (other than an SMX Competing Transaction which has resulted from a material breach of SMX's obligations under clause 10), which the SMX Board, acting in good faith, and after taking advice from its outside legal adviser and financial adviser, determines is:

- (a) reasonably likely of being completed on a reasonable timeline; and
- (b) of a higher financial value and more favourable to SMX Shareholders than the Scheme (as may be revised in accordance with clause 10.8, if applicable), in each case taking into account all aspects of the SMX Competing Transaction, including the terms of the SMX Competing Transaction, the price and/or value of the SMX Competing Transaction, any conditions, timing considerations and any other matters affecting the probability of the SMX Competing Transaction being completed in accordance with its terms, the identity, expertise, reputation and financial condition of the person making the proposal, and legal, regulatory and financial matters.

SPAC Merger Effective Time has the meaning ascribed to such term in the BCA.

Subscription Agreements has the meaning ascribed to such term in the BCA.

Subsidiary of an entity means another entity which:

- (a) is a subsidiary of the first entity within the meaning of the Corporations Act; and

- (b) is part of a consolidated entity constituted by the first entity and the entities it is required to include in the consolidated financial statements it prepares, or would be if the first entity was required to prepare consolidated financial statements.

Surviving Lionheart has the meaning ascribed to the term “Surviving SPAC” in the BCA.

Takeovers Panel means the Australian Takeovers Panel.

Tax means any tax, levy, charge, excise, GST, impost, rates, Duty, fee, deduction, compulsory loan or withholding, which is assessed, levied, imposed or collected by any fiscal Governmental Authority and includes any interest, fine, penalty, charge, fee, expenses or other statutory charges or any other such amount imposed by any fiscal Governmental Authority on or in respect of any of the above.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth), or both as the context requires.

Tax Law means a law with respect to or imposing any Tax.

Tax Return means any computation, return or document relating to Tax including any which must be lodged with a Governmental Authority or which a taxpayer must prepare and retain under a Tax Law (such as an activity statement, amended return, schedule or election and any attachment).

Timetable means the timetable set out in Schedule 1, subject to any amendments agreed by the parties in writing.

Transactions has the meaning ascribed to such term in the BCA.

Transaction Documents means the BCA and the Ancillary Agreements (as defined in the BCA).

Transfer Tax means any sales, use, value-added, business, goods and services, transfer (including any stamp duty or other similar Tax chargeable in respect of any instrument transferring property), documentary, conveyancing or similar Tax or expense or any recording fee, in each case that is imposed as a result of the Transactions, together with any penalty, interest and addition to any such item with respect to such item; provided, however, for the avoidance of doubt, the term Transfer Tax shall not include any income Tax or similar Tax imposed on any direct or indirect equity holder of Lionheart, Parent, or SMX.

Treasury Regulations means the United States Treasury regulations promulgated under the Code.

Trust Fund means the trust account maintained pursuant to that certain Investment Management Trust Agreement, by and between Continental Stock Transfer & Trust Company (the “**Trustee**”) and Lionheart, dated as of November 3, 2021 (such agreement, the “**Trust Agreement**”).

Voting Power has the meaning given in section 610 of the Corporations Act.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) the singular includes the plural and vice versa;
- (b) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (c) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (d) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (e) a reference to a time of day is a reference to the time in Melbourne, Victoria;
- (f) a reference to dollars, \$ or A\$ is a reference to the currency of Australia, and US\$ is a reference to the currency of the United States of America;
- (g) a reference to “**law**” includes common law, principles of equity and legislation (including regulations);
- (h) a reference to any “**legislation**” includes regulations under it and any consolidations, amendments, re-enactments or replacements of the law or any of them;
- (i) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations); and
- (j) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually.

2. Agreement to propose and implement Scheme and Option Scheme

2.1 SMX to propose Scheme and Option Scheme

SMX agrees to propose the Scheme and Option Scheme on and subject to the terms and conditions of this document.

2.2 Acquirer

The parties agree that Parent will acquire SMX under the Scheme and Parent will provide or procure the provision of the Scheme Consideration in the manner and amount contemplated by clause 4.3 and the terms of the Scheme.

2.3 Agreement to implement Scheme

The parties agree to implement the Scheme and the Option Scheme on the terms and conditions of this document.

3. Conditions Precedent

3.1 Conditions Precedent to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Parent under clause 4.3 are not binding, until each of the following Conditions Precedent is satisfied or waived to the extent and in the manner set out in this clause 3.

Condition Precedent		Party entitled to benefit	Party responsible
	<p>(a) (Lionheart Registration Statement and Lionheart Shareholder Approval)</p> <p>By 8.00am on the Second Court Date:</p> <p>(i) The Lionheart Registration Statement shall have been declared effective under the Securities Act and shall not be the subject of any stop order or proceedings seeking a stop order that has not been withdrawn or revoked by 8.00 am on the Second Court Date; and</p> <p>(ii) Lionheart Shareholders approve the Lionheart Proposals by the requisite majorities in accordance with the Listing Rules of NASDAQ, Lionheart's Certificate of Incorporation, the Delaware General Corporation Law and the Lionheart Proxy Statement.</p>	Lionheart	Lionheart
	<p>(b) (SMX Shareholder Approval)</p> <p>SMX Shareholders approve:</p> <p>(i) the Scheme by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act at the Scheme Meeting; and</p> <p>(ii) the Capital Reduction by the requisite majority under the Corporations Act at the General Meeting.</p>	Cannot be waived	SMX
	<p>(c) (Court approval) The Court approves the Scheme in accordance with section 411(4)(b) of the</p>	Cannot be waived	SMX

	Corporations Act.		
	(d) (Regulatory Approvals) All material Regulatory Approvals which Lionheart and SMX (acting reasonably) agree are necessary or desirable to implement the Scheme and the Transactions are obtained and those approvals have not been withdrawn or revoked by 8.00am on the Second Court Date.	All	All
	(e) (Government Intervention) As at 8.00am on the Second Court Date there is not in effect any order, temporary restraining order, preliminary or permanent injunction, decree or ruling issued by a court of competent jurisdiction or Governmental Authority, enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Scheme or the Transactions.	All	All
	(f) (Independent Expert) The Independent Expert issues the Independent Expert's Report, which concludes that the Capital Reduction and Scheme is in the best interests of SMX Shareholders on or before the date on which the Scheme Booklet is registered by ASIC under the Corporations Act.	SMX	SMX
	(g) (No SMX Prescribed Event) No SMX Prescribed Event occurs between the date of this document and 8.00am on the Second Court Date.	Lionheart	SMX
	(h) (Performance of Obligations by SMX and Parent) As at 8.00am on the Second Court Date each member of the SMX Group and Parent shall have performed or complied in all material respects with the obligations, covenants, and agreements required to be performed or complied with by it under this document prior to 8.00am on the Second Court Date.	Lionheart	SMX and Parent
	(i) (SMX Representations and Warranties and Parent)	Lionheart	SMX and Parent

	<p>Representations and Warranties)</p> <p>(i) The SMX Representations and Warranties set out in clauses 13.1(a), 13.1(b)(i), 13.1(c)(i), 13.1(e), 13.1(f), 13.1(o)(ii), 13.1(q) and 13.1(v), are true and correct (A) in the case of such representations and warranties qualified by materiality or SMX Material Adverse Effect, in all respects, and (B) in the case of such representations and warranties not so qualified, in all material respects, in each case as of the date of this document and as of 8.00am on the Second Court Date, except where expressed to be operative at another date;</p> <p>(ii) the SMX Representation and Warranty set out in clause 13.1(o)(i) is true and correct in all respects as of the date of this document;</p> <p>(iii) the SMX Representation and Warranty set out in clause 13.1(o)(iii) is true and correct in all but de minimis respects as of the date of this document;</p> <p>(iv) all other SMX Representations and Warranties (disregarding all qualifications and exceptions contained therein relating to materiality or SMX Material Adverse Effect) are true and correct as of the date of this document and as of 8.00am on the Second Court Date, except where expressed to be operative at another date and except where the failure of such SMX Representations and Warranties to be true and correct has not and would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect; and</p> <p>(v) the Parent Representations and Warranties are true and correct in all material respects as at the date of this document and on each subsequent day until and including 8.00am on the Second Court Date, except where expressed to be operative at another date.</p>		
	<p>(j) (No Lionheart Prescribed Event) No Lionheart Prescribed Event occurs</p>	SMX	Lionheart

	between the date of this document and 8.00am on the Second Court Date.		
(k)	(Performance of Obligations by Lionheart) As at 8.00 am on the Second Court Date, Lionheart Group shall have performed or complied in all material respects with the obligations, covenants, and agreements required to be performed or complied with by it under this document prior to 8.00am on the Second Court Date.	SMX	Lionheart
(l)	(Lionheart Representations and Warranties) (vi) The Lionheart Representations and Warranties set out in clause 13.3(a), 13.3(b)(i), 13.3(c)(i), 13.3(e), 13.3(n)(ii), 13.3(o), 13.3(p), 13.3(s) are true and correct (A) in the case of such representations and warranties qualified by materiality or Lionheart Material Adverse Effect, in all respects, and (B) in the case of such representations and warranties not so qualified, in all material respects, in each case as of the date of this document and as of 8.00am on the Second Court Date, except where expressed to be operative at another date; (vii) the Lionheart Representations and Warranties set out in clause 13.3(n)(i) are true and correct in all respects as of the date of this document; and (viii) all other Lionheart Representations and Warranties (disregarding all qualifications and exceptions contained therein relating to materiality or Lionheart Material Adverse Effect) are true and correct as of the date of this document and as of 8.00am on the Second Court Date, except where expressed to be operative at another date and except where the failure of such Lionheart Representations and Warranties to be true and correct has not and would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect.	SMX	Lionheart

(m)	(NASDAQ Quotation) Before 8.00am on the Second Court Date, the Parent Shares and the Parent Public Warrants have been approved for quotation on NASDAQ, subject only to official notice of issuance.	All	Lionheart and Parent
(n)	(SMX Material Adverse Effect) No SMX Material Adverse Effect has occurred between the date of this document and 8.00am on the Second Court Date.	Lionheart	SMX
(o)	(Lionheart Material Adverse Effect) No Lionheart Material Adverse Effect has occurred between the date of this document and 8.00am on the Second Court Date.	SMX	Lionheart
(p)	(Transaction Documents) (i) Each of the Transaction Documents referenced in Section [8.02(e)] of the BCA shall have been delivered to Lionheart in accordance with the terms of the BCA and (ii) each of the Transaction Documents referenced in Section [8.03(e)] of the BCA shall have been delivered to SMX in accordance with terms of the BCA.	With respect to (i), Lionheart and with respect to (ii), SMX	All
(q)	(Parent Net Tangible Assets) At 8.00 am on the Second Court Date: (i) Lionheart and SMX shall have, collectively at least US\$5,000,001 of net tangible assets (as determined in accordance with Rule 3a51-1(g)(1) of the Exchange Act); and (ii) Parent shall be reasonably expected to have, immediately following the Implementation Date and assuming all eligible Lionheart Shareholders exercise Redemption Rights in full in accordance with the SPAC Certificate of Incorporation, at least US\$5,000,001 of net tangible assets (as determined in accordance with 3a51-1(g)(1) of the Exchange Act).	All	All
(r)	(Composition Agreement/SEAS) By 8.00am on the Second Court Date, Parent has entered into a composition	All	All

	agreement with the Revenue Commissioners of Ireland and a Special Eligibility Agreement for Securities with the Depository Trust Company in respect of the Parent Shares and Parent Warrants, both of which are in full force and effect and are enforceable in accordance with their terms.		
(s)	(Foreign private issuer status) By 8.00am on the Second Court Date, Parent shall have received evidence satisfactory (being the stockholder list and an asset list to demonstrate non-US stockholders and assets) to Parent (acting reasonably) that Parent qualifies as a foreign private issuer pursuant to Rule 3b-4 of the Exchange Act as of 8.00am on the Second Court Date and Parent has not received any written objection to such determination.	All	All
(t)	(Option Scheme) All of the Option Scheme Conditions are satisfied or waived in accordance with the requirements of this deed, other than the Option Scheme Condition in clause 3.2(e).	Lionheart	All
(u)	(SMX securities) by 8.00 am on the Second Court Date: (i) SMX and Parent have complied with their obligations under clause 4.7 in relation to Legacy Performance Options, the ESOP Options and any Excluded SMX Options; (ii) Option Cancellation or Exercise Agreements have been duly executed and exchanged by the parties thereto and are legally binding and effective, in respect of all Legacy Performance Options, ESOP Options and Excluded SMX Options so that there are no ESOP Options, Legacy Performance Options or Excluded SMX Options which are not the subject of an Option Cancellation or Exercise Agreement; (iii) SMX has complied with its obligations under clause 4.8, in respect of the SMX Convertible Notes; and (iv) The SMX Convertible Note Amendment	Lionheart	SMX and Parent

	Agreement has been duly executed and exchanged by the parties thereto and is legally binding and effective, in respect of all SMX Convertible Notes, so that there are no SMX Convertible Notes which are not subject to the Convertible Note Amendment Agreement.		
(v)	(Executive Employment Agreements) By 8.00am on the Second Court Date, neither of the Executive Employment Agreements shall have been terminated.	Lionheart	SMX
(w)	(Parent Board Approval) By 8.00am on the Second Court Date, the board of directors of the Parent has approved the issuance of the Parent Shares to be issued as Scheme Consideration.	Cannot be waived.	SMX and Parent

3.2 Conditions to Option Scheme

Subject to this clause 3, the Option Scheme will not become Effective, and the obligations of Parent under clause 5.2 are not binding, until each of the following Conditions Precedent is satisfied or waived to the extent and in the manner set out in this clause 3.

Condition Precedent		Party entitled to benefit	Party responsible
(a)	(SMX Optionholder Approval) SMX Optionholders approve the Option Scheme by the requisite majorities under section 411(4)(a)(i) of the Corporations Act at the Option Scheme Meeting.	Cannot be waived	SMX
(b)	(Court approval) The Court approves the Option Scheme in accordance with section 411(4)(b) of the Corporations Act.	Cannot be waived	SMX
(c)	(Regulatory Approvals) All Regulatory Approvals which Lionheart and SMX (acting reasonably) agree are necessary or desirable to implement the Option Scheme are obtained and those	All	All

	approvals have not been withdrawn or revoked by 8.00am on the Second Court Date.		
	(d) (Government Intervention) As at 8.00am on the Second Court Date there is not in effect any order, temporary restraining order, preliminary or permanent injunction, decree or ruling issued by a court of competent jurisdiction or Governmental Authority, enjoining, restraining or otherwise imposing a legal restraint or prohibition preventing the Option Scheme.	All	All
	(e) (Scheme) The Scheme becoming Effective.	All	All
	(f) (Parent Board Approval) By 8.00am on the Second Court Date, the board of directors of the Parent has approved the issuance of the Parent Shares to be issued as Cancellation Consideration.	Cannot be waived.	SMX and Parent

3.3 Reasonable Best Efforts

Each of SMX, Parent and Lionheart agrees to use all reasonable best efforts to procure that:

- (a) each of the Conditions Precedent for which it is a party responsible (as noted in clauses 3.1 and 3.2):
 - (i) is satisfied as soon as practicable after the date of this document; and
 - (ii) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
- (b) to the extent that it is within its control or influence, there is no occurrence that would prevent the Condition Precedent for which it is a party responsible being satisfied.

3.4 Regulatory matters

- (a) Without limiting clause 3.3, each party:
 - (i) **(applying for Regulatory Approvals)** must promptly apply for or file all relevant Regulatory Approvals for which it is the party responsible and provide the other parties with a copy of those applications or notifications (provided that any commercially sensitive information may be redacted from the copy provided);

- (ii) (**assistance**) agrees to provide reasonable assistance to the other parties in order to enable the other parties to obtain any Regulatory Approvals for which the other party is the party responsible;
- (iii) (**Regulatory Approvals process**) must take all steps it is responsible for as part of the Regulatory Approval process, including responding to requests for information and documentary material at the earliest practicable time;
- (iv) (**representation**) has the right to be represented and make submissions at any meeting with any Governmental Authority relating to a Regulatory Approval; and
- (v) (**consultation**) must consult with the other parties in advance in relation to all applications and other communications (whether written or oral, and whether direct or via a Representative) with any Governmental Authority relating to any Regulatory Approval and keep the other parties fully informed of progress in relation to the obtaining of the Regulatory Approval and:
 - (A) provide the other parties with drafts of any applications and other written communications to be sent to a Governmental Authority and make any amendments as the other party reasonably requires; and
 - (B) provide copies of any written communications sent to or received from a Governmental Authority to the other parties promptly upon despatch or receipt (as the case may be),

in each case to the extent it is reasonable to do so.

- (b) Before providing any document or other information to the other parties (in this clause 3.4(b), the “**Recipient**”) pursuant to clause 3.4(a) or 9.7, a party (in this clause 3.4(b), the “**Discloser**”) may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (“**Sensitive Commercial Information**”) if the Discloser reasonably believes that:
 - (i) the Sensitive Commercial Information is of a commercially sensitive nature; or
 - (ii) the disclosure of the Sensitive Commercial Information to the Recipient would be damaging to the commercial or legal interests of the Discloser or any of its related bodies corporate,

and may provide the document or disclose the information to the Recipient with any Sensitive Commercial Information redacted or excluded, provided that, where Sensitive Commercial Information is so redacted or excluded, the Discloser must provide the Recipient with as much detail about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing the Sensitive Commercial Information, and provide to the Recipient’s external legal counsel a complete and unredacted version of the document or information, on the basis that the Recipient’s external legal counsel will not share any information that is marked as Sensitive Commercial Information.

3.5 Lionheart Shareholder Approval

Without limiting clause 3.3:

- (a) as soon as reasonably practicable after the date of this document, Parent shall prepare and file the preliminary Lionheart Registration/Proxy Statement with the SEC and must use reasonable best efforts to make this filing as promptly as practicable but in any event no later than 25 Business Days of the date of this document;
- (b) subject to clause 7.2, Parent shall include in the Lionheart Proxy Statement a statement by the Lionheart Board recommending that Lionheart Shareholders vote in favour of the Lionheart Proposals;
- (c) Lionheart and SMX shall furnish all information concerning itself and its affiliates that is required to be included in the Lionheart Registration/Proxy Statement or that is requested by the other party and customarily included in proxy statements and/or registration statements prepared in connection with transactions of the type contemplated by this document, and each of Lionheart and SMX will use reasonable best efforts to ensure that none of the information supplied or to be supplied by it for inclusion in or incorporation by reference into the Lionheart Registration/Proxy Statement will, at the date the Lionheart Registration/Proxy Statement or any amendment or supplement thereto is filed with the SEC, declared effective by the SEC or the Lionheart Proxy Statement or any amendment or supplement thereto is mailed to the Lionheart Shareholders or at the time of the Lionheart Shareholder Meeting, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;
- (d) Prior to the effectiveness of the Lionheart Registration/Proxy Statement, if requested by Lionheart, SMX will cause BDO Audit Pty Ltd, auditors to SMX, to address and deliver to Lionheart a customary comfort letter, in form and substance reasonably satisfactory to Lionheart.
- (e) Parent shall consult with Lionheart as to the content and presentation of the Lionheart Registration/Proxy Statement, including:
 - (i) providing to Lionheart drafts of the Lionheart Registration/Proxy Statement within a reasonable time prior to the initial filing thereof with the SEC for the purpose of enabling Lionheart to review and comment on the draft document and considering in good faith any timely and reasonable comments; and
 - (ii) providing to Lionheart drafts of each subsequent filing of or amendment or supplement to Lionheart Registration/Proxy Statement within a reasonable time before filing any such revised document with the SEC or disseminating the Lionheart Proxy Statement to Lionheart Shareholders for the purpose of enabling Lionheart to review and comment on the draft document and considering in good faith any timely and reasonable comments;
- (f) Parent shall promptly respond to, and use reasonable best efforts to cause to be resolved, any requests for information or comments from the SEC (including by filing amendments or supplements to the Lionheart Registration/Proxy Statement)

in relation to the Lionheart Registration/Proxy Statement as soon as reasonably practicable;

- (g) Parent shall keep Lionheart reasonably informed of any matters raised or comments provided by the SEC in relation to the Lionheart Registration/Proxy Statement, and shall in good faith take into consideration in resolving such matters any issues raised by Lionheart;
- (h) if, at any time prior to the Lionheart Shareholder Meeting, any information relating to Lionheart or SMX or any of their respective affiliates, officers or directors should be discovered by Lionheart or SMX that should be set forth in an amendment or supplement to the Lionheart Registration/Proxy Statement, so that the Lionheart Registration/Proxy Statement would not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they are or were made, not misleading, the party that discovers such information shall promptly notify the other party and an appropriate amendment or supplement describing (or correcting) such information shall be prepared and, following a reasonable opportunity for the other party (and its counsel) to review and comment on such amendment or supplement, promptly filed with the SEC and, to the extent required by applicable law, disseminated to Lionheart Shareholders;
- (i) Lionheart shall file the Lionheart Proxy Statement with the SEC in definitive form and begin mailing the Lionheart Proxy Statement to holders of Lionheart Shares as soon as practicable after the later of (1) the date on which Lionheart learns that the SEC has no further comments on, or does not intend to review, the Lionheart Registration/Proxy Statement, and (2) the date of effectiveness of the Lionheart Registration Statement under the Securities Act (such later date, the **"Clearance Date"**);
- (j) Parent shall use reasonable best efforts to have the Lionheart Registration Statement declared effective by the staff of the SEC under the Securities Act as promptly as practicable after its initial filing with the SEC and to keep the Lionheart Registration Statement effective as long as necessary to implement and consummate the Scheme;
- (k) Lionheart shall convene and hold the Lionheart Shareholder Meeting to obtain the Lionheart Shareholder Approval as promptly as practicable but in any event no later than 30 Business Days after the Clearance Date (unless prohibited by the SEC, in which case Lionheart shall convene and hold the Lionheart Shareholder Meeting at the earliest possible date permitted by the SEC);
- (l) Lionheart shall not propose any matters to be voted on at the Lionheart Shareholder Meeting other than the matters contemplated by this document in connection with the Lionheart Shareholder Approval (and any matters of procedure to be voted on by the Lionheart Shareholders in connection therewith);
- (m) except as required by law or a Governmental Authority, Lionheart may not adjourn or postpone the Lionheart Shareholder Meeting without the prior consent of SMX, provided, however, that Lionheart may, without the consent of SMX and in accordance with Lionheart's charter, law and, if relevant, the consent of any Governmental Authority, adjourn or postpone the Lionheart Shareholder Meeting (1) for the absence of a quorum, (2) to the extent necessary to ensure that any required (or, as determined by the Lionheart Board acting reasonably and in good

faith after consulting with outside counsel and having first consulted with SMX, advisable) supplement or amendment to the Lionheart Registration/Proxy Statement is provided to the Lionheart Shareholders or (3) to the extent necessary to solicit additional proxies from the Lionheart Shareholders (provided to the Lionheart has determined in good faith that such adjournment or postponement is reasonably necessary to obtain the Lionheart Shareholder Approval), with such postponement or adjournment to extend for no longer than the 10th Business Day after the original date of the Lionheart Shareholder Meeting other than to the extent required by law); and

- (n) unless this document shall have been terminated in accordance with clause 14, Lionheart must hold the Lionheart Shareholder Meeting pursuant to this clause 3.5 and submit the Lionheart Proposals for the approval of the Lionheart Shareholders.

3.6 Waiver of Conditions Precedent

- (a) A Condition Precedent may only be waived in writing by the party or parties entitled to the benefit of that Condition Precedent as and to the extent noted in clause 3.1 or 3.2 and will be effective only to the extent specifically set out in that waiver.
- (b) A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.6 may do so in its absolute discretion.
- (c) If any of SMX, Parent or Lionheart waives the breach or non-fulfilment of all or any portion of a Condition Precedent in accordance with this clause 3.6, then:
 - (i) subject to clause 3.6(c)(ii), that waiver precludes that party from suing the other parties for any breach of this document arising as a result of the breach or non-fulfilment of that portion of such Condition Precedent or arising from the same event which gave rise to the breach or non-fulfilment of that portion of such Condition Precedent; but
 - (ii) if the waiver of all or any portion of the Condition Precedent is itself conditional and the other parties:
 - (A) accept the condition, the terms of that condition apply notwithstanding any inconsistency with clause 3.6(c)(i); or
 - (B) do not accept the condition, the Condition Precedent or a portion thereof has not been waived.
- (d) A waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:
 - (i) a waiver of a breach or non-fulfilment of any other Condition Precedent arising from the same event; or
 - (ii) a waiver of a breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.7 Notices in relation to Conditions Precedent

Each party must:

- (a) **(notice of satisfaction)** promptly notify the other party of satisfaction of a Condition Precedent and must keep the other parties informed of any material development of which it becomes aware that may lead to the breach or non-fulfilment of a Condition Precedent which it is responsible for satisfying; and
- (b) **(notice of failure)** promptly notify the other parties of a breach or non-fulfilment of a Condition Precedent which it is responsible for satisfying, or of any event which will prevent the Condition Precedent being satisfied.

3.8 Consultation on failure of Condition Precedent

If:

- (a) there is a breach or non-fulfilment of a Condition Precedent which is not waived in accordance with this document by the time or date specified in this document for the satisfaction of the Condition Precedent; or
- (b) there is an act, failure to act or occurrence which will prevent a Condition Precedent from being satisfied by the time or date specified in this document for the satisfaction of the Condition Precedent (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this document),

the parties must consult in good faith with a view to determine whether both parties wish to pursue the Scheme and, if so:

- (c) whether the Scheme may proceed by way of alternative means or methods;
- (d) to extend the relevant time for satisfaction of the Condition Precedent or to adjourn or change the date of an application to the Court; or
- (e) to extend the End Date.

3.9 Failure to agree

If under clause 3.8 the parties are unable to reach agreement or do not both wish to pursue the Scheme in each case within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Second Court Date):

- (a) subject to clause 3.9(b), either party may terminate this document (and that termination will be in accordance with clause 14.1(f); or
- (b) if a Condition Precedent may be waived and exists for the benefit of one party only, that party only may waive that Condition Precedent or terminate this document (and that termination will be in accordance with clause 14.1(f)),

in each case before 8.00am on the Second Court Date.

A party will not be entitled to terminate this document under this clause if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of a breach of this document by that party or a deliberate act or omission of that party in breach of this document.

3.10 Scheme voted down because of the Headcount Test

If the Scheme is not approved by SMX Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and SMX or Lionheart consider, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then SMX must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as counsel engaged by SMX to represent it in Court proceedings related to the Scheme, in consultation with Lionheart, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Act by making an order to disregard the Headcount Test.

4. Outline

4.1 Capital Reduction and Scheme

SMX must propose the Capital Reduction and Scheme under which:

- (a) all of the SMX Shares held by Scheme Participants at the Record Date will be cancelled; and
- (b) each Scheme Participant will be entitled to receive the Scheme Consideration in exchange for the cancellation of their Scheme Shares.

4.2 Scheme Consideration

Subject to and in accordance with this document and the Scheme, each Scheme Participant will be entitled to receive the Scheme Consideration in respect of each Scheme Share comprising the number of New Parent Shares determined in accordance with the following formula:

$$NPS = \frac{N}{A + B + C}$$

where:

NPS is the number of New Parent Shares per Scheme Share;

A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and ESOP Options);

B is the total number of Option Exercise Shares to be issued on exercise of all Scheme Options on the basis of Cashless Exercise under this Option Scheme;

C is the total number of ESOP Options on issue as at the Record Date; and

N is 20,000,000.

4.3 Provision of Scheme Consideration

Subject to this document and the Scheme, Parent undertakes to SMX (in its own right and separately as trustee or nominee of each Scheme Participant) and Lionheart that, in consideration of the cancellation of each SMX Share held by a Scheme Participant pursuant to the Capital Reduction, on the Implementation Date, Parent will provide or procure the provision to each Scheme Participant of the Scheme Consideration in accordance with the Scheme, including issuing the Scheme Consideration in accordance with the Scheme.

4.4 Fractional elements

- (a) If the number of SMX Shares held by a Scheme Participant at the Record Date is such that the aggregate entitlement of the Scheme Participant to Scheme Consideration comprising Parent Shares includes a fractional entitlement to a Parent Share, the entitlement will be rounded as follows:
 - (i) if the fractional entitlement is less than 0.5, it will be rounded down to zero Parent Shares; and
 - (ii) if the fractional entitlement is equal to or more than 0.5, it will be rounded up to one Parent Share.
- (b) If Lionheart and SMX are of the opinion (acting reasonably) that two or more Scheme Participants (each of whom holds a number of SMX Shares which results in rounding in accordance with clause 4.4(a)) have, before the Record Date for the Scheme, been party to Share Splitting in an attempt to obtain unfair advantage by reference to such rounding, if requested by Lionheart, SMX must give notice to those Scheme Participants:
 - (i) setting out their names and registered addresses as shown in the Register;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the SMX Shares held by all of them,

and, after such notice has been given, the Scheme Participant specifically identified in the notice as the deemed holder of the specified SMX Shares will, for the purpose of the provisions of the Scheme, be taken to hold all of those SMX Shares and each of the other Scheme Participants whose names and registered addresses are set out in the notice will, for the purposes of the provisions of the Scheme, be taken to hold no SMX Shares. Parent, in complying with the provisions of the Scheme relating to it in respect of the Scheme Participant specifically identified in the notice as the deemed holder of all the specified SMX Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Participants named in the notice under the terms of the Scheme.

4.5 Ineligible Foreign Holders

- (a) Where an Ineligible Foreign Holder would otherwise be entitled to receive Parent Shares as Scheme Consideration pursuant to clause 4.3, Parent has no obligation to issue any Parent Shares to the Ineligible Foreign Holder, and instead:

- (i) Parent will issue to a nominee appointed by SMX any Parent Shares to which an Ineligible Foreign Holder would otherwise be entitled;
- (ii) Parent will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the nominee:
 - (A) sells or procures the sale of all of the Parent Shares issued to the nominee pursuant to clause 4.5(a)(i), in the ordinary course of trading on NASDAQ; and
 - (B) remits to Parent the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges); and
- (iii) promptly after the last sale of Parent Shares in accordance with clause 4.5(a)(ii)(A), Parent will pay to each Ineligible Foreign Holder an amount equal to the proportion of the net proceeds of sale received by Parent under clause 4.5(a)(ii)(B) to which that Ineligible Foreign Holder is entitled in full satisfaction of the Ineligible Foreign Holder entitlement to the relevant Parent Shares.
- (b) None of SMX, Parent or the relevant nominee gives any assurance as to the price that will be achieved for the sale of Parent Shares in accordance with this clause 4.5 and the sale of Parent Shares will be at the risk of the Ineligible Foreign Holder.

4.6 Parent Shares to rank equally

Parent covenants in favour of SMX (in its own right and separately as trustee or nominee of each Scheme Participant) that:

- (a) all Parent Shares issued as Scheme Consideration pursuant to clause 4.3 will, upon their issue:
 - (i) rank equally with all other Parent Shares then on issue;
 - (ii) be fully paid and free from any Encumbrance; and
- (b) The covenants set forth in Section 7.08 of the BCA are incorporated herein by reference.

4.7 Options

- (a) SMX and Parent must use reasonable best efforts to procure that as soon as reasonably practicable, and in any event within 20 Business Days after the date of this deed, each person who is a holder of an Excluded SMX Option, ESOP Option or a Legacy Performance Option enters into an Option Cancellation or Exercise Agreement with the relevant member of the SMX Group and Parent.
- (b) SMX must obtain a waiver from ASX of Listing Rule 6.23.2, as soon as reasonably practicable and in any event within 30 Business Days after the date of this deed, to allow for the cancellation of the Excluded SMX Options, ESOP Options and Legacy Performance Options in accordance with the applicable Option Cancellation or Exercise Agreements.

4.8 SMX Convertible Notes

- (a) SMX must use reasonable best efforts to procure that as soon as reasonably practicable, and in any event within 10 Business Days after the date of this deed, each holder of SMX Convertible Notes has entered into the SMX Convertible Note Amendment Agreement with SMX.
- (b) SMX must obtain from ASX such Listing Rule waivers, as are necessary to allow the amendment of the SMX Convertible Notes in accordance with the SMX Convertible Note Amendment Agreement, as soon as reasonably practicable and in any event within 30 Business Days after the date of this deed.

4.9 United States Tax Treatment

- (a) No Party has taken (or failed to take) any action or caused any action to be taken (or to fail to be taken) and will not take (or fail to take) any action or will cause any action to be taken (or to fail to be taken) (in each case other than any action provided for or prohibited by this deed), or has any knowledge of any fact or circumstance that could reasonably be expected to prevent the Lionheart Merger and the acquisition of the SMX Shares, as applicable, from qualifying for the Intended U.S. Tax Treatment.
- (b) Each Party agrees to act in good faith, consistent with the Intended U.S. Tax Treatment and will not take any position on any U.S. Tax Return or otherwise take any U.S. Tax reporting position inconsistent with the Intended U.S. Tax Treatment, unless otherwise required by applicable law or a “determination” within the meaning of Section 1313 of the Code that the Intended U.S. Tax Treatment is not correct.
- (c) After the date of this document and prior to the Implementation Date, Lionheart shall deliver, or cause to be delivered, to Parent a duly executed certificate and notice in compliance with Treasury Regulations Sections 1.897-2(h) and 1.1445-2(c)(3), certifying that Lionheart is not, and has not been at any time during the five year period ending on the Implementation Date, a “United States real property holding corporation” within the meaning of Section 897(c)(2) of the Code, together with any notifications to the U.S. Internal Revenue Service related thereto within the timeframe provided in Treasury Regulations Section 1.897-2(h)(2)(v).
- (d) After the date of this document and prior to the Implementation Date, (x) SMX shall and shall cause each SMX Subsidiary to, and (y) Lionheart shall:
 - (i) prepare, in the ordinary course of business consistent with past practice (except as otherwise required by a change in applicable Law), and timely file all Tax Returns required to be filed by it on or before the Implementation Date (“**Post-Signing Returns**”);
 - (ii) deliver drafts of such material Post-Signing Returns to the other parties no later than ten (10) Business Days prior to the date (including extensions) on which such Post-Signing Returns are required to be filed;
 - (iii) fully and timely pay all Taxes due and payable in respect of such Post-Signing Returns that are so filed;

- (iv) properly reserve (and reflect such reserve in its books and records and relevant financial statements), in the ordinary course of business consistent with past practice, for all Taxes payable by it for which no Post-Signing Return is due prior to the Implementation Date; and
 - (v) promptly notify the other Party of any material U.S. federal, state, local or non-U.S. income or franchise, action or audit pending or threatened in writing against or with respect to such Party or its subsidiaries in respect of any Tax matter.
- (e) Parent acknowledges that any Lionheart Shareholder (that is a United States person for purposes of Section 367 of the Code and the Treasury Regulations promulgated thereunder) who owns five percent (5%) or more of the ordinary shares of Parent immediately after the Implementation, as determined under Section 367 of the Code and the Treasury Regulations promulgated thereunder, may enter into (and cause to be filed with the IRS) a gain recognition agreement in accordance with Treasury Regulations Section 1.367(a)-8. Upon the written request of any such Lionheart Shareholder made following the Implementation Date, Parent shall (i) use reasonable best efforts to furnish to such Lionheart Shareholder such information as such Lionheart Shareholder reasonably requests in connection with such Lionheart Shareholder's preparation of a gain recognition agreement, and (ii) use reasonable best efforts to provide such Lionheart Shareholder with the information reasonably requested by such Lionheart Shareholder for purposes of determining whether there has been a gain "triggering event" under the terms of such Lionheart Shareholder's gain recognition agreement, in each case, at the sole cost and expense of such requesting Lionheart Shareholders.
- (f) Following the Implementation Date, Parent shall, or shall cause the Surviving Lionheart to, comply with the tax reporting obligations of Treasury Regulations Section 1.367(a)-3(c)(6).
- (g) Any Transfer Taxes incurred in connection with the Transactions shall be paid by Parent. Parent, Surviving Lionheart, and SMX shall cooperate in filing, when required by applicable Law, all necessary documentation and Tax Returns with respect to such Transfer Taxes.
- (h) For at least six (6) months following the Implementation Date, Parent shall:
 - (i) continue Lionheart's "historic business" (within the meaning of Treasury Regulations Section 1.368-1(d)(2)), or use a significant portion of Lionheart's "historic business assets" (within the meaning of Treasury Regulations Section 1.368-1(d)(3)) in a business; and
 - (ii) continue SMX's "historic business" (within the meaning of Treasury Regulations Section 1.368-1(d)(2)), or use a significant portion of SMX's "historic business assets" (within the meaning of Treasury Regulations Section 1.368-1(d)(3)) in a business.
- (i) Within two (2) years following the Implementation Date:
 - (i) Parent will not cause Surviving Lionheart to:
 - (A) dispose of more than 50% of the assets held by Lionheart at the Implementation Date pursuant to one or more distributions or other

transfers where Surviving Lionheart does not receive an exchange of net value in such transfer;

- (B) make any distribution or other transfer that fails to satisfy the requirements of Treasury Regulations Section 1.368-2(k)(1)(i) (in the case of a distribution), Treasury Regulations Section 1.368-2(k)(1)(ii) (in the case of a transfer other than a distribution); or
 - (C) otherwise take any action that would result in an actual or deemed liquidation of Surviving Lionheart for U.S. federal income tax purposes.
- (ii) Parent will not cause SMX to:
- (A) dispose of more than 50% of the assets held by SMX at the Implementation Date pursuant to one or more distributions or other transfers where SMX does not receive an exchange of net value in such transfer;
 - (B) make any distribution or other transfer that fails to satisfy the requirements of Treasury Regulations Section 1.368-2(k)(1)(i) (in the case of a distribution), Treasury Regulations Section 1.368-2(k)(1)(ii) (in the case of a transfer other than a distribution); or
 - (C) otherwise take any action that would result in an actual or deemed liquidation of SMX for U.S. federal income tax purposes.

4.10 No amendment to the Scheme without consent

SMX must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of Lionheart.

5. Option Scheme Structure

5.1 Option Scheme

SMX must propose the Option Scheme, as a creditors' scheme of arrangement, to be conducted concurrently with the Scheme under which:

- (a) all of the Scheme Options will be deemed to have been exercised on the basis of a Cashless Exercise without any further act by any Option Scheme Participant (other than acts performed as attorney and agent for Option Scheme Participants under the Option Scheme); and
- (b) all of the SMX Shares issued to each Option Scheme Participant as Option Exercise Shares will be cancelled in accordance with the Capital Reduction Resolution without any further act by any Option Scheme Participant (other than acts performed as agent of attorney for Option Scheme Participants under the Option Scheme).

5.2 Option Scheme Consideration

- (a) Subject to this document and the Option Scheme, SMX undertakes to Option Scheme Participants and Lionheart that, in respect of the Cashless Exercise of

each Scheme Option it will on the Implementation Date, issue the Option Exercise Shares in respect of each Scheme Option held by that Option Scheme Participant, in accordance with the Option Scheme.

- (b) Subject to this document and the Option Scheme, Parent undertakes to SMX (in its own right and separately as trustee or nominee of each Option Scheme Participant) and Lionheart that, in consideration of the cancellation of each SMX Share issued to each Option Scheme Participant as an Option Exercise Share under the Option Scheme, on the Implementation Date, Parent will provide or procure that the Cancellation Consideration in respect of each such SMX Share issued to the Option Scheme Participant under the Option Scheme, in accordance with the Option Scheme.
- (c) In order to facilitate the provision of the Cancellation Consideration, SMX must provide to Lionheart and Parent, a complete copy of the SMX Options register at the Option Scheme Record Date (which must include the name, registered address and registered holding of each Option Scheme Participant as at the Option Scheme Record Date), within one Business Day after the Option Scheme Record Date.

5.3 Ineligible Foreign Holder

Scheme Options held by Ineligible Foreign Holders will be dealt with in accordance with the terms of the Option Scheme.

5.4 Fractional elements

Fractional entitlements in respect of Option Exercise Shares and New Parent Shares arising under the under Option Scheme, will be dealt with in accordance with the terms of the Option Scheme.

5.5 Parent Shares to rank equally

Parent covenants in favour of SMX (in its own right and separately as trustee or nominee of each Option Scheme Participant) that:

- (a) all Parent Shares issued as Cancellation Consideration pursuant to clause 5.2(b) will, upon their issue:
 - (i) rank equally with all other Parent Shares then on issue;
 - (ii) be fully paid and free from any Encumbrance; and
- (b) The covenants set forth in [Section 7.08] of the BCA are incorporated herein by reference.

5.6 No amendment to Option Scheme without consent

SMX must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Option Scheme without the prior written consent of Lionheart.

6. Implementation

6.1 General obligations

SMX, Lionheart, and Parent must each:

- (a) use all reasonable best efforts and commit necessary resources (including management and corporate relations resources and the resources of external advisers);
- (b) procure that its officers and advisers work in good faith and in a timely and co-operative fashion with the other party (including by attending meetings and by providing information), with the aim of producing the Scheme Booklet and implementing the Scheme as soon as reasonably practicable and in accordance with the Timetable; and
- (c) comply with their respective obligations under the BCA.

6.2 SMX's obligations

SMX must take all reasonable steps to implement the Scheme in accordance with this document as soon as reasonably practicable and must:

- (a) **(announce directors' recommendation)** following execution of this document, announce, in the form contained in Annexure 7 (on the basis of statements made to SMX by each member of the SMX Board) that:
 - (i) the SMX Board intends to unanimously recommend to SMX Shareholders that the Capital Reduction and Scheme be approved; and
 - (ii) each SMX Board member who holds SMX Shares intends to vote his or her SMX Shares in favour of the Capital Reduction and Scheme,

subject to:

- (iii) the Independent Expert concluding, and continuing to conclude, that the Capital Reduction and Scheme is in the best interests of SMX Shareholders; and

- (iv) there being no SMX Superior Proposal;

and

- (v) the SMX Board intends to unanimously recommend to Option Scheme Participants that the Option Scheme be approved; and

- (vi) each SMX Board member who holds SMX Options intends to vote his or her SMX Options in favour of the Option Scheme,

subject to:

- (vii) the Independent Expert concluding, and continuing to conclude, that the Option Scheme is in the best interest of SMX Optionholders; and

- (viii) there being no SMX Superior Proposal.

- (b) **(preparation of Scheme Booklet)** subject to clause 6.2(i)(i), as soon as practicable after the date of this document, prepare and despatch the Scheme Booklet:
 - (i) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules; and
 - (ii) which includes a statement by the SMX Directors, subject to any withdrawal or change of recommendation by the SMX Board that is permitted by clause 7.3:
 - (A) unanimously recommending that SMX Shareholders vote in favour of the Capital Reduction and Scheme subject to the Independent Expert continuing to conclude that the Capital Reduction and Scheme is in the best interests of SMX Shareholders and there being no SMX Superior Proposal; and
 - (B) that each SMX Director who holds SMX Shares intends to vote his or her SMX Shares in favour of the Capital Reduction and Scheme subject to the Independent Expert continuing to conclude that the Capital Reduction and Scheme is in the best interests of SMX Shareholders and there being no SMX Superior Proposal;
 - (C) unanimously recommending that SMX Optionholders vote in favour of the Option Scheme subject to the Independent Expert continuing to conclude that the Option Scheme is in the best interests of SMX Optionholders and there being no SMX Superior Proposal;
- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide any assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare its report for the Scheme Booklet as soon as practicable;
- (d) **(Investigating Accountant)** jointly with Lionheart, appoint the Investigating Accountant and provide assistance and information reasonably required by the Investigating Accountant to enable it to prepare the Investigating Accountant's Report;
- (e) **(SMX information)** prepare and promptly provide to Parent and Lionheart any information that Parent or Lionheart reasonably requires regarding SMX, the SMX Group and the Merged Group for inclusion in the Lionheart Registration/Proxy Statement, and must use reasonable best efforts to ensure the SMX Information complies, in all material respects, with all applicable laws, including the Securities Act, including by conducting appropriate due diligence and verification processes in relation to it;
- (f) **(consent)** provide a consent and use reasonable best efforts to obtain consents from third parties in such form as Parent or Lionheart reasonably requires in relation to the form and context in which the SMX Information appears in the Lionheart Registration/Proxy Statement;
- (g) **(seek ASIC intent)** apply to ASIC for a letter indicating whether ASIC proposes to make submissions to the Court, or intervene to oppose the Schemes on the First Court Date;

- (h) **(section 411(17)(b) statement)** apply to ASIC for a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Schemes;
- (i) **(consultation with Lionheart)** consult with Lionheart as to the content and presentation of:
 - (i) the Scheme Booklet, which includes:
 - (A) allowing Lionheart a reasonable opportunity to review and make comments on successive drafts of the Scheme Booklet (accepting that any review of the Independent Expert's Report is limited to review for factual accuracy of those parts that include information relating to Lionheart or Parent and that SMX makes no representation as to the extent to which the Independent Expert will receive or consider those comments);
 - (B) taking any timely and reasonable comments made by Lionheart into account in good faith when producing a revised draft of the Scheme Booklet;
 - (C) providing to Lionheart a revised draft of the Scheme Booklet within a reasonable time before the draft of the Scheme Booklet which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act is finalised; and
 - (D) obtaining Lionheart's consent to the inclusion of the Lionheart Information (including in respect of the form and context in which the Lionheart Information appears in the Scheme Booklet (such consent must not be unreasonably withheld, delayed or conditioned)); and
 - (ii) documents required for the purposes of the Court hearings held for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating processes, affidavits, submissions and draft minutes of Court orders), and consider in good faith, for the purpose of amending drafts of those documents, any comments on, or suggested amendments to, those documents from Lionheart prior to filing those documents with the Court;
- (j) **(lodgement of Regulator's Draft)**
 - (i) no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Lionheart as promptly as practicable thereafter; and
 - (ii) keep Lionheart reasonably informed of any issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Lionheart in good faith prior to taking any steps or actions to address those issues (provided that, where those issues relate to Lionheart or any Lionheart Information, SMX must not take any steps to address them without Lionheart's prior written consent, not to be unreasonably withheld, delayed or conditioned);

(k) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, SMX becomes aware:

- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
- (ii) of information that is required to be disclosed to SMX Shareholders under any applicable law but was not included in the Scheme Booklet,

promptly consult with Lionheart in good faith as to the need for, and the form of, any supplementary disclosure to SMX Shareholders or SMX Optionholders, and make any disclosure that SMX considers reasonably necessary in the circumstances, having regard to applicable laws and to ensure that there would be no breach of clause 13.1(h)) if it applied as at the date that information arose;

(l) **(Court application)** apply to the Court for an order under section 411(1) of the Corporations Act directing SMX to convene the Scheme Meeting and the Option Scheme Meeting]

(m) **(Registration)** request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;

(n) **(send Scheme Booklet)** send the Scheme Booklet to SMX Shareholders as soon as practicable after the Court orders SMX to convene the Scheme Meeting and to SMX Optionholders as soon as practicable after the Court orders SMX to convene the Option Scheme Meeting;

(o) **(General Meeting)** convene the General Meeting in accordance with the Listing Rules and Corporations Act;

(p) **(Scheme Meeting)** convene the Scheme Meeting to agree to the Scheme in accordance with any orders made by the Court pursuant to section 411(1) of the Corporations Act;

(q) **(Option Scheme Meeting)** convene the Option Scheme Meeting in accordance with any orders made by the Court;

(r) **(Court approval)** subject to:

- (i) all Conditions Precedent in clause 3.1, other than sub-clauses 3.1(c) and 3.1(t), being satisfied or waived in accordance with this document; and
- (ii) unless the Condition Precedent in sub-clause 3.1(t) has been waived, all of the Option Scheme Conditions other than the Option Scheme Conditions in sub-clauses 3.2(b) and 3.2(e), being satisfied or waived in accordance with this document,

apply to the Court for:

- (iii) an order approving the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act; and

- (iv) unless Condition Precedent in sub-clause 3.1(t) has been waived, an order approving the Option Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act;
- (s) **(Conditions Precedent certificate)** at the hearing on the Second Court Date, provide to the Court (through its counsel):
 - (i) a certificate signed by one of its directors and made in accordance with a resolution of its board confirming (in respect of matters within SMX's knowledge) whether or not the Conditions Precedent in clause 3.1 for which it is responsible, as noted in clauses 3.1 (other than sub-clauses 3.1(c) and 3.1(t)), and unless the Condition Precedent in sub-clause 3.1(t) has been waived, the Option Scheme Conditions for which it is responsible, as noted in clause 3.2 (other than the Option Scheme Conditions in sub-clauses 3.2(b) and 3.2(e)) have been satisfied or waived in accordance with clause 3, a draft of which must be provided to Lionheart by 5.00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Lionheart under clause 6.3(j);
- (t) **(lodge copy of Court order)** lodge with ASIC an office copy of the Court order approving the Scheme as approved by the SMX Shareholders at the Scheme Meeting in accordance with section 411(10) of the Corporations Act on the first Business Day after that office copy is received (or any later date agreed in writing by Lionheart);
- (u) **(Register)** close the Register as at the Record Date to determine the identity of Scheme Participants and their entitlements to Scheme Consideration;
- (v) **(implementation of Capital Reduction)** subject to the Scheme becoming effective, taking the necessary steps to implement the Capital Reduction by making the necessary lodgements with ASIC and cancelling the Scheme Shares and procuring the issuance of the Scheme Consideration to Scheme Participants in accordance with the Scheme;
- (w) **(issue an SMX Share to Parent)** if the Scheme becomes Effective, SMX must on the Implementation Date, immediately following cancellation of all SMX Shares under the Capital Reduction, issue one SMX Share to Parent as consideration for the issuance of the Parent Shares as Scheme Consideration and Option Scheme Consideration;
- (x) **(suspension of trading)** apply to ASX to suspend trading in SMX Shares with effect from the close of trading on the Effective Date;
- (y) **(implementation of Option Scheme)** if the Option Scheme is approved by the Court:
 - (i) lodge with ASIC an office copy of the Court order approving the Option Scheme as approved by the SMX Optionholders at the Option Scheme Meeting in accordance with section 411(10) of the Corporations Act on the first Business Day after that office copy is received (or any later date agreed in writing by Lionheart);

- (ii) determine the entitlements to Option Exercise Shares and Cancellation Consideration at the Option Scheme Record Date in accordance with the Option Scheme;
- (iii) cancel the Scheme Options on the Implementation Date; and
- (iv) do all things contemplated by or necessary to give effect to the Option Scheme and the orders of the Court approving the Option Scheme;
- (z) **(listing)** take all reasonable steps to maintain SMX's listing on ASX, notwithstanding any suspension of the quotation of SMX Shares, up to and including one Business Day after the Implementation Date, including making appropriate applications to ASX and ASIC and take all steps reasonably requested by Lionheart to obtain the approval of ASX to the de-listing of SMX following implementation of the Scheme;
- (aa) **(Registry details)** subject to the terms of the Scheme, provide all necessary directions to the Registry promptly to provide any information that Lionheart requires in relation to the Register, including any sub-register, and where requested by Lionheart, SMX must procure whatever information to be provided in the electronic form as is reasonably requested by Lionheart;
- (bb) **(proxy solicitation)** if requested by Lionheart, retain a proxy solicitation services firm to assist SMX with the solicitation of votes at the Scheme Meeting and the Option Scheme Meeting and provide Lionheart with copies of or access to information regarding the Scheme Meeting and the Option Scheme Meeting generated by that firm, including promptly advising Lionheart, at times that Lionheart may reasonably request and at least on a daily basis on each of the last 5 Business Days prior to the date of the Scheme Meeting and Option Scheme Meeting, as to the aggregate tally of the votes received by SMX in respect of the Scheme and the Option Scheme;
- (cc) **(compliance with laws)** do everything reasonably within its power to ensure that the Schemes are effected in accordance with all applicable laws and regulations;
- (dd) **(other steps)** do all other things necessary to give effect to the Schemes and the orders of the Court approving the Schemes in accordance with all applicable laws and regulations; and
- (ee) **(Parent obligations)** for each instance in which Parent has an obligation or covenant under this deed, cause Parent to perform such obligation or covenant and be responsible for any failure of Parent to so perform.

6.3 Lionheart's obligations

Lionheart must take all reasonable steps to assist SMX to implement the Schemes on a basis consistent with this document and as soon as reasonably practicable, and in particular must:

- (a) **(Investigating Accountant)** jointly with SMX, appoint the Investigating Accountant and provide assistance and information reasonably required by the Investigating Accountant to enable it to prepare the Investigating Accountant's Report;

- (b) **(assistance with Scheme Booklet and Court documents)** promptly provide any assistance or information reasonably requested by SMX or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to SMX Shareholders and SMX Optionholders) and any documents required to be filed with the Court in respect of the Schemes, promptly review the drafts of the Scheme Booklet (including any updated or supplementary Scheme Booklet) prepared by SMX and provide comments on those drafts in a timely manner and in good faith;
- (c) **(Lionheart Information)** prepare and promptly provide to SMX for inclusion in the Scheme Booklet the Lionheart Information (in accordance in all material respects with all applicable laws, including the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 60 and the Listing Rules) and consent to the inclusion of that information in the Scheme Booklet;
- (d) **(further Lionheart Information)** promptly provide to SMX any further or new Lionheart Information as may arise after the Scheme Booklet has been sent to SMX Shareholders and SMX Optionholders and until the date of the Scheme Meeting as may be necessary to ensure that the Lionheart Information contained in the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and to ensure that there would be no breach of clause 13.3(g)) if it applied as at the date on which the further or new Lionheart Information arose;
- (e) **(verification)** undertake appropriate verification processes for the information supplied by Lionheart in the Scheme Booklet and if requested by SMX in writing, provide a certificate to SMX attesting to the fact appropriate verification processes have been undertaken in respect of such information prior to lodgement of the Scheme Booklet (or any supplementary Scheme Booklet) with ASIC and prior to filing of the Scheme Booklet (or any supplementary Scheme Booklet) with the Court;
- (f) **(Independent Expert information)** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (g) **(Consent)** provide a consent and use reasonable best efforts to obtain consents from third parties in such form as SMX reasonably requires in relation to the form and content in which the Lionheart Information appears in the Scheme Booklet;
- (h) **(Lionheart Deed Poll)** no later than the Business Day prior to the First Court Date, sign and deliver the Lionheart Deed Poll and unless the Condition Precedent in clause 3.1(t) has been waived, sign the Lionheart Option Scheme Deed Poll;
- (i) **(representation)** procure that, if requested by SMX or if Lionheart so elects, Lionheart is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which, through its counsel, Lionheart will undertake (if requested by the Court) to do all such things and take all such steps within its power as are reasonably necessary in order to ensure fulfilment of its obligations under this document and the Schemes; and
- (j) **(Conditions Precedent certificate)** before 8.00am on the Second Court Date, provide to SMX for provision to the Court at the hearing on that date a certificate

signed by one of its officers and made in accordance with a resolution of its board confirming (in respect of matters within Lionheart's knowledge) whether or not the Conditions Precedent in clause 3.1 for which Lionheart is responsible, as noted in clause 3.1 (other than sub-clauses 3.1(c) and 3.1(t)) and unless the Condition Precedent in sub-clause 3.1(t) has been waived, the Option Scheme Conditions for which it is responsible, as noted in clause 3.2 (other than the Option Scheme Conditions in sub-clauses 3.2(b) and 3.2(e)), have been satisfied or waived in accordance with clause 3, a draft of which must be provided to SMX by 5.00pm on the Business Day prior to the Second Court Date.

6.4 Parent's obligations

Parent must take all reasonable steps to assist SMX to implement the Schemes in accordance with this document and as soon as reasonably practicable and in particular must:

- (a) **(consent)** provide a consent and use reasonable best efforts to obtain consents from third parties in such form as SMX and Lionheart reasonably require in relation to the form and content in which information about Parent appears in the Scheme Booklet;
- (b) **(Deed Poll)** no later than the Business Day prior to the First Court Date, sign and deliver the Deed Poll and unless the Condition Precedent in clause 3.1(t) has been waived, sign the Option Scheme Deed Poll;
- (c) **(Scheme Consideration)** if the Scheme becomes Effective, provide or procure the provision of the Scheme Consideration in the manner and amount contemplated by clause 4.3 and the terms of the Scheme;
- (d) **(agree to become SMX's sole shareholder)** if the Scheme becomes Effective, on the Implementation Date and subject to completion of the cancellation of all SMX Shares under the Capital Reduction, do all things necessary to subscribe for an SMX Share and otherwise agree to become a member of SMX in accordance with the constitution of SMX as consideration for the issuance of the Parent Shares as Scheme Consideration and Option Scheme Consideration; and;
- (e) **(Cancellation Consideration)** if the Option Scheme becomes Effective, provide or procure the provision of the Cancellation Consideration in the manner and amount contemplated by clause 5.2 and the terms of the Option Scheme.

6.5 Scheme Booklet responsibility statement

The responsibility statement to appear in the Scheme Booklet, in a form to be agreed by the parties, will contain words to the effect of:

- (a) SMX has prepared, and is responsible for, the content of the Scheme Booklet other than, to the maximum extent permitted by law, the Lionheart Information, the Independent Expert's Report, the Investigating Accountant's report or any other report or letter issued to SMX by a third party and that Lionheart and its directors and officers do not assume any responsibility for the accuracy or completeness of the sections of the Scheme Booklet that SMX has prepared and has responsibility for; and
- (b) Lionheart has prepared, and is responsible for, the Lionheart Information in the Scheme Booklet (and no other part of the Scheme Booklet) and that SMX and its

directors and officers do not assume any responsibility for the accuracy or completeness of the sections of the Scheme Booklet that Lionheart has prepared and has responsibility for.

6.6 Disagreement on content of Scheme Booklet etc

If Lionheart and SMX disagree on the form or content of the Scheme Booklet or any documents in connection with the Scheme, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement is not reached after reasonable consultation, then:

- (a) if the disagreement relates to the form or content of the Lionheart Information or information related to the Merged Group contained in the Scheme Booklet, SMX will make any amendments as Lionheart reasonably requires; and
- (b) if the disagreement relates to the form or content of any other part of the Scheme Booklet, the SMX Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet.

6.7 Verification

SMX and Lionheart must each undertake appropriate due diligence and verification processes for the information supplied by that party in the Scheme Booklet.

6.8 Conduct of Court proceeding

SMX and Lionheart are entitled to separate representation at all Court proceedings relating to the Scheme. This document does not give SMX or Lionheart any right or power to give undertakings to the Court for or on behalf of the other party without that party's written consent. SMX and Lionheart must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme as contemplated by this document.

6.9 Appeal process

If the Court refuses to make orders convening the Scheme Meeting or Option Scheme Meeting or approving the Scheme or Option Scheme, Lionheart and SMX must appeal the Court's decision to the fullest extent possible except to the extent that:

- (a) the parties agree otherwise; or
- (b) an independent senior counsel advises that, in their opinion, an appeal would have no reasonable prospect of success before the End Date,

in which case either party may terminate this document in accordance with clause 14.1(f).

6.10 No partnership or joint venture

Subject to this document, nothing in this clause requires either SMX or Lionheart to act at the direction of the other. The business of the SMX Group and the Lionheart Group will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this document constitutes the relationship of a partnership or a joint venture between the parties.

7. Board recommendation

7.1 SMX Board recommendation

Without limiting and subject to clause 10, SMX must ensure that the SMX Board (and each SMX Director) makes and does not withdraw or change its or their recommendation in favour of:

- (a) the Capital Reduction and Scheme, and that each SMX Director votes any SMX Shares in which they have a Relevant Interest in favour of the Capital Reduction and Scheme, unless:
 - (i) there is an SMX Superior Proposal and the SMX Board determines in good faith and acting reasonably, having received legal advice from its external legal advisers (who must be reputable advisers experienced in transactions of this nature) that failing to do so would constitute a breach of their fiduciary or statutory duties to SMX Shareholders; or
 - (ii) the Independent Expert concludes that the Capital Reduction and Scheme is not in the best interests of SMX Shareholders, or adversely changes its previously given opinion that the Capital Reduction and Scheme is in the best interests of SMX Shareholders;
- (b) the Option Scheme, and that each SMX Director votes any SMX Options they hold in favour of the Option Scheme, unless:
 - (i) there is an SMX Superior Proposal and the SMX Board determines in good faith and acting reasonably, having received legal advice from its external legal advisers (who must be reputable advisers experienced in transactions of this nature) that failing to withdraw or change its recommendation in favour of the Scheme would constitute a breach of their fiduciary or statutory duties to SMX Shareholders; or
 - (ii) the Independent Expert concludes that the Option Scheme is not in the best interests of SMX Optionholders, or adversely changes its previously given opinion that the Option Scheme is in the best interests of SMX Optionholders.

7.2 Lionheart Board recommendation

The Lionheart Board must make and not withdraw or change its recommendation that Lionheart Shareholders vote in favour of the Lionheart Proposals, unless there is a Lionheart Competing Transaction and the Lionheart Board determines in good faith and acting reasonably, having received legal advice from its external legal advisers (who must be reputable advisers experienced in transactions of this nature) that failing to withdraw or change its recommendation in favour of the Scheme would constitute a breach of their fiduciary or statutory duties to Lionheart Shareholders.

7.3 Withdrawal or change of recommendation

Without limiting, and subject to clause 10, if the SMX Board (or any SMX Director) proposes to withdraw or change its or their recommendation in accordance with clause 7.1:

- (a) SMX must notify Lionheart in writing as promptly as reasonably practicable; and

- (b) the parties must consult in good faith for 5 Business Days after the date on which the notification in clause 7.3(a) is given to consider and determine whether the recommendation in place at the time can be maintained. That recommendation cannot be withdrawn or changed in accordance with clause 7.1 until the end of the consultation period (provided that, in the case of an actual, proposed or potential SMX Competing Transaction, SMX must comply with clause 10.8 in lieu of this clause 7.3).

8. Directors and employees

8.1 Appointment/retirement of SMX directors

On the Implementation Date, but subject to the Scheme Consideration having been provided to the Scheme Participants and receipt by SMX of signed consents to act, SMX must:

- (a) cause the appointment of each Incoming Director to the SMX Board as of such Implementation Date; and
- (b) procure that each of the Outgoing Directors retire from the SMX Board and provide written notice to the effect that they have no claim outstanding for loss of office, remuneration or otherwise against SMX, Lionheart or Parent, in each case, in accordance with the SMX Constitution, the Corporations Act and the Listing Rules.

8.2 Directors' and officers' insurance

- (a) Subject to the Scheme becoming Effective and subject to the Corporations Act, Parent undertakes in favour of SMX and each other person who is an SMX Indemnified Party that it will, for a period of 7 years from the Implementation Date (except as otherwise provided in clause 8.3):
 - (i) ensure that the constitutions of SMX and each other member of the SMX Group (including any successor entities thereto) continue to contain the rules that are contained in those constitutions at the date of this document that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Lionheart Group; and
 - (ii) procure that SMX and each other member of the SMX Group comply with any deeds of indemnity, access and insurance entered into by them in favour of their respective directors and officers from time to time.
- (b) At or prior to the Implementation Date, SMX must purchase a 7-year prepaid "run-off" directors' and officers' liability insurance policy ("**D&O Run-Off Policy**") on terms and conditions providing coverage retentions, limits and other material terms (including in relation to deductibles) substantially equivalent to the current policies of directors' and officers' liability insurance maintained by members of the SMX Group with respect to matters arising at or prior to the Implementation Date. In connection with obtaining such D&O Run-Off Policy, SMX must consult in good faith with Lionheart regarding the proposed terms of the D&O Run-Off Policy and permit Lionheart to participate in all negotiations over such terms.

8.3 Period of undertaking

The undertakings contained in clause 8.2 are given until the earlier of the end of the relevant period specified in that clause or the relevant member of the SMX Group ceasing to be a Subsidiary of Parent.

8.4 Release of SMX Indemnified Parties

Subject to the Corporations Act, Lionheart releases its rights, and agrees with SMX that it will not make a claim against any SMX Indemnified Party (other than SMX and its Subsidiaries) as at the date of this document and from time to time in connection with:

- (a) any breach of any representations and warranties of SMX or any other SMX Group entity in this document; or
- (b) any disclosures containing any statement which is false or misleading whether in content or by omissions,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the SMX Indemnified Party has engaged in wilful misconduct or fraud. Nothing in this clause 8.4 limits any termination rights of Lionheart under clause 14.1.

8.5 Benefit of undertaking for SMX Group

SMX acknowledges that it receives and holds the benefit of clause 8.2 and 8.4 to the extent it relates to each SMX Indemnified Party on behalf of each of them.

8.6 Release of Lionheart Indemnified Parties

Subject to the Corporations Act, SMX releases its rights, and agrees with Lionheart that it will not make a claim against any Lionheart Indemnified Party (other than Lionheart and its Subsidiaries) as at the date of this document and from time to time in connection with:

- (a) any breach of any representations and warranties of Lionheart or any other Lionheart Group entity in this document; or
- (b) any disclosures containing any statement which is false or misleading whether in content or by omissions,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Lionheart Indemnified Party has engaged in wilful misconduct or fraud. Nothing in this clause 8.6 limits any termination rights of SMX under clause 14.

8.7 Benefit of undertaking for Lionheart Group

Lionheart acknowledges that it receives and holds the benefit of clause 8.6 to the extent it relates to each Lionheart Indemnified Party on behalf of each of them.

9. Conduct of business

9.1 Overview

From the date of this document up to and including the Implementation Date, SMX must, and must cause each member of the SMX Group to, use all reasonable endeavours to conduct its business in all material respects in the ordinary course consistent with business plans and budgets Disclosed to Lionheart and in substantially the same manner as previously conducted.

9.2 Specific obligations

Without limiting clause 9.1 and other than with the prior written approval of Lionheart (such approval not to be unreasonably withheld or delayed), SMX must, during the period contemplated by clause 9.1, use reasonable best efforts to ensure that SMX and each member of the SMX Group:

- (a) **(business and material assets)** maintains the condition of its business and material assets in all material respects;
- (b) **(key officers and employees)** keeps available the services of its key officers and key employees;
- (c) **(relationships)** preserves its material relationships with key customers, suppliers, licensors, licensees, joint venturers and others with whom it has business dealings in all material respects;
- (d) **(change of control provisions)** identifies any change of control or similar provisions in any contracts in limbs (b), (c) and (d) of the definition of Material Contracts **(Specified Material Contracts)** any other significant contracts as reasonably requested by Lionheart, and obtain the consents of relevant persons who have rights in respect of those Specified Material Contracts, and cooperate with Lionheart in good faith to discuss obtaining consent in respect of such other significant contracts for, the transactions contemplated by the Scheme, provided that:
 - (i) Lionheart must cooperate with, and provide reasonable assistance to SMX to obtain such consents, including by promptly providing any information reasonably required by counterparties;
 - (ii) SMX is not required to make any payment to obtain any such consent prior to the Implementation Date; and
 - (iii) a failure by SMX or a member of the SMX Group to obtain any such consent in and of itself will not constitute a breach of this document by SMX.

9.3 Prohibited actions

Other than with the prior written approval of Lionheart (such approval not to be unreasonably withheld or delayed) SMX must not, and must ensure that each member of the SMX Group does not, during the period referred to in clause 9.1:

- (a) **(Material Contracts; Restraints)**

- (i) other than in the ordinary course of business or as would not be adverse to the SMX Group or the Merged Group in any material respect, enter into, terminate (other than non-renewals occurring in the ordinary course of business), amend or waive any right under, or agree to do any of the foregoing with respect to, any Material Contract; or
 - (ii) enter into any contract or commitment (A) restraining in any material respect any member of the Merged Group from competing with any person or conducting activities in any market, (B) obligating in any material respect any member of the Merged Group to conduct business with any third party on a preferential or exclusive basis or (C) containing “most favoured nation” or similar provisions that would bind the Merged Group in any material respect.
- (b) **(lines of business)** enter into any new line of business that is materially different to the SMX’s Group’s existing business;
- (c) **(capital expenditure)** incur or make any capital expenditures or enter into arrangements or agreements providing for capital expenditures or otherwise commit to do so, whether in one transaction or in a series of related transactions, in excess of A\$400,000 in the aggregate or A\$100,000 individually;
- (d) **(derivative instruments)** enter into any agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments;
- (e) **(accounting policies)** change any accounting policy applied by a member of the SMX Group to report their financial position in any material respect other than any change required by a change in the Accounting Standards or US GAAP;
- (f) **(tax)** settle or compromise or make, change or revoke any concessions in relation to any material Tax claims, liabilities or disputes or make any election in relation to Tax, adopting a position in relation to Tax, or otherwise engage in any transaction, act or event which gives rise to any Tax liability which is outside the ordinary course of business as it was conducted prior to the date of this document;
- (g) **(legal proceedings)** settle any legal proceedings, claim, investigation, arbitration or other like proceedings, except where such settlement would result in monetary obligations involving the payment of monies of not more than A\$400,000 in the aggregate or A\$100,000 individually, does not involve the imposition of injunctive relief or other non-monetary obligations, including admission of wrongdoing (other than to pay such monies or customary confidentiality or other non-monetary obligations that are incidental to the agreement to pay such monies) on the SMX Group (or on the Merged Group after implementation of the Scheme) and would not create any adverse precedent that would be material to the SMX Group (or the Merged Group after implementation of the Scheme);
- (h) **(compensation and employment arrangements)** other than as required pursuant to the terms of an SMX Employee Plan in place as of the date of this document and included in the SMX Data Room (having library reference number I), or adopted or amended not in violation of this document, or as is necessary to comply with clause 4.7:

- (i) increase the remuneration of, or otherwise vary the service or employment arrangements with, any of its current or former directors, officers, or employees, other than annual increases in remuneration or benefits for employees, made in the ordinary course of business consistent with past practice that, in each case, do not exceed 50% of such individual's annual cash compensation immediately prior to the increase;
- (ii) grant any new equity-based awards or amend or modify the terms of any outstanding equity-based awards;
- (iii) pay or award, or agree to pay or award, any cash bonuses or cash incentive compensation, termination or retention payments;
- (iv) pay or agree to pay to any current or former director, officer, employee or other service provider any pension, retirement allowance or other benefit in excess of those in place as of the date of this document and included in the SMX Data Room (having library reference number I) or permitted in accordance with clause 9.3(h)(vii);
- (v) enter into any new, or amend any existing, employment, change in control, retention or severance or termination agreement with any current or former director, officer, employee or other service provider, other than (i) agreements with new hires or newly promoted employees who are permitted to be hired or promoted under clause 9.3(h)(vii) where such agreements are materially consistent with those provided to other similarly situated employees and do not provide any retention, equity award grants or enhanced (change in control) severance or (ii) to provide severance compensation and severance benefits (excluding any enhanced change in control severance) in the ordinary course of business as it was conducted prior to the date of this document to employees who are terminated under circumstances permitted by clauses 9.3(h)(v) and 9.3(h)(vii);
- (vi) establish any SMX Employee Plan which was not in place as at the date of this document, or amend or terminate any SMX Employee Plan, other than as contemplated by clause 4.7;
- (vii) offer employment to, promote an existing employee, or terminate the employment of any employee or individual service provider who is a second level report to the CEO and above, other than terminations for "cause" (as determined by the SMX Group in its reasonable discretion);
- (viii) enter into, amend or terminate any collective bargaining agreement or other labor agreement; or
- (ix) waive any non-competition or non-solicitation obligation of any direct report of either of the SMX Chief Executive Officers (each a "**CEO Direct Report**") or any direct report of a CEO Direct Report;
- (i) (**accelerate rights**) accelerate or fund the rights of any of its directors, officers or employees to compensation or benefits of any kind (including under any SMX executive or employee share plans), other than as permitted under clause 9.3(h) or as required pursuant to the terms of the SMX Employee Plan;
- (j) (**Intellectual Property**) (A) sell, assign, transfer or grant any exclusive license to, or (B) abandon or permit to let lapse or expire (other than immaterial in-bound

licenses to the SMX Group that the SMX Group would allow to expire in the ordinary course of business in accordance with their terms), any Intellectual Property material to the business of the SMX Group as conducted as of the date of this document, and as proposed by the SMX Group as of the date of this document to be conducted in the future;

- (k) **(Encumbrance)** creates any Encumbrance over or declares itself the trustee of any part of its business or assets, other than a lien that arising by operation of law, legislation or in the ordinary course of business;
- (l) **(indebtedness)** incur, assume, guarantee or become liable for any Indebtedness, other than:
 - (i) US\$3 million in medium term notes, secured against SMX's shares in True Gold Consortium Pty Ltd, which are not convertible into equity in SMX, with attaching warrants in Parent, on terms approved by Lionheart in writing (provided, for the avoidance of doubt, Lionheart may elect, in its sole discretion, to cause the proceeds of the notes to be used to fund all or any portion of Sponsor's obligation to deposit funds into the Trust Fund in connection with an extension of the End Date pursuant to Section 9.1(b) of the SPAC Amended and Restated Certificate of Incorporation);
 - (ii) intercompany Indebtedness;
 - (iii) guarantees by SMX or any direct or indirect wholly owned Subsidiary of SMX of indebtedness of SMX or any other direct or indirect wholly owned Subsidiary of SMX; or
 - (iv) any Indebtedness incurred to refinance, roll over, replace or renew any Indebtedness already outstanding as of the date of this document, provided that (A) the principal amount of such refinancing, roll-over, replacement or renewed Indebtedness is not materially greater than the principal amount of the Indebtedness being refinanced, rolled over, replaced or renewed (plus accrued interest, and a reasonable amount of premium, fees and expenses incurred in connection with such refinancing), (B) such Indebtedness is on terms consistent in all material respects with the Indebtedness being refinanced, rolled over, replaced or renewed, taking into account conditions in the capital markets at the time such Indebtedness is incurred, and (C) such Indebtedness does not consist of securities or instruments convertible into securities;
- (m) **(real property)**
 - (i) acquire or agree to acquire any material real property or enter into, or agree to enter into, any material lease or sublease of real property (whether as a lessor, sublessor, lessee or sublessee);
 - (ii) sell, assign, dispose of, surrender or exercise any right to terminate, or agree to sell, assign, dispose of, surrender or exercise any right to terminate, any material lease or sublease of real property (whether as a lessor, sublessor, lessee or sublessee) other than, in each case, expirations or surrenders of any leases or subleases in accordance with their terms or in the ordinary course of business;

- (iii) materially modify or amend or exercise any right to renew any material lease, or waive any material term or condition thereof or grant any consents thereunder; or
- (iv) grant or otherwise create or consent to the creation of any easement, covenant, restriction, assessment or charge affecting, in any material respect, any material real property leased by a member of the SMX Group, or any interest therein or part thereof;
- (n) **(Prescribed Events)** take any action that, or fail to take any action whose omission, would give rise to any SMX Prescribed Event; or
- (o) **(agree)** agree to do any of the matters set out above.

9.4 Exceptions to SMX conduct of business provisions

Nothing in this clause 9 restricts the ability of SMX to take any action which:

- (a) is expressly required or permitted by this document, the Scheme, the BCA, the other Transaction Documents or otherwise required by law or regulation;
- (b) has been Disclosed to Lionheart in the SMX Disclosure Letter;
- (c) has been agreed to in writing by Lionheart (with such agreement not to be unreasonably withheld, delayed or conditioned); or
- (d) is reasonably and prudently required to respond to any epidemic, pandemic (including COVID-19 or any COVID-19 Measures), hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing).

9.5 Lionheart conduct of business

- (a) Other than with the prior written approval of SMX (such approval not to be unreasonably withheld, delayed or conditioned), Lionheart must, from the date of this document up to and including the Implementation Date, use reasonable best efforts to ensure that Lionheart and each member of the Lionheart Group:
 - (i) **(business and material assets)** maintains the condition of its business and material assets in all material respects;
 - (ii) **(key officers and employees)** keeps available the services of its key officers and key employees; and
 - (iii) **(relationships)** preserves its material relationships with customers, suppliers, licensors, licensees, joint venturers and others with whom it has business dealings in all material respects.
- (b) Other than with the prior written approval of SMX (such approval not to be unreasonably withheld or delayed), from the date of this document up to and including the earlier of termination of this document in accordance with its terms and the Implementation Date, Lionheart must, and must cause each member of the Lionheart Group to, not take any action that, or fail to take any action whose omission, would give rise to any Lionheart Prescribed Event.

- (c) Nothing in this clause 9.5 restricts the ability of Lionheart to take any action which:
 - (i) is expressly required or permitted by this document, the Scheme, the BCA, the other Transaction Documents or otherwise required by law or regulation;
 - (ii) has been Disclosed to SMX in the Lionheart Disclosure Letter;
 - (iii) has been agreed to in writing by SMX (with such agreement not to be unreasonably withheld, delayed or conditioned); or
 - (iv) is reasonably and prudently required to respond to any epidemic, pandemic (including COVID-19 or any COVID-19 Measures), hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing).

9.6 Parent conduct of business

Other than with the prior written approval of Lionheart (such approval not to be unreasonably withheld or delayed) Parent must not and must cause its Subsidiaries not to, and SMX must ensure that Parent does not and causes its Subsidiaries not to, from the date of this document up to and including the Implementation Date, except to the extent contemplated by this document, the BCA, the Schemes, or any other Transaction Document:

- (a) **(conduct)** carry on business, grant any right or incur any liability;
- (b) **(conversion)** convert all or any of its shares into a larger or smaller number of shares;
- (c) **(ownership)** permit any transfer of its shares to occur, or any Encumbrance or trust to be created over or in respect of its shares (or any interest in them);
- (d) **(reduction of share capital)** resolve to reduce its share capital in any way or resolve to reclassify, combine, split or redeem or repurchase directly or indirectly any of its shares;
- (e) **(buy-back)**
 - (i) repurchase, redeem or otherwise acquire any shares of capital stock of Parent, or agree to do any of the foregoing;
 - (ii) enter into a buy-back agreement; or
 - (iii) resolve to approve the terms of a buy-back agreement;
- (f) **(distribution)** make or declare, or announce an intention to make or declare, any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie);
- (g) **(issuing or granting shares or options)**
 - (i) issue any shares;

- (ii) grant an option over its shares; or
- (iii) agree to make an issue of or grant an option over shares;
- (h) **(securities or other instruments)** issue or agree to issue securities or other instruments convertible into shares;
- (i) **(constitution)** adopt a new constitution or modify or repeal its constitution or a provision of it;
- (j) **(acquisitions, disposals or tenders):**
 - (i) acquire or dispose of;
 - (ii) agree to acquire or dispose of; or
 - (iii) offer, propose, announce a bid or tenders for,
any business, entity or undertaking or assets;
- (k) **(encumbrances)** create, or agree to create, any Encumbrance over or declares itself the trustee of any of its business or property;
- (l) **(merger)** merge or consolidate with any other person or restructure, reorganise or completely or partially liquidates or dissolve;
- (m) **(Insolvency)** become Insolvent;
- (n) **(contracts)** enter into any agreement, contract or commitment;
- (o) **(employees)** engage any employee;
- (p) **(indebtedness)** incur, assume, guarantee or become liable for any Indebtedness;
- (q) **(expenditure)** incur or make any expenditure;
- (r) **(assets)** own any real or personal property;
- (s) **(legal proceedings)** commence any legal proceedings, or threaten to do so.

9.7 Access to people and SMX Information

Between the date of this document and the Implementation Date, SMX must, and must procure that each other member of the SMX Group:

- (a) as soon as reasonably practicable provides Lionheart and its officers and advisers with any documents, records, and other information (subject to any existing confidentiality obligations owed to third parties, or applicable privacy laws) reasonably requested by them and provide Lionheart and its officers and advisers with reasonable access to SMX's officers and advisers which Lionheart reasonably requires for the purposes of:
 - (i) understanding SMX's financial position (including its cash flow and working capital position), trading performance and management control systems;

- (ii) implementing the Scheme; and
 - (iii) preparing for carrying on the business of SMX following implementation of the Scheme; and
 - (iv) any other purpose which is agreed in writing between the parties (acting reasonably), provided that compliance with any such request would not, in the reasonable opinion of SMX (acting in good faith), result in undue disruption to the SMX Group's business and provided that SMX is not required to facilitate physical access where SMX is restricted from doing so by any COVID-19 Measures; and
- (b) SMX will not be required to provide any access or take any action contemplated by this clause 9.7 to the extent that to do so would breach, any applicable law or regulation or any obligations of confidentiality owed to third parties as of the date of this document, or result in the loss of legal privilege or to do so would cause undue disruption to the SMX Group's business, provided, that SMX shall, and shall cause its Subsidiaries to, use reasonable best efforts to make appropriate substitute disclosure arrangements under circumstances in which such restrictions apply (including (x) obtaining any required consent from any third party and (y) redacting such information only to the extent necessary to comply with any law, regulation or obligation of confidentiality or to prevent loss of legal privilege) and to provide such information as to the applicable matter as can be conveyed.

9.8 PIPE Investment

Without limiting anything to the contrary contained herein, between the date hereof and 8:00am on the Second Court Date, each of SMX and Lionheart may, but shall not be required to, enter into (and subsequently consummate) subscription agreements with investors relating to a private investment to purchase Lionheart A Shares or other securities of SMX or Lionheart in connection with a private placement, and/or enter into backstop or redemption waiver arrangements with potential investors, in either case on terms mutually agreeable to the Lionheart, SMX and Parent, acting reasonably (a **PIPE Investment**), and, if either SMX or Lionheart elects to seek a PIPE Investment, the other parties shall, and shall use commercially reasonable efforts to cause their respective Representatives to, cooperate with each other and their respective Representatives in connection with such PIPE Investment and use their respective commercially reasonable efforts to cause such PIPE Investment to occur (including having such party's senior management participate in any investor meetings and roadshows as reasonably requested by the other party).

10. Exclusivity

10.1 No existing discussions

- (a) Lionheart represents and warrants to SMX that:
 - (i) at the date of this document neither it nor any of its Representatives is party to any agreement or arrangement with any person entered into in relation to, or for the purposes of facilitating a Lionheart Competing Transaction;
 - (ii) at the date of this document neither it, nor any of its Representatives is directly or indirectly participating in any discussions or negotiations with a

person in relation to, or with a view to, or that might reasonably be expected to encourage or lead to, a Lionheart Competing Transaction; and

- (iii) on the date of this document it will terminate any due diligence access granted to a person for the purpose of the person making, formulating, developing or finalising a Lionheart Competing Transaction and it will promptly request the return of all confidential information of Lionheart from any such party and terminate its access to any such confidential information on an ongoing basis. Lionheart agrees to not waive, and to enforce, any standstill obligations owed to Lionheart (to the extent applicable).
- (a) SMX represents and warrants to Lionheart that:
 - (i) at the date of this document neither it nor any of its Representatives nor Parent or any of its Representatives is party to any agreement or arrangement with any person entered into in relation to, or for the purposes of facilitating a SMX Competing Transaction;
 - (ii) at the date of this document neither it, nor any of its Representatives nor Parent or any of its Representatives, is directly or indirectly participating in any discussions or negotiations with a person in relation to, or with a view to, or that might reasonably be expected to encourage or lead to, a SMX Competing Transaction; and
 - (iii) on the date of this document it will terminate any due diligence access granted to a person for the purpose of the person making, formulating, developing or finalising a SMX Competing Transaction and it will promptly request the return of all confidential information of SMX from any such party and terminate its access to any such confidential information on an ongoing basis. SMX agrees to not waive, and to enforce, any standstill obligations owed to SMX (to the extent applicable).

10.2 No-shop

During the Exclusivity Period, SMX and Lionheart must ensure that neither it nor any of their Representatives and SMX must ensure that neither Parent nor any of its Representatives, directly or indirectly:

- (a) solicits, invites, facilitates, encourages or initiates any enquiries, negotiations or discussions; or
- (b) communicates any intention to do any of these things,

with a view to obtaining any offer, proposal or expression of interest from any person in the case of SMX or Parent, in relation to an SMX Competing Transaction and in the case of Lionheart, a Lionheart Competing Transaction.

10.3 No-talk

Subject to clause 10.5, during the Exclusivity Period, SMX and Lionheart must ensure that neither they nor any of its Representatives, and SMX must ensure that neither Parent nor any of its Representatives:

- (a) negotiate or enter into negotiations or discussions regarding; or

- (b) participates in negotiations or discussions with any other person regarding,

in the case of SMX or Parent any SMX Competing Transaction and in the case of Lionheart any Lionheart Competing Transaction or any agreement, understanding or arrangement that could be reasonably expected to lead to in the case of SMX or Parent, any SMX Competing Transaction or in the case of Lionheart, any Lionheart Competing Transaction, even if that person's SMX Competing Transaction or Lionheart Competing Transaction was not directly or indirectly solicited, invited, encouraged or initiated by SMX, Parent or Lionheart (as the case may be) any of their Representatives or the person has publicly announced the SMX Competing Transaction or Lionheart Competing Transaction.

10.4 Due diligence information

Subject to clauses 10.5 and 10.6, during the Exclusivity Period, each party must ensure that neither they nor any of their Representatives, and SMX must ensure that neither Parent nor any of its Representatives:

- (a) enables any other person other than another party or their Representatives to undertake due diligence investigations in the case of SMX or Parent, on any member of the SMX Group or their business or operations or in the case of Lionheart, on any member of the Lionheart Group or their businesses or operations, or solicit, invite, initiate, encourage, facilitate or permit any other person other than the other party to this deed or their Representatives to undertake due diligence investigations, in the case of SMX or Parent, on any member of the SMX Group or their business or operations or in the case of Lionheart, on any member or Lionheart Group or any of their businesses or operations, in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, in the case of SMX or Parent, any SMX Competing Transaction or in the case of Lionheart, any Lionheart Competing Transaction; or
- (b) makes available to any other person, or permits any other person to receive, other than another party or its Representatives (in the course of due diligence investigations or otherwise) any non-public information relating to any member, in the case of SMX or Parent, of the SMX Group or their business or operations or in the case of Lionheart, of the Lionheart Group or their businesses or operations in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, in the case of SMX or Parent, any SMX Competing Transaction or in the case of Lionheart, any Lionheart Competing Transaction.

10.5 Exceptions

Clause 10.3 and 10.4 do not apply to the extent that they restrict SMX or the SMX Board from taking or refusing to take any action with respect to a genuine SMX Competing Transaction that did not result, directly or indirectly, from a material breach of clauses 10.2, 10.3 or 10.4, provided that the SMX Board has determined, in good faith:

- (a) after receiving advice from its external financial advisors, that the SMX Competing Transaction is, or would reasonably be expected to become, an SMX Superior Proposal; and
- (b) after receiving written advice from its external legal advisors, that failing to respond to the SMX Competing Transaction would be reasonably likely to

constitute a breach of any member of the SMX Board's fiduciary or statutory obligations,

provided that if SMX makes available to any such offeror any non-public information relating to any member of the SMX Group or their businesses or operations, SMX may only do so pursuant to a confidentiality agreement with terms no less favourable in the aggregate to SMX than those contained in the Confidentiality Agreement.

10.6 Further exceptions

Subject to the Confidentiality Agreement, nothing in this document prevents SMX or Lionheart from:

- (a) continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Scheme or its business generally; or
- (b) fulfilling its continuous disclosure requirements as required by law.

10.7 Notice of unsolicited approach

- (a) During the Exclusivity Period, SMX and Lionheart must promptly (and in any event within 24 hours) inform the other party if it or, to its knowledge, any of its Representatives, or in the case of SMX, Parent or any of its Representatives:
 - (i) receives any approach with respect to in the case of SMX or Parent, any SMX Competing Transaction and in the case of Lionheart, any Lionheart Competing Transaction;
 - (ii) receives any request for information in the case of SMX or Parent, relating to any member of the SMX Group or their business or operations or in the case of Lionheart, relating to any member of the Lionheart Group any of their businesses or operations or any request for access to any non-public information in the case of SMX or Parent, in respect of any member of the SMX Group or their business or operations or in the case of Lionheart, in respect of any member of the Lionheart Group or their business or operations in connection with in the case of SMX or Parent, a current or future SMX Competing Transaction or in the case of Lionheart, a current or future Lionheart Competing Transaction; or
 - (iii) provides any information relating in the case of SMX or Parent, to any member of the SMX Group or their business or operations or in the case of Lionheart, any member of the Lionheart Group or any of their businesses or operations to any person in connection with or for the purposes of, in the case of SMX or Parent, a current or future SMX Competing Transaction or in the case of Lionheart, a current or future Lionheart Competing Transaction.
- (b) A notice given under clause 10.7(a) must be accompanied by all material details of the relevant event, including (as the case may be):
 - (i) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 10.7(a)(i), who made the relevant request for information referred to in

clause 10.7(a)(ii), or to whom any information referred to in clause 10.7(a)(iii) was provided;

- (ii) the material terms and conditions (including price, conditions precedent, timetable and break or reimbursement fee (if any), or any other similar material terms) in the case of SMX, of any SMX Competing Transaction or any proposed SMX Competing Transaction (to the extent known) and in the case of Lionheart, of any Lionheart Competing Transaction or any proposed Lionheart Competing Transaction (to the extent known); and
 - (iii) the nature of the information requested and/or provided.
- (c) During the Exclusivity Period, SMX must promptly provide Lionheart with:
- (i) in the case of written materials, a copy of; or
 - (ii) in any other case, a written statement of,

any non-public information relating to SMX, its Related Bodies Corporate or any of their respective businesses and operations made available to or received by any person from SMX or any of its Representatives, or Parent or any of its Representatives in connection with the person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, an SMX Competing Transaction and which differs from, or is more extensive than, the information which has been provided to Lionheart.

- (d) Without limiting SMX's other obligations under this clause 10.7, SMX shall keep Lionheart reasonably informed, and must ensure that Parent keeps Lionheart reasonably informed, on a prompt and timely basis of the status and material terms and of any material developments, discussions or negotiations regarding any SMX Competing Transaction or proposed SMX Competing Transaction and the material terms and conditions thereof (including any change in price or form of consideration or other material amendment thereto), within 24 hours after the receipt or delivery thereof, keep Lionheart reasonably informed on a prompt and timely basis as to the nature of any non-public information requested of SMX or Parent with respect thereto, and provide information regarding any SMX Competing Transaction or proposed SMX Competing Transaction reasonably requested by Lionheart.

10.8 Matching right

Without limiting clauses 10.2, 10.3 or 10.4, during the Exclusivity Period, SMX:

- (a) must not, and must ensure that each of its Related Bodies Corporate and Parent (and Parent's Related Bodies Corporate) do not, enter into any agreement, arrangement or understanding (whether or not in writing) pursuant to which a third party or SMX or Parent (or any Related Body Corporate of SMX or Parent) proposes (or both a third party and SMX and/or Parent propose) to undertake or give effect to an actual, proposed or potential SMX Competing Transaction; and
- (b) must procure that the SMX Board does not change (and no SMX Director changes) its recommendation in favour of the Capital Reduction and Scheme to publicly recommend an actual, proposed or potential SMX Competing Transaction,

unless:

- (c) the SMX Board acting in good faith after taking advice from its outside legal adviser and financial adviser, determines that the SMX Competing Transaction constitutes an SMX Superior Proposal;
- (d) the SMX Board, after receiving such legal advice from its external legal advisers, determines that the failure to take such actions specified in clause 10.8(a) and/or 10.8(b) would be reasonably likely to constitute a breach of any member of the SMX Board's fiduciary or statutory duties to SMX Shareholders;
- (e) SMX has provided Lionheart with the material terms and conditions of the SMX Competing Transaction to the extent required by clause 10.7(b) and a written explanation as to why it considers that the SMX Competing Transaction constitutes an SMX Superior Proposal;
- (f) for at least 5 Business Days, SMX and its Representatives have negotiated in good faith with Lionheart and its Representatives, to the extent Lionheart wishes to negotiate and make itself reasonably available to negotiate, to enable Lionheart to propose revisions to the terms of this document; and
- (g) upon the expiry of such 5 Business Days' negotiation period, the SMX Board has considered in good faith any proposed revisions to the terms of this document proposed by Lionheart, and has determined in good faith, after taking advice from its outside legal adviser and financial adviser, that such SMX Competing Transaction would nevertheless continue to constitute an SMX Superior Proposal if such revisions proposed by Lionheart were to be given effect and that the failure to take the actions specified in clause 10.8(a) and/or 10.8(b) would continue to constitute a breach of any member of the SMX Board's fiduciary or statutory duties to SMX Shareholders, in which case SMX must promptly provide Lionheart with reasons for that determination and Lionheart may (but is not obliged to) further propose revisions to the terms of this document within a further period of 2 Business Days (which must be considered by SMX in accordance with this clause 10.8(g)).

If following receipt of proposed revisions to the terms of this document by Lionheart in accordance with clause 10.8(g), the SMX Board does not determine in accordance with clause 10.8(g)) that the SMX Competing Transaction would continue to constitute an SMX Superior Proposal if such revisions proposed by Lionheart were to be given effect, then SMX and Lionheart must use commercially reasonable endeavours to enter into an amended agreement giving effect to the proposed revisions within 10 Business Days.

SMX agrees that each successive material modification to the terms of any SMX Competing Transaction will constitute a new SMX Competing Transaction for the purposes of clause 10.8 and accordingly SMX must comply with this clause 10.8 in respect of any new SMX Competing Transaction.

10.9 Legal advice

Each of SMX and Lionheart acknowledges that it has received legal advice on this document and the operation of this clause.

11. Lionheart Break Fee

11.1 Acknowledgement and agreement

Each party:

- (a) believes that the implementation of the Transactions will provide significant benefits to its shareholders and the shareholders of the other party; and
- (b) acknowledges and agrees that if it enters into this deed and the Transactions are subsequently not implemented, the Lionheart Group will have incurred significant costs, including significant opportunity costs.

11.2 SMX acknowledgement

SMX acknowledges and agrees that:

- (a) the Lionheart Group incurred and will continue to incur significant costs and expenses in pursuing the Transactions, including:
 - (i) legal, financial and other professional advisory costs;
 - (ii) costs of management and directors' time;
 - (iii) funding costs;
 - (iv) out of pocket expenses; and
 - (v) opportunity costs of pursuing the Transactions or in not pursuing alternative transactions or business opportunities;
- (b) the costs and expenses actually incurred by the Lionheart Group are of such nature that they cannot accurately be ascertained;
- (c) the Lionheart Break Fee is a genuine and reasonable estimate of the costs and expenses that have been or will be actually incurred by the Lionheart Group in pursuing the Transactions;
- (d) the Lionheart Group has negotiated the inclusion of clause 11.3 in this deed and would not have entered into this deed without it; and
- (e) the SMX Board has received external legal and financial advice in relation to this clause 11 and has concluded that it is reasonable and appropriate for SMX to agree to payment of the Lionheart Break Fee in the circumstances described in clause 11.3 in order to secure the Lionheart Group's entry into this deed.

11.3 Circumstances where Lionheart Break Fee payable

Subject to clauses 11.4(a) and 11.6(a), SMX must pay the Lionheart Break Fee to Lionheart without withholding or set off if:

- (a) **failure or change to recommendation of Scheme:** during the Exclusivity Period, any SMX Director (even if permitted by this deed):

- (i) withdraws, changes, qualifies, adversely revises or adversely qualifies their support of the Capital Reduction and Scheme or their recommendation that Scheme Participants vote in favour of the Capital Reduction and Scheme or intention to vote in favour of the Capital Reduction and Scheme or fails to recommend that SMX Shareholders vote in favour of the Capital Reduction and Scheme and state they intend to vote in favour of the Capital Reduction and Scheme in the manner described in clause 7.1 (including for the avoidance of doubt, whether or not SMX has used its best endeavours to procure the recommendation);
- (ii) makes a statement:
 - (A) supporting, endorsing or recommending any SMX Competing Transaction;
 - (B) to the effect that they no longer support the Scheme or Option Scheme; or
 - (C) otherwise indicating that they no longer recommend the Transactions,

unless:

- (iii) the Independent Expert concludes in the Independent Expert's Report (or in any update of, or revision, amendment or addendum to that report), that the Capital Reduction and Scheme is not in the best interests of Scheme Participants (other than where the conclusion is due to the existence of a proposal for an SMX Competing Transaction); or
 - (iv) a Governmental Authority of competent jurisdiction requires that he or she abstains from making a recommendation due to an interest the SMX Director has in the Capital Reduction and Scheme that renders it inappropriate for him or her to make or maintain and provided that in such a case the SMX Director:
 - (A) simply abstains from making a recommendation in respect of the Capital Reduction and Scheme and does not adversely change or qualify their recommendation; and
 - (B) does not make a statement of the kind set out in clause 11.3(a)(ii);
- (b) **SMX Competing Transaction:** an SMX Competing Transaction is announced or made on or before the Second Court Date and, within 12 months of the date of such announcement, the party making the proposal or an Associate of that party:
- (i) completes in all material respects a transaction of the kind referred to in paragraphs (a)(ii), (a)(iii), (a)(iv) or (b) of the definition of SMX Competing Transaction; or
 - (ii) directly or indirectly acquires a Relevant Interest in, or has, or has a right to acquire, a legal, beneficial or economic interest in or control of, 50% or more of SMX Shares or Voting Power of 50% or more in SMX.
- (c) **Lionheart termination:** Lionheart terminates this deed under clauses 14.1(d).

- (d) **failure or change to recommendation of Option Scheme:** during the Exclusivity Period, any SMX Director (even if permitted by this deed) withdraws, changes, qualifies, adversely revises or adversely qualifies their support of the Option Scheme or their recommendation that Option Scheme Participants vote in favour of the Option Scheme or intention to vote in favour of the Option Scheme or fails to recommend that Option Scheme Participants vote in favour of the Option Scheme and state they intend to vote in favour of the Option Scheme in the manner described in clause 7.1 (including for the avoidance of doubt, whether or not SMX has used its best endeavours to procure the recommendation), unless:
 - (i) the Independent Expert concludes in the Independent Expert's Report (or in any update of, or revision, amendment or addendum to that report), that the Option Scheme is not in the best interests of Option Scheme Participants (other than where the conclusion is due to the existence of a proposal for an SMX Competing Transaction);
 - (ii) a Governmental Authority of competent jurisdiction requires that he or she abstains from making a recommendation due to an interest the SMX Director has in the Option Scheme that renders it inappropriate for him or her to make or maintain and provided that in such a case the SMX Director:
 - (A) simply abstains from making a recommendation in respect of the Option Scheme and does not adversely change or qualify their recommendation; and
 - (B) does not make a statement of the kind set out in clause 11.3(a)(ii);
- (e) **(failure of condition precedent)** The Condition Precedent in clause 3.1(u) (SMX securities) or clause 3.1(i) (SMX Representations and Warranties and Parent Representations and Warranties) is not satisfied, or becomes incapable of being satisfied, by the End Date.

11.4 Lionheart Break fee not payable

Notwithstanding anything else in this deed if the Scheme becomes Effective, then:

- (a) the Lionheart Break Fee is not payable by SMX to Lionheart; and
- (b) if the Lionheart Break Fee has been paid in whole or part by SMX to Lionheart, it must be refunded by Lionheart to SMX within five Business Days after receiving a written demand for payment from SMX.

11.5 Payment of Lionheart Break Fee

- (a) If the Lionheart Break Fee becomes payable under this deed, SMX must pay it without withholding or set-off within 20 Business Days after receipt of a written demand
- (b) The Lionheart Break Fee is payable by SMX to Lionheart only once and, if actually paid to Lionheart in full, Lionheart cannot make any Claim against SMX for any further payment of the Lionheart Break Fee.
- (c) Notwithstanding any other provision of this deed, but subject to clause 11.5(d):

- (i) the maximum aggregate liability of SMX to Lionheart under or in connection with this deed including in respect of any breach of this deed will be the amount of the Lionheart Break Fee;
 - (ii) a payment by SMX of the Lionheart Break Fee in accordance with this clause 11 represents the sole and absolute liability of SMX to Lionheart under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by SMX to Lionheart in connection with this deed; and
 - (iii) the amount of the Lionheart Break Fee payable to Lionheart under this clause 11 shall be reduced by the amount of any loss or damage recovered by Lionheart in relation to a breach of any other clause of this deed.
- (d) Clause 11.5(c) does not limit the liability of SMX under or in connection with this deed in respect of any fraud or wilful material breach of this deed by SMX.

11.6 Amendments to Lionheart Break Fee Arrangements

- (a) If any of the following occurs:
- (i) ASIC requires any modification to the Lionheart Break Fee Arrangements as a condition of not opposing the Scheme;
 - (ii) the Court requires any modification to the Lionheart Break Fee Arrangements as a condition of making orders convening the Scheme Meeting; or
 - (iii) as a result of an application to the Takeovers Panel by a party other than SMX or its Representatives, the Takeovers Panel indicates to either party in writing that, in the absence of a written undertaking pursuant to section 201A of the *Australian Securities and Investments Commission Act 2001* (Cth) to modify the Lionheart Break Fee Arrangements, it will make a declaration of unacceptable circumstances,

then, subject to clause 11.6(c), the parties must amend this clause 11 to the extent required to give effect to the requirements of ASIC, the Court or the Takeovers Panel, as the case may be, and in the circumstances referred to in clause 11.6(a)(iii) must give the required undertakings.

- (b) The parties:
- (i) must not request ASIC to review, or make or cause or permit to be made any application to the Court or the Takeovers Panel in respect of, the Lionheart Break Fee Arrangements; and
 - (ii) must take all reasonable steps to ensure that any modification to clause 11 required by ASIC or the Court or any undertaking required by the Takeovers Panel, has the minimum effect possible.
- (c) The parties are only required under clause 11.6(a) to make a modification, or give an undertaking to modify, clause 11 if:

- (i) no appeal or review proceedings are available from the decision to impose the requirement or the period for lodging an appeal or commencing review proceedings has expired without an appeal having been lodged or review proceedings commenced; or
- (ii) SMX and Lionheart agree in writing not to appeal or seek review of the decision to impose the requirement.

12. SMX Break Fee

12.1 Acknowledgement and agreement

Each party:

- (a) believes that the implementation of the Transactions will provide significant benefits to its shareholders and the shareholders of the other party; and
- (b) acknowledges and agrees that if it enters into this deed and the Transactions are subsequently not implemented, SMX will have incurred significant costs, including significant opportunity costs.

12.2 Lionheart acknowledgement

Lionheart Group acknowledges and agrees that:

- (a) SMX incurred and will continue to incur significant costs and expenses in pursuing the Transactions, including:
 - (i) legal, financial and other professional advisory costs;
 - (ii) costs of management and directors' time;
 - (iii) funding costs;
 - (iv) out of pocket expenses; and
 - (v) opportunity costs of pursuing the Transactions or in not pursuing alternative transactions or business opportunities;
- (b) the costs and expenses actually incurred by SMX are of such nature that they cannot accurately be ascertained;
- (c) the SMX Break Fee is a genuine and reasonable estimate of the costs and expenses that have been or will be actually incurred by SMX in pursuing the Transactions;
- (d) SMX has negotiated the inclusion of clause 12.3 in this deed and would not have entered into this deed without it; and
- (e) the Lionheart Board has received external legal and financial advice in relation to this clause 12 and has concluded that it is reasonable and appropriate for Lionheart to agree to payment of the SMX Break Fee in the circumstances described in clause 12.3 in order to secure SMX's entry into this deed.

12.3 Circumstances where SMX Break Fee payable

Subject to clauses 12.4(a), Lionheart must pay the SMX Break Fee to SMX without withholding or set off if:

- (a) **failure or change to recommendation:** during the Exclusivity Period, any Lionheart Director (even if permitted by this deed):
 - (i) withdraws, changes, qualifies, adversely revises or adversely qualifies their support of the Lionheart Proposals or their recommendation that Lionheart Shareholders vote in favour of the Lionheart Proposals or fails to recommend that Lionheart Shareholders vote in favour of the Lionheart Proposals in the manner described in clause 7.2;
 - (ii) makes a statement:
 - (A) supporting, endorsing or recommending any Lionheart Competing Transaction;
 - (B) to the effect that they no longer support the Lionheart Proposals; or
 - (C) otherwise indicating that they no longer recommend the Lionheart Proposals,

unless:

 - (iii) a Governmental Authority of competent jurisdiction requires that he or she abstains from making a recommendation, provided that in such a case, the Lionheart Director:
 - (A) simply abstains from making a recommendation in respect of the Lionheart Proposals and does not adversely change or qualify their recommendation; and
 - (B) does not make a statement of the kind set out in clause 12.3(a)(ii).
- (b) **Lionheart Competing Transaction:** a Lionheart Competing Transaction is announced or made on or before the Second Court Date and, within 12 months of the date of such announcement, the party making the proposal or an Associate of that party:
 - (i) completes in all material respects a transaction of the kind referred to in paragraph (b) of the definition of Lionheart Competing Transaction; or
 - (ii) directly or indirectly acquires a Relevant Interest in or becomes the holder of or has a right to acquire a legal, beneficial or economic interest in, or control of, securities representing 50% or more of the total outstanding voting power of Lionheart (other than as a custodian, nominee or bare trustee).
- (c) **SMX termination:** SMX terminates this deed under clause 14.1(d).
- (d) **(failure of condition precedent)** The Condition Precedent in clause 3.1(l) (Lionheart Representations and Warranties) is not satisfied, or becomes incapable of being satisfied, by the End Date.

12.4 SMX Break Fee not payable

- (a) Notwithstanding anything else in this deed, if the Scheme becomes Effective:
 - (i) the SMX Break Fee is not payable by Lionheart to SMX; and
 - (ii) if the SMX Break Fee has been paid in whole or part by Lionheart to SMX, it must be refunded by SMX to Lionheart within five Business Days after receiving a written demand for payment from Lionheart.

12.5 Payment of SMX Break Fee

- (a) If the SMX Break Fee becomes payable under this deed, Lionheart must pay it without withholding or set-off within 20 Business Days after receipt of a written demand.
- (b) The SMX Break Fee is payable by Lionheart to SMX only once and, if actually paid to SMX in full, SMX cannot make any Claim against Lionheart for any further payment of the SMX Break Fee.
- (c) Notwithstanding any other provision of this deed, but subject to clause 12.5(d):
 - (i) the maximum aggregate liability of Lionheart to SMX under or in connection with this deed including in respect of any breach of this deed will be the amount of the SMX Break Fee;
 - (ii) a payment by Lionheart of the SMX Break Fee in accordance with this clause 12 represents the sole and absolute liability of Lionheart to SMX under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Lionheart to SMX in connection with this deed; and
 - (iii) the amount of the SMX Break Fee payable to SMX under this clause 12 shall be reduced by the amount of any loss or damage recovered by SMX in relation to a breach of any other clause of this deed.
- (d) Clause 12.5(c) does not limit the liability of Lionheart under or in connection with this deed in respect of any fraud or wilful material breach of this deed by Lionheart.

13. Representations and warranties

13.1 SMX's representations and warranties

Except as Disclosed to Lionheart in the SMX Disclosure Letter, SMX represents and warrants to Lionheart (on its own behalf and separately as trustee or nominee for each of the Lionheart directors) that each of the following statements is true and correct at the date of this deed and on each subsequent day until and including 8.00am on the Second Court Date (except where any statement is expressed to be made only at a particular date):

- (a) **(status)**
 - (i) it and each other member of the SMX Group has been incorporated or formed in accordance with the laws of its place of incorporation and

remains in good standing thereunder, except in the case of such other members, where the failure to be in good standing would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect;

- (ii) there are no restrictions on the ability of any SMX Subsidiary to pay dividends or distributions except for restrictions imposed by applicable law.

(b) **(power)**

- (i) it has power to enter into this document, the BCA and each other Transaction Document to which it is a party, to comply with its obligations under them and exercise its rights under them;
- (ii) it and each other member of the SMX Group has the corporate power and authority to own, lease or operate all of its properties and assets and to carry on its business as it is now being conducted, except in relation to such other members, where the failure to have such power and authority would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect;

(c) **(no contravention)** the entry by it into, and its compliance with its obligations and the exercise of its rights under, this document, the BCA and each other Transaction Document to which it is a party does not and will not conflict with or breach (or constitute an event of default, prepayment event or similar event, or give another party a termination right or right to accelerate any right or obligation, including a right to obligation to any payments or fees):

- (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
- (ii) any applicable law binding on it or its assets, except where any conflict would not, individually or in the aggregate, reasonably be expected to have an SMX Material Adverse Effect; or
- (iii) any other document or agreement that is binding on any member of the SMX Group, except where any conflict or breach would not, individually or in the aggregate, reasonably be expected to have an SMX Material Adverse Effect;

(d) **(consents and approvals)** except for:

- (i) the filing of any required applications, filings and notices, as applicable, with the NASDAQ, SEC, ASX, or ASIC;
- (ii) the filing of any required applications, filings and notices, as applicable, with FIRB, ACCC and the U.S. Federal Trade Commission; and
- (iii) approval of the Scheme by Court,

no consents or approvals of or filings or registrations with any Governmental Authority (including the Israel Innovation Authority, the Israel Ministry of Defence or the Israel Defense Forces) are necessary in connection with:

- (iv) the execution and delivery by it of this document, the BCA and each other Transaction Document to which it is a party; or

- (v) the implementation of the Scheme and the other transactions contemplated by this document, the BCA and each other Transaction Document to which it is a party,

except for such consents, approvals, filings or registrations that, if not obtained or made, would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect;

- (e) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, the BCA and each other Transaction Document to which it is a party and in order for it to comply with its obligations and exercise its rights under them, and to allow them to be enforced;
- (f) **(validity of obligations)** its obligations under this document, the BCA and each other Transaction Document to which it is a party are valid and binding and are enforceable against it in accordance with their terms;
- (g) **(reliance)** the SMX Information contained in the Scheme Booklet will be included in good faith and on the understanding that Lionheart and its directors will rely on that information for the purposes of considering and approving the Lionheart Information in the Scheme Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
- (h) **(SMX Information)** the SMX Information provided in accordance with this document and included in, or incorporated by reference into, the Scheme Booklet and the Lionheart Registration/Proxy Statement, as applicable, as at the First Court Date, the date of despatch of the Scheme Booklet, the date of the Scheme Meeting and 8.00am on the Second Court Date and the date the Lionheart Registration/Proxy Statement or any amendment or supplement thereto is filed with the SEC or the Lionheart Proxy Statement or any amendment or supplement thereto is mailed to the Lionheart Shareholders or at the time of the Lionheart Shareholder Meeting, as applicable, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules, all relevant regulatory guides and other guidelines and requirements of ASIC, the Securities Act and the Exchange Act, as applicable;
- (i) **(continuous disclosure)** SMX has complied in all material respects with its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure (other than the transaction contemplated by this document);
- (j) **(SMX Disclosure Letter and diligence information)** all the information provided to Lionheart by SMX in the SMX Disclosure Letter or as part of due diligence in connection with this document has been prepared and provided in good faith and, except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect, is accurate and is not misleading, whether by way of omission or otherwise, except that no representation is made with respect to any projections or other forward looking information included in the SMX Disclosure Letter or such due diligence;
- (k) **(compliance)**

- (i) except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect, the SMX Group has (A) complied with all Australian and foreign laws and regulations applicable to it, (B) complied with all written agreements, consent agreements, memoranda of understanding or similar undertakings with any Governmental Authority and (C) maintained all licenses, permits and authorisations necessary for it to conduct its respective businesses as presently being conducted, and no suspension or cancellation of any such licenses, permits and authorisations is pending or, to the knowledge of SMX, threatened;
 - (ii) no member of the SMX Group is a party to any, and there are no outstanding or pending or, to the knowledge of SMX, threatened, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any nature against a member of the SMX Group or any of their directors or officers (in their capacity as such) which would reasonably be expected to, individually or in the aggregate, have an SMX Material Adverse Effect, or, as of the date of this document, challenging the validity or propriety of the Scheme or other transactions contemplated by this document;
 - (iii) there is no material injunction, order, judgment, decree, or regulatory restriction imposed upon any member of the SMX Group or the assets thereof; and
 - (iv) except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect, no member of the SMX Group is subject to any cease-and-desist or other order or enforcement action issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been ordered to pay any civil money penalty by, or has been a recipient of any supervisory letter from, or has adopted any policies, procedures or board resolutions at the request or suggestion of, any Governmental Authority that currently restricts in any respect or would reasonably be expected to restrict in any respect the conduct of its business or would prevent or materially impair the ability of SMX to implement the Scheme and the transactions contemplated by this document, nor has any member of the SMX Group been advised by any Governmental Authority that it is considering issuing, initiating, ordering or requesting any such agreement;
- (l) **(provision of information to Independent Expert)** all information provided by or on behalf of SMX to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (m) **(provision of information to Investigating Accountant)** all information provided by or on behalf of SMX to the Investigating Accountant to enable the Investigating Accountant's Report to be prepared and completed will be provided in good faith and on the understanding that the Investigating Accountant will rely upon that information for the purpose of preparing the Investigating Accountant's Report;

- (n) **(no default)** no member of the SMX Group is in default under any document, agreement or instrument binding on it or its assets nor has anything occurred which is or would with the giving of notice or lapse of time constitute an event of default, prepayment event or similar event, or give another party a termination right or right to accelerate any right or obligation, under the document or agreement with that effect, except where such default or occurrence would not, individually or in aggregate, reasonably be expected to have an SMX Material Adverse Effect;
- (o) **(securities)**
 - (i) as at the date of this document, (i) its issued securities are 165,854,581 ordinary shares and (ii) SMX has not issued or agreed to issue any other securities or instruments which are still outstanding and which may convert into SMX Shares, other than the SMX Convertible Notes, the SMX Options (the exercise price and expiry dates of which are as set out in Option Scheme and the terms of which are set out in Data Room Section I), 7,376,732 ESOP Options and the Legacy Performance Options;
 - (ii) other than Yahaloma Technologies Inc., British Columbia, Canada number BC1219747 (50%) and True Gold Consortium Pty Ltd. ACN 641 483 374 (44.8%), it owns, directly or indirectly, all of the issued and outstanding shares or other equity ownership interests of each Subsidiary of SMX, free and clear of any Encumbrance (other than transfer restrictions under applicable securities laws), and all of such shares or equity ownership interests are duly authorised and validly issued and are fully paid, nonassessable and free of pre-emptive rights;
 - (iii) other than the shares or other equity ownership interests described in clause 13.1(o)(ii), there are no outstanding subscriptions, options, warrants, stock appreciation rights, phantom units, scrip, rights to subscribe to, pre-emptive rights, anti-dilutive rights, rights of first refusal or similar rights, puts, calls, commitments or agreements of any character relating to, or securities or rights convertible into or exchangeable or exercisable for, shares of capital stock or other voting or equity securities of or ownership interests in any Subsidiary of SMX, or contracts, commitments, understandings or arrangements by which any Subsidiary of SMX may become bound to issue additional shares of its capital stock or other equity or voting securities or ownership interests in such Subsidiary, or otherwise obligating any Subsidiary of SMX to issue, transfer, sell, purchase, redeem or otherwise acquire any of the foregoing;
- (p) **(no Encumbrances)** there are no material Encumbrances over all or any of the assets or revenues of the SMX Group;
- (q) **(Insolvency event)** neither SMX nor any other material member of the SMX Group is Insolvent;
- (r) **(SMX Shares not indirect Australian real property interests)** the relevant SMX Shares held by each Scheme Participant are not, and until (and including) the Implementation Date will not be, indirect Australian real property interests within the meaning of Division 855 of the Tax Act for the Scheme Participant;
- (s) **(financial information and filings)**

- (i) the financial statements of the SMX Group included (or incorporated by reference) in SMX Reporting Documents (as defined below), including the related notes, where applicable:
 - (A) have been prepared in accordance with the requirements of the Corporations Act and any other applicable laws and in accordance with the Accounting Standards; and
 - (B) give a true and fair view in all material respects of the consolidated financial position of the SMX Group and the consolidated results of operations and changes in cash flows and equity of the SMX Group as of the respective dates and for the periods therein set forth;
- (ii) to the extent any of the books and records of SMX and its Subsidiaries are required to be maintained in accordance with the Accounting Standards, the Corporations Act and other applicable laws, such books and records have been, and are being, maintained in all material respects in accordance with the Accounting Standards;
- (iii) except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect, no member of the SMX Group has any liability of any nature whatsoever (whether absolute, accrued, contingent or otherwise and whether due or to become due), other than those liabilities (A) that are reflected or reserved against on the consolidated balance sheet of the SMX Group included in its report for the full year ended 31 December 2021 (including any notes thereto), (B) incurred in the ordinary course of business since 31 December 2021, or (C) incurred in connection with this document and the transactions contemplated by this document;
- (iv) except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect, since 31 December 2021:
 - (A) no member of the SMX Group, nor, to the knowledge of SMX, any director, officer, auditor, accountant or Representative of any member of the SMX Group, has received or otherwise had or obtained knowledge of any complaint, allegation, assertion or claim, whether written or, to the knowledge of SMX, oral, regarding the accounting or auditing practices, procedures, methodologies or methods (including with respect to reserves, write-downs, charge-offs and accruals) of any member of the SMX Group or their respective internal accounting controls, including any complaint, allegation, assertion or claim that a member of the SMX Group has engaged in inappropriate accounting or auditing practices; and
 - (B) no employee of or legal adviser representing a member of the SMX Group, whether or not employed by a member of the SMX Group, has reported in writing evidence of a breach of securities laws, breach of fiduciary duty or similar breach by a member of the SMX Group or any of its directors, officers, employees or agents to the SMX Board or any committee thereof or the board of directors or similar governing body of any Subsidiary of SMX or any committee thereof, or to the knowledge of SMX, to any officer of a member of the SMX Group;

- (v) it has timely filed with ASIC and the ASX all required material reports, schedules, prospectuses, forms, statements, notices and other documents required to be filed with ASIC and the ASX, including any notices required to be filed by the Listing Rules (all of those documents being the “**SMX Reporting Documents**”);
 - (vi) as of its date, each SMX Reporting Document complied in all material respects with the requirements of the Corporations Act and the Listing Rules and all rules, regulations and policy statements under the Corporations Act and the Listing Rules; and
 - (vii) none of the SMX Reporting Documents as of the date of their respective filings (or, if amended or superseded by a filing prior to the date of this document, on the date of such amended or superseding filing) contained an untrue statement of a material fact or omitted to state a material fact required to be stated in it or necessary to prevent the statement made from being false or misleading in the circumstances in which it has been made;
- (t) (**asset control**) except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect, all the material tangible assets listed in the SMX Reporting Documents are (i) fully paid for, (ii) either the absolute property of a member of the SMX Group free and clear of all material encumbrances or used by an SMX Group Member under a contract under which it is entitled to use the assets on the terms and conditions of such contract, (iii) not the subject of any lease or hire purchase agreement or agreement for purchase on deferred terms, other than in the ordinary course of business, (iv) in the possession of an SMX Group Member, its agent or nominee, or (v) not the subject of any agreements or arrangements to dispose or not to dispose or that otherwise restrict their use or disposal, except as provided for, or taken into account in the preparation of, the SMX Reporting Documents;
- (u) (**certain payments**) except as would not reasonably be expected to be, individually or in the aggregate, material to the SMX Group (taken as a whole), no member of the SMX Group or, to SMX’s knowledge, any of its respective officers, directors, employees, agents or representatives has, directly or indirectly, in connection with the business of the SMX Group: (i) made, offered or promised to make or offer any unlawful payment, loan or transfer of anything of value to or for the benefit of any government official, candidate for public office, political party or political campaign; (ii) paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature; (iii) made, offered or promised to make or offer any unlawful contributions, gifts, entertainment or other unlawful expenditures; (iv) established or maintained any unlawful fund of corporate monies or other properties; (v) created or caused the creation of any false or inaccurate books and records of the SMX Group or any of its members related to any of the foregoing; or (vi) otherwise violated any provision of the Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§78dd-1, et seq., the UK Bribery Act of 2010, or any other applicable anti-corruption or anti-bribery law;
- (v) (**broker’s fees**)
- (i) with the exception of the engagement of ClearThink Capital LLC (the terms of which are set out in Data Room document “*20210310 – ClearThink Capital LLC-SMX Consulting Agreement.pdf*”, no member of the SMX Group, nor any of their respective officers or directors has employed any

broker, finder or financial adviser or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Scheme or transactions contemplated by this document; and

- (ii) a true and complete copy of the engagement letter with each of ClearThink Capital LLC has been made available to Lionheart in the Data Room (as set out in clause 13.1(v)(i) above) prior to the date of this document, which have not been modified;

(w) **(absence of certain changes or events)**

- (i) since 31 December 2021 through to the date of this document, there has not been any effect, change, event, circumstance, condition, occurrence or development that has had or would reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect; and
- (ii) since 31 December 2021 through to the date of this document, the SMX Group has carried on its business in all material respects in the ordinary course;

(x) **(taxes)** except as would not reasonably be expected to have, individually or in aggregate, an SMX Material Adverse Effect:

- (i) all Tax Returns required to be lodged by a member of the SMX Group have been lodged on a timely basis and in accordance with Tax Law with the relevant Governmental Authority and are or will be true, complete and correct in all material respects;
- (ii) all Taxes for which a member of the SMX Group is liable that are or have been due and payable, including any penalty or interest, have been paid or appropriately provided or reserved for in the financial statements of the SMX Group, and any obligation on a member of the SMX Group under any Tax Law to withhold amounts at source on account of Tax has been complied with;
- (iii) there is no current, pending or threatened audit, review, questionnaire, investigation or dispute between a member of the SMX Group and any Governmental Authority in respect of any Tax, and no such activity is anticipated, nor, to SMX's knowledge, is there any current, pending or threatened audit, review, questionnaire, investigation or dispute of, or relating to a member of the SMX Group;
- (iv) each member of the SMX Group has maintained proper and adequate records to enable it to comply with its obligations to:
 - (A) prepare and submit any information, notices, computations, returns and payments required in respect of any Tax Law;
 - (B) prepare any accounts necessary for the compliance with any Tax Law; and
 - (C) retain necessary records as required by any Tax Law;
- (v) no member of the SMX Group is, nor has been, a member or part of or otherwise subject to any income tax consolidated group, GST group or

other grouping arrangements in respect of Taxes, with an entity that is not a member of the SMX Group;

- (vi) no member of the SMX Group has a permanent establishment (within the meaning of an applicable Tax treaty) in, or otherwise conducts a trade or business in, any jurisdiction outside of the relevant member of the SMX Group's place of incorporation;
- (vii) to SMX's knowledge, no member of the SMX Group has entered into or been party to any transaction which contravenes the anti-avoidance provisions of any Tax Law;
- (viii) no member of the SMX Group has taken any action which has altered or prejudiced or might alter or prejudice any arrangement, agreement or tax ruling which has previously been negotiated with or obtained from the relevant Governmental Authority or under any Tax Law;
- (ix) no member of the SMX Group is or is expected to become liable to pay, reimburse or indemnify any person in respect of any Tax because of the failure of any other person to discharge that Tax;
- (x) each member of the SMX Group has been a resident for tax purposes solely in the jurisdiction of incorporation;
- (xi) since it commenced carrying on business or deriving income, the office of public officer of each member of the SMX Group as required under any Tax Law has been occupied without vacancy thereof;
- (xii) each member of the SMX Group has complied with the provisions of Part 3-6 of the Tax Act and no dividend or other distribution has been paid or will be paid by SMX:
 - (A) in respect of which the required franking amount (as provided for in Subdivision 202-D of the Tax Act) exceeded the franked amount (as defined in section 200-15 of the Tax Act) of the dividend;
 - (B) giving rise to franking deficit tax as provided for in section 205-45 of the Tax Act;
 - (C) which has been franked with franking credits in excess of the maximum franking credit for the distribution (as provided for in Subdivision 202-D of the Tax Act); or
 - (D) which has been franked in breach of the benchmark rule and which would result in SMX either being liable to pay over-franking tax where the franking percentage for the distribution exceeds the entity's benchmark franking percentage or gives rise to a franking debit where the franking percentage is less than the entity's benchmark franking percentage (as provided for in Division 203 of the Tax Act);
- (xiii) SMX Israel complies with the provisions of the Israeli tax laws and regulations and:
 - (A) is filing for a tax preruling, so that once such pre-ruling is achieved it will not be subject to any restrictions or limitations pursuant to Part

E2 of the Israeli Tax Ordinance or pursuant to any Tax ruling made in connection with the provisions of Part E2 of the Israeli Tax Ordinance, other than as set in the pre-ruling;

- (B) has not participated or engaged in any transaction or action which would require special reporting in accordance with Section 131(g) of the Israeli Tax Ordinance and the Israeli Income Tax Regulations (Tax Planning Requiring Reporting), 2006, regarding aggressive tax planning, or Treasury Regulations Section 1.6011-4(b) or any similar or comparable provision under applicable law;
 - (C) has not received any “reportable tax opinion” or take any “reportable position,” all within the meaning of Sections 131D and 131E of the Israeli Tax Ordinance, Sections 67C and 67D of the Israeli Value Added Tax Law, 1975, as amended, Section 231(e) of the Customs Ordinance [New Version] 5717-1957 and Section 21(c) of Fuel Excise Law, 5718-1958;
 - (D) except or the tax pre-ruling of July 05, 2018 (in folder J2 of the dataroom) or as set forth in the corresponding section of the SMX Disclosure Letter, it has not applied for or received any Tax exemption, Tax holiday, or other Tax reduction agreement or order in connection with other applicable Taxes as the case may be, including any confirmation by the Israel Investment Center of “Approved Enterprise” or “Benefitted Enterprise” status; nor has it received any grants from the Israel Innovation Authority (f/k/a Office of the Chief Scientist) or otherwise under the Law for the Encouragement of Industrial Research and Development, 1984 or from other Governmental Entities; and there are no royalties, fees, repayments or other amounts due or payable by SMX Israel to any Governmental Entity with respect to any of the foregoing;
 - (E) is in full compliance with (i) all of the representations provided by the Company as part of the ruling obtained by SMX Israel on July 5, 2018 from the Israeli Tax Authorities and with (ii) all of the obligations of SMX Israel and its shareholders under such tax ruling;
 - (F) all options which were granted by SMX Israel or SMX under Section 102(b)(2) of the Israeli Tax Ordinance (“**102 Plan**”) and any shares issued under such Section 102(b)(2) were granted and are in compliance with the applicable requirements of Section 102 of the Israeli Tax Ordinance and any written requirement, regulations and rules promulgated thereunder. SMX Group has duly and timely withheld or collected from each payment made to any option holder all taxes required to be deducted or collected therefrom under all applicable laws and regulations and if due, has duly and timely paid the same to the appropriate tax authority.
- (xiv) all documents and transactions entered into or made by a member of the SMX Group which are required to be stamped have been duly stamped and appropriately lodged with the relevant Governmental Authority, and there are no outstanding assessments of duty (including fines, penalties and interest) in respect of any document, instrument or statement which a member of the SMX Group is liable to pay stamp duty on, nor any

requirement on the part of a member of the SMX Group to upstamp any document or instrument in the future on account of any interim stamping or assessment nor any requirement on the part of a member of the SMX Group to lodge and pay stamp duty for any transaction that has occurred but for which the liability to stamp duty has not yet arisen;

- (xv) no member of the SMX Group has obtained, wholly or in part, any corporate reconstruction or corporate consolidation, concession, exemption or ex gratia relief from payment of duty in any Australian jurisdiction;
- (xvi) no event has occurred which has resulted in any duty from which a member of the SMX Group obtained relief (including but not limited to corporate reconstruction or corporate consolidation, exemption or concession or ex gratia relief), becoming payable, and the implementation of the Scheme will not result in any such duty becoming payable;
- (xvii) as at the date of this document, SMX is not and has not been a “controlled foreign corporation” as defined in Section 957 of the Code (or any similar provision of state, local or foreign law) and no member of the SMX Group is or has been a “passive foreign investment company” within the meaning of Section 1297 of the Code;
- (xviii) no member of the SMX Group is or has been (i) a “surrogate foreign corporation” within the meaning of Section 7874(a)(2)(B) of the Code or (ii) treated as a U.S. corporation under Section 7874(b) of the Code;
- (xix) each SMX Share is not an Indirect Australian Real Property Interest within the meaning of section 855-25 of the Tax Act; and
- (xx) each member of the SMX Group is in material compliance with all applicable transfer pricing laws and regulations, including the execution and maintenance of contemporaneous documentation substantiating the transfer pricing practices and methodology between members of the SMX Group. All intercompany agreements have been adequately documented, and such documents have been duly executed in a timely manner. The prices for any property or services (or for the use of any property) provided by or to a member of the SMX Group are arm’s-length prices for the purposes of all applicable transfer pricing laws;
- (xxi) no member of the SMX Group has a share capital account that is tainted under Division 197 or section 160ARDM of the Tax Act;
- (xxii) the commercial debt forgiveness rules contained in Division 245 of the Tax Act (or its predecessor provisions in Schedule 2C of the Tax Act) have not resulted in a net forgiven amount (as defined in those rules) for any member of the SMX Group;
- (xxiii) each member of the SMX Group has not claimed any research and development Tax incentives;
- (xxiv) where a member of the SMX Group has claimed any support, financial assistance, payment, deferral or relief in connection with COVID-19 from any Governmental Authority or under any law (including the *Coronavirus*

Economic Response Package (Payments and Benefits) Act 2020 (Cth)), the member of the SMX Group:

- (A) has satisfied all requirements under applicable laws and administrative practices of the Governmental Authority; and
- (B) has satisfied, received and otherwise complied with all applicable authorisations (including administrative practices of the Governmental Authority), to receive such support, assistance, payment or relief;

(y) **(employees);**

- (i) each member of the SMX Group has complied in all material respects with its obligations under employment and industrial laws, individual contracts of employment with its employees and any industrial awards, industrial agreements and legislation which apply to its employees (including laws relating to employment, Tax, superannuation and workers' compensation), except for instances of noncompliance that would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect;
- (ii) no member of the SMX Group is a party to any workplace agreement with a works council, trade union or industrial organisation, group of employees or individual employees in respect of the employees of the SMX Group and their employment and no industrial awards or workplace agreements apply to any employees of a member of the SMX Group;
- (iii) no employee of the SMX Group has provided SMX or another member of the SMX Group with written notice of any pending or threatened claim (other than routine claims for benefits) against any member of the SMX Group which remains outstanding as at the date of this document and which could reasonably be expected to, individually or in the aggregate, have an SMX Material Adverse Effect;
- (iv) no member of the SMX Group has been involved in any employment or industrial law-related proceedings or dispute with any union or employee at any time that could reasonably be expected to, individually or in the aggregate, have an SMX Material Adverse Effect, and, to the knowledge of SMX, there are not any circumstances that would reasonably be likely to give rise to any such industrial dispute or negotiation;
- (v) other than as Disclosed to Lionheart, neither the execution of this document nor the implementation of the transactions contemplated by this document will (alone or in combination with one or more events or circumstances, including any termination of employment or service): (A) result in any compensation or benefit (including severance, golden parachute, bonus or otherwise) becoming due to any SMX employee or service provider (except as provided by applicable law); (B) increase or otherwise enhance any compensation or benefit otherwise payable to any such individual; (C) result in the acceleration of the time of payment, funding or vesting of any compensation or benefit under any SMX Employee Plan; (D) result in the acceleration or forgiveness (in whole or in part) of any outstanding loan to any SMX employee or service provider; (E) require any contributions or payments to fund any obligations under any

SMX Employee Plan; or (F) except for payments consented to in writing by Lionheart, result in any payment (whether in cash or property or the vesting of property) to any “disqualified individual” (as such term is defined in Treasury Regulations Section 1.280G-1) that would, individually or in combination with any other such payment, constitute an “excess parachute payment” (as defined in Section 280G(b)(1) of the Code);

- (vi) to the knowledge of SMX, there is no pending demand for recognition or any other request or demand from a labour organisation for representative status with respect to any SMX Employee as of the date of this document;
- (vii) there is no material labour dispute, strike, walkout, picketing, lockout, or work stoppage against the SMX Group pending or, to the knowledge of SMX, threatened which may materially interfere with the respective business activities of the SMX Group as of the date of this document;
- (viii) the SMX Disclosure Letter specifies a complete and accurate list of all current officers, directors, managers and employees of all members of the SMX Group, listing (i) dates of hire and any rehire dates; (ii) the rate of compensation (including the portions thereof attributable to salary, bonus and commission, respectively), full-or part-time status, job function/title, and (iii) notice period; and (iv) accrued vacation days, all of which are in Folder I of the data room updated as at 24 July 2022;
- (ix) With respect to the employees of SMX Israel (**“Israeli Employees”**), unless otherwise noted the SMX Disclosure Letter, (i) there are no unwritten policies, practices or customs that entitle any Israeli Employee to benefits in addition to what such Israeli Employee is entitled to under applicable Law or under the terms of such Israeli Employee’s employment agreement (including unwritten customs or practices concerning bonuses or the payment of statutory severance pay when it is not required under applicable Law), (ii) all amounts that SMX Israel is legally or contractually required either (A) to deduct from such Israeli Employees’ salaries and/or to contribute to such Israeli Employees’ managers insurance, pension or provident fund, life insurance, incapacity insurance, education fund, severance pay or other similar funds, or (B) to withhold from its Israeli Employees’ salaries and benefits and to pay to any Governmental Entity as required by the Israeli Tax Ordinance and the Israeli National Insurance Law, 1990, or otherwise, have, in each case, been duly deducted, transferred, withheld and paid, and SMX Israel is not delinquent in making any such deduction, transfer, withholding or payment, (iii) SMX Israel is in compliance in all respects with all applicable laws and regulations relating to employment, employment practices, wages, bonuses, full contribution to social benefits, pension benefits and other compensation matters and terms and conditions of employment related to Israeli Employees, including but not limited to the Prior Notice to the Employee Law, 2002, the Notice to Employee (Terms of Employment) Law, 2002, the Prevention of Sexual Harassment Law, 1998, the Hours of Work and Rest Law, 1951, the Annual Leave Law, 1951, the Employment by Human Resource Contractors Law, 1996, the Advance Notice for Dismissal and Resignation Law, 2001, the Salary Protection Law, 1958, and the Law of Increased Enforcement of Labor Laws, 2011, (iv) to SMX’s knowledge, the termination of the employment of no current Israeli Employee is prohibited or requires a special permit under applicable Law as a result of his or personal or leave status or otherwise, except due to pregnancy and (v) the

obligations to provide statutory severance pay to its Israeli employees pursuant to the Severance Pay Law-1963 and vacation pursuant to the Israeli Annual Leave Law-1951 and any personal employment agreement have been satisfied or have been fully funded by contributions to appropriate insurance funds in accordance with Section 14 under the Israeli Severance Pay Law (“**Section 14 Arrangement**”) and it is and was implemented properly, from the commencement date of the Israeli employee’s employment and on the basis of the employee’s entire salary. Upon the termination of employment of employees, no member of the SMX Group will have to make any payment under the Israeli Severance Pay Law, except for the release of the funds accumulated in accordance with the Section 14 Arrangement. SMX Israel does not engage minors, students, interns or foreign employees in Israel. Except for extension orders applying to all employees in the State of Israel, SMX Israel is not subject to, and no employee of SMX Israel benefits from, any extension order or collective agreement.

(z) (employee benefit plans)

- (i) the SMX Data Room contains a copy of each SMX Employee Plan (see Folder I);
- (ii) SMX has provided to Lionheart to the extent applicable, (i) for each written SMX Employee Plan complete copies of all current documents embodying each such SMX Employee Plan including, all amendments thereto and all related trust documents, provided that “form” agreements may be provided in the case of any offer letters, employment agreements or award agreements, (ii) for each unwritten material SMX Employee Plan, a written summary of the material terms, (iii) the most recent annual report (Form Series 5500 and all audit reports, schedules and financial statements attached thereto), if any, required by any applicable legal requirement in connection with each material SMX Employee Plan and (iv) the most recent summary plan description together with each summary of any material modification thereto, if any, required by any other applicable law with respect to each material SMX Employee Plan;
- (iii) each SMX Employee Plan has been established, maintained, funded, and administered in all respects in accordance with the terms of the applicable controlling documents and in compliance with applicable laws, other than instance of noncompliance that would not reasonably be expected to, individually or in aggregate, have an SMX Material Adverse Effect;
- (iv) other than the statutory pension funds in Israel the SMX Group does not sponsor or maintain or have any liability with respect to any defined benefit pension plans or arrangements, including any (i) pension plan subject to Part 3 of Subtitle B of Title I of ERISA, Title IV of ERISA or Section 412 of the Code, (ii) with respect to employees located in the United States, multiple employer welfare arrangement, as defined under Section 3(40)(A) of ERISA (without regard to Section 514(b)(6)(B) of ERISA), established or maintained for the purpose of offering or providing welfare plan benefits to the employees of two or more employers that are not ERISA Affiliates (including one or more self- employed individuals), or to their beneficiaries, or (iii) any multiemployer plan (as defined in Section 3(37) of ERISA);

- (v) other than those payments Disclosed in the SMX Disclosure Letter, no SMX Employee Plan provides benefits, including death or medical benefits (whether or not insured), with respect to current or former employees, directors or service providers of the SMX Group beyond their retirement or other termination of service, other than coverage mandated by the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, or comparable law or where the full cost of such benefit is borne by the beneficiary or his or her dependents;
 - (vi) there are no actions, suits or claims pending, or, to the knowledge of SMX, threatened or that could reasonably be expected to be commenced (other than routine claims for benefits) against any SMX Employee Plan or against the assets of any SMX Employee Plan, except as would not reasonably be expected to, individually or in the aggregate, have an SMX Material Adverse Effect;
 - (vii) there are no audits, inquiries or proceedings pending, or, to the knowledge of SMX, threatened by the IRS, Department of Labour, or any other Governmental Entity with respect to any SMX Employee Plan, except as would not reasonably be expected to, individually or in the aggregate, have an SMX Material Adverse Effect;
 - (viii) the SMX Group has timely made all contributions and other payments required by and due under the terms of each SMX Employee Plan, except for instance of non-compliance that would not reasonably be expected to, individually or in the aggregate, have an SMX Material Adverse Effect;
 - (ix) the SMX Group does not have any obligation under any SMX Employee Plan to compensate any Person for excise Taxes payable pursuant to Section 4999 of the Code or for additional Taxes payable pursuant to Section 409A of the Code.
- (aa) **(real property)**
- (i) there are no freehold properties owned by the SMX Group;
 - (ii) it or another member of the SMX Group is the lessee of all leasehold estates reflected in the audited financial statements included in SMX's annual report for the fiscal year ended 30 June 2020 or acquired after the date thereof (except for leases that have expired by their terms since the date thereof), free and clear of all material Encumbrances and is in possession of the properties purported to be leased thereunder, and each such lease is valid without default thereunder by the lessee or, to the knowledge of SMX, the lessor, except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect; and
 - (iii) there are no pending or, to the knowledge of SMX, threatened condemnation proceedings against any such real property leased by a member of the SMX Group, except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect;
- (bb) **(intellectual property)** except as Disclosed in the SMX Disclosure Letter or in Folder E of the Data Room, and except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect:

- (i) SMX has Disclosed a complete and accurate list of all registered Intellectual Property including their status, and an accurate description of all unregistered Intellectual Property owned (whether solely or in conjunction with a third party) by a member of the SMX Group;
- (ii) it or another member of the SMX Group solely and exclusively owns, jointly owns and has the right to full enjoyment and use without account to the joint owner(s), or holds a license to use (in each case, free and clear of any Encumbrances), all Intellectual Property necessary:
 - (A) for the conduct of its business as currently conducted as at the date of this document, or its research and development activities in connection with its business; and
 - (B) to conduct its business in the manner that it plans on or after the date of this document;
- (iii) it or another member of the SMX Group solely and exclusively owns and has the right to full enjoyment and use without account to any joint owner, the following patent applications:
 - (A) PCT/IL2022/050133;
 - (B) US Application Number 17626923; and
 - (C) US Application Number 1762916.
- (iv) Each SMX Group member that uses intellectual property to conduct its business is duly authorised to use such intellectual property (whether as sole and exclusive owner, joint owner or as licensee);
- (v) where any Intellectual Property is jointly owned by a member of the SMX Group and a third party or third parties, the joint owner(s) (other than the member of the SMX Group) does not have the right to use, distribute, or exploit (as that term is defined in the *Patents Act 1990* (Cth)) the Intellectual Property without the prior consent of the relevant member of the SMX Group;
- (vi) SMX has Disclosed full details of each patent owned, applied for (including jointly owned or applied for) or licensed by a member of the SMX Group (or a joint venture to which the SMX Group is a shareholder) or used by in connection with the business of the SMX Group, and all patents are valid, have not expired and are held solely by SMX Group;
- (vii) the use of any Intellectual Property by a member of the SMX Group or the conduct of its business does not infringe, misappropriate, violate, or otherwise breach the rights of any person and is in accordance with any applicable license pursuant to which a member of the SMX Group acquired the right to use that Intellectual Property, and no person has asserted in writing to SMX, or has made a claim against SMX, that a member of the SMX Group or the conduct of its business has infringed, misappropriated, violated, or otherwise breached the Intellectual Property rights of such person;

- (viii) any license pursuant to which a member of the SMX Group acquired the right to use Intellectual Property is valid, binding and enforceable, and
 - (A) to the knowledge of SMX, having made due and proper inquiries, the third party granting the rights under each of the aforementioned licences at the time of the grant, and continues to, have the rights required to grant those rights; and
 - (B) SMX is not aware of any facts or circumstances that would lead to early termination by the third party licensor of any of the aforementioned licences;
- (ix) to the knowledge of SMX, no person is, or previously has been, challenging, infringing on or otherwise violating any right of any member of the SMX Group with respect to any Intellectual Property owned by and/or exclusively licensed to a member of the SMX Group;
- (x) to the knowledge of SMX no person has any claim to ownership (either in part or in whole) to the registered or unregistered Intellectual Property;
- (xi) no member of the SMX Group has received any written notice of any pending claim with respect to any Intellectual Property owned by a member of the SMX Group;
- (xii) each member of the SMX Group has taken all reasonably necessary actions to protect and maintain, and avoid the abandonment, cancellation or unenforceability of, all Intellectual Property owned or exclusively licensed by the SMX Group, including obtaining and maintaining appropriate registrations and renewals, and payment of all applicable fees, and to the knowledge of SMX, there have been no material unauthorised uses of any Intellectual Property owned or disclosures of any trade secrets;
- (xiii) no current or former officer or employee of, or consultant or independent contractor to, the SMX Group is asserting or, to the knowledge of SMX, has grounds to assert any rights to any Intellectual Property arising from services or work performed for the business of the SMX Group by such Persons;
- (xiv) it has procured that all employees and contractors engaged by the SMX Group have: (a) assigned to the SMX Group, any and all rights in any Intellectual Property created by those employees and contractors in the course of, or in connection with (including prior to) their employment with or engagement by (as the case may be) the SMX Group (**Assigned IP**), (b) has entered into a written agreement with the SMX Group which obliges disclosure and assignment of any Intellectual Property created, developed or invented in the course of their employment or engagement with the SMX Group, and (c) waived any Moral Rights, or consented to any acts or omissions by the SMX Group, its successors or assigns, that would otherwise be an infringement of any Moral Rights, in and to that Assigned IP;
- (xv) all individuals (including employees, agents, consultants and contractors), who have contributed to or participated in the conception and/or development of the SMX Group Intellectual Property ("**IP Developers**") have executed inventions assignment and nondisclosure agreements in

the form provided to Lionheart, which agreements provide for (i) assignment in favor of the SMX Group, or a member thereof as assignee to ownership of all tangible and intangible property and intellectual property rights thereby arising and related thereto and (ii) a waiver of any right to receive any compensation in respect of such assignment, including, if applicable, a waiver of any right to receive compensation for the assignment of a service invention pursuant to any applicable Law including Section 134 of the Israel Patents Law – 1967. Except as set forth in the Disclosure Letter, no IP Developer has performed services for, or has been an employee of, any Governmental Entity, government owned institution or branch, military, including the Israeli Defense Force, university, hospital college or other educational institution or research center or any other Person during the 12-month period prior to, or while such IP Developer was also performing services for the SMX Group. No such Person listed in the SMX Disclosure Letter has any rights in the SMX Group Intellectual Property by virtue of their relationship with any IP Developer; and

- (xvi) (i) Folder H in the Data Room or the SMX Disclosure Letter specifies a full and complete list of all grants received by SMX Group including the amount of each grant, any outstanding debt, and repayment details. Except as set forth in the SMX Disclosure Letter (the “**Specified Grant**”), no funding (including grants, incentives, support or subsidies), facilities or resources of any Governmental Authority (including the Israel Innovation Authority, the Israel Ministry of Defense or the Israel Defense Forces) or any university, college or other educational institution or government research center were used in the development of any SMX Group Intellectual Property; and (ii) no Governmental Authority (including the Israel Innovation Authority, the Israel Ministry of Defense or the Israel Defense Forces), university, college, or other educational institution or research center has any ownership in or rights to any SMX Group Intellectual Property. The SMX Group is in compliance with the terms and conditions of the Specified Grant and any applicable law that is related to the Specified Grant (including, without limitation, the Law for the Encouragement of Research, Development and Technological Innovation in Industry, 1984 and it has duly fulfilled all the undertakings required thereby to be fulfilled. There is no event or other set of circumstances which (1) would reasonably be expected to lead to the revocation or material modification of any of the Specified Grant or (2) that could provide any Government Entity, university, college, other educational institution or research center, with the right to claim any ownership interest or license to any of the SMX Group Intellectual Property by reason of the Specified Grant or otherwise. No claim or challenge has been made by any Governmental Entity with respect to the entitlement of the SMX Group to any governmental grant received by the SMX Group or the compliance with the terms, conditions, obligations or laws relating to such grants including the Specified Grant. The SMX Group has made all required payments due and payable to the Israel Innovation Authority with respect to all SMX Group’s products sold or provided until the execution date of the BCA.

- (cc) (**Material Contracts**) except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect:

- (i) SMX has Disclosed a true and complete copy of each Material Contract;

- (ii) each Material Contract is in full force and effect and is valid and binding on the applicable member of the SMX Group and, to SMX's knowledge, the other parties thereto (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and by general principles of equity, regardless of whether enforcement is sought in a proceeding at law or in equity);
 - (iii) the relevant SMX Group Member has in all material respects complied with and performed all obligations required to be complied with or performed by it to date under each Material Contract;
 - (iv) as at the date of this document, no member of the SMX Group has knowledge of, or has received notice of, any breach of any Material Contract by any of the other parties thereto; and
 - (v) as at the date of this document, no event or condition exists which constitutes or, after notice or lapse of time or both, will constitute, a material breach or default on the part of the SMX Group or, to the knowledge of SMX, any other party thereto, of or under any Material Contract, or which constitutes an event of default, prepayment event or similar event, or gives another party a termination right or right to accelerate any right or obligation (including a right or obligation to any payment or fees);
- (dd) **(related party transactions)** no member of the SMX Group has entered into, or agreed to enter into, a transaction which requires, or would require, the approval of the holders of SMX Shareholders under Chapter 10 of the Listing Rules;
- (ee) **(insurance)** except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect:
- (i) the SMX Group is insured with reputable insurers against such risks and in such amounts as the management of SMX reasonably has determined to be prudent and consistent with industry practice, and it is in compliance with its insurance policies and is not in default under any of the terms thereof;
 - (ii) each insurance policy held by a member of the SMX Group ("**Insurance Policy**") is in full force and effect and, except for policies insuring against potential liabilities of officers, directors and employees of a member of the SMX Group, the relevant member of the SMX Group is the sole beneficiary of each Insurance Policy;
 - (iii) all premiums and other payments due under each Insurance Policy have been paid, and all claims thereunder have been filed in due and timely fashion;
 - (iv) as at the date of this document, there is no claim for coverage by a member of the SMX Group pending under any Insurance Policy as to which coverage has been questioned, denied or disputed by the underwriters of such Insurance Policy; and

- (v) as of the date of this document, no member of the SMX Group has received written notice of any threatened termination of, premium increase with respect to, or alteration of coverage under, any Insurance Policy; and
- (ff) **(data protection)** except as would not reasonably be expected to have, individually or in the aggregate, an SMX Material Adverse Effect:
 - (i) as of the date of this document, it and each other member of the SMX Group is in compliance with all of its privacy policies and related data protection and management policies, all applicable Data Protection Laws and all contractual requirements worldwide to the extent such requirements relate to the collection, storage, transmission, transfer (including cross-border transfers), disclosure and use of personal data (collectively, "**Data Protection Requirements**") and compliance with the applicable Data Protection Laws, except where such noncompliance would not result in a liability;
 - (ii) no member of the SMX Group has received written notice from any applicable Governmental Authority alleging a violation of any Data Protection Laws, nor has any member of the SMX Group been threatened in writing to be charged with any such violation by any Governmental Authority;
 - (iii) no member of the SMX Group has received a written complaint or demand from any individual claiming that the SMX Group has failed to comply with any Data Protection Requirements;
 - (iv) it and each other member of the SMX Group has implemented measures, consistent with accepted industry practices, reasonably designed to ensure the confidentiality, privacy and security of personal data (including implementing reasonable technical, physical and administrative safeguards);
 - (v) no SMX Group member has been the subject of a 'personal data breach' (as that term is defined under the GDPR), an 'eligible data breach' (as that term is defined under the Privacy Act), or any similar event, matter or circumstance, whereby there has been an accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data;
 - (vi) it and each other member of the SMX Group has entered into written agreements with all third-party service providers, outsources, processors or other third parties who process, store or otherwise have access to or handle personal data for or on behalf of its business that obligate such persons to comply with all applicable Data Protection Requirements and to take steps to protect and secure personal data from loss, theft, misuse or unauthorised use, access, modification or disclosure;
 - (vii) to SMX's knowledge, no third party has gained unauthorised access to or misused any personal data or any computers, software servers, networks or other information technology assets ("**IT Assets**") used in the operation of the business of the SMX Group as currently conducted as at the date of this document, in each case in a manner that has resulted or is reasonably likely to result in either:

- (A) material liability, cost or disruption to the business of the SMX Group; or
- (B) a duty to notify any person;
- (viii) each member of the SMX Group has taken all commercially reasonable steps and implemented all commercially reasonable safeguards, consistent with accepted industry practices, designed to protect their products, services and IT Assets from unauthorised access and free from any disabling codes or instructions, spyware, trojan horses, worms, viruses, or other software routines that permit or cause unauthorised access to, or disruption, impairment, disablement, or destruction of software, data or other materials ("**Malicious Code**");
- (ix) the IT Assets used by SMX Group to the best of SMX's knowledge having made due and proper inquiries:
 - (A) are owned (free from any security interest or encumbrance) or validly licensed for use by, and are under the control of, an SMX Group Member;
 - (B) are free from Malicious Code;
 - (C) operate and perform without material defect, and substantially as needed by the SMX Group to adequately conduct the business of the SMX Group as currently conducted;
 - (D) have been satisfactorily and regularly maintained and supported, pursuant to appropriate maintenance and support agreements;
 - (E) have not experienced or suspected any vulnerabilities, defects, failure or malfunction that would reasonably be expected to result in any security breaches or unauthorised access or other security access incidents affecting the IT Assets or resulting in a loss of control of the IT Assets; and
- (x) no open source software is compiled together with, or is otherwise incorporated into, the proprietary software distributed by the SMX Group in the operation of its business in a manner that would, pursuant to an open source license, breach the terms of that licence, or require any material portion of such proprietary software to be (A) disclosed or distributed in source code form, or (B) be redistributable at no charge.

13.2 SMX's indemnity

SMX indemnifies Lionheart and each of the other members of the Lionheart Group against all Losses incurred as a result of any of the representations and warranties in clause 13.1 or 13.4 not being true and correct.

13.3 Lionheart's representations and warranties

Except as Disclosed to SMX in the Lionheart Disclosure Letter, Lionheart represents and warrants to SMX and the SMX Group (on its own behalf and separately as trustee or nominee for each of the SMX directors) that each of the following statements is true and correct as at the date of this deed and on each subsequent day until and including

8.00am on the Second Court Date (except where any statement is expressed to be made only at a particular date):

- (a) **(status)** it and each other member of the Lionheart Group has been incorporated or formed in accordance with the laws of its place of incorporation and remains in good standing thereunder, except in the case of such other members, where the failure to be in good standing would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect;
- (b) **(power)**
 - (i) it has power to enter into this document, the BCA and each other Transaction Document to which it is a party and to comply with its obligations under them and exercise its rights under them; and
 - (ii) it and each other member of the Lionheart Group has the corporate power and authority to own, lease or operate all of its properties and assets and to carry on its business as it is now being conducted, except in relation to such other members, where the failure to have such power and authority would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect;
- (c) **(no contravention)** the entry by it into, and its compliance with its obligations and the exercise of its rights under, this document, the BCA and each other Transaction Document to which it is a party does not and will not conflict with or breach:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded;
 - (ii) any applicable law binding on to it or its assets, except where any conflict would not, individually or in the aggregate, reasonably be expected to have a Lionheart Material Adverse Effect; or
 - (iii) any other document or agreement that is binding on any member of the Lionheart Group except where any conflict or breach would not, individually or in the aggregate, reasonably be expected to have a Lionheart Material Adverse Effect;
- (d) **(consents and approvals)** except for:
 - (i) the filing of any required applications, filings and notices, as applicable, with the NASDAQ, SEC, ASX, or ASIC;
 - (ii) the filing of any required applications, filings, certificates and notices, as applicable, with FIRB, ACCC, the Office of the Secretary of State of the State of Delaware pursuant to the Delaware General Corporation Law, and the U.S. Federal Trade Commission; and
 - (iii) approval of the Scheme by Court,

no consents or approvals of or filings or registrations with any Governmental Authority are necessary in connection with:

 - (iv) the execution and delivery by it of this document, the BCA and each other Transaction Document to which it is a party; or

- (v) the implementation of the Scheme and the other transactions contemplated by this document, the BCA and each other Transaction Document to which it is a party,

except for such consents, approvals, filings or registrations that, if not obtained or made, would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect;

- (e) **(validity of obligations)** its obligations under this document, the BCA and each other Transaction Document to which it is a party are valid and binding and are enforceable against it in accordance with their terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and by general principles of equity, regardless of whether enforcement is sought in a proceeding at law or in equity);
- (f) **(reliance)** the Lionheart Information provided to SMX for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that SMX and its directors will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the Corporations Act;
- (g) **(Lionheart Information)** the Lionheart Information provided in accordance with this document and included in, or incorporated by reference into, the Scheme Booklet and the Lionheart Registration/Proxy Statement, as applicable, as at the First Court Date, the date of the Scheme Booklet, the date of despatch of the Scheme Booklet, the date of the Scheme Meeting and 8.00am on the Second Court Date, the date the Lionheart Registration/Proxy Statement or any amendment or supplement thereto is filed with the SEC or the Lionheart Proxy Statement or any amendment or supplement thereto mailed to the Lionheart Shareholders or at the time of the Lionheart Shareholder Meeting, as applicable, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules and all relevant regulatory guides and other guidelines and requirements of ASIC;
- (h) **(Lionheart Disclosure Letter and diligence information)** all the information provided to SMX by Lionheart in the Lionheart Disclosure Letter and as part of due diligence in connection with this document has been prepared and provided in good faith and, except as would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect is accurate and is not misleading, whether by way of omission or otherwise, except that no representation is made with respect to any projections or other forward looking information included in the Lionheart Disclosure Letter or such due diligence;
- (i) **(registration and listing).** The issued and outstanding Lionheart Public Units are registered pursuant to Section 12(b) of the Exchange Act and are listed for trading on the Nasdaq Capital Market under the symbol "LIONU." The issued and outstanding Lionheart A Shares are registered pursuant to Section 12(b) of the Exchange Act and are listed for trading on the Nasdaq Capital Market under the symbol "LION." The issued and outstanding Lionheart Public Warrants are registered pursuant to Section 12(b) of the Exchange Act and are listed for trading on the Nasdaq Capital Market under the symbol "LIONW." As of the date of this deed, there are no actions, suits or claims pending or, to the knowledge of

Lionheart, threatened in writing against Lionheart by the Nasdaq Capital Market or the SEC with respect to any intention by such entity to deregister the Lionheart Public Units, the Lionheart A Shares, or Lionheart Public Warrants or terminate the listing of Lionheart on the Nasdaq Capital Market. Other than the Transactions, none of Lionheart or any of its affiliates has taken any action in an attempt to terminate the registration of the Lionheart Public Units, the Lionheart A Shares, or the Lionheart Public Warrants under the Exchange Act.

(j) **(compliance)**

- (i) except as would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect, the Lionheart Group has (A) complied with all United States, Australian and foreign laws and regulations applicable to it, (B) complied with all written agreements, consent agreements, memoranda of understanding or similar undertakings with any Governmental Authority and (C) maintained all licenses, permits and authorisations necessary for it to conduct its respective businesses as presently being conducted, and no suspension or cancellation of any such licenses, permits and authorisations is pending or, to the knowledge of Lionheart, threatened;
- (ii) no member of the Lionheart Group is a party to any, and there are no outstanding or pending or, to the knowledge of Lionheart, threatened, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any nature against a member of the Lionheart Group or any of their directors or officers (in their capacity as such) which would reasonably be expected to, individually or in the aggregate, have a Lionheart Material Adverse Effect, or, as of the date of this document, challenging the validity or propriety of the Scheme or other transactions contemplated by this document;
- (iii) there is no material injunction, order, judgment, decree, or regulatory restriction imposed upon any member of the Lionheart Group or the assets thereof; and
- (iv) except as would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect, no member of the Lionheart Group is subject to any cease- and-desist or other order or enforcement action issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is a party to any commitment letter or similar undertaking to, or is subject to any order or directive by, or has been ordered to pay any civil money penalty by, or has been, a recipient of any supervisory letter from, or, has adopted any policies, procedures or board resolutions at the request or suggestion of, any Governmental Authority that currently restricts in any respect or would reasonably be expected to restrict in any respect the conduct of its business or would prevent or materially impair the ability of Lionheart to implement the Scheme and the transactions contemplated by this document, nor has any member of the Lionheart Group been advised by any Governmental Authority that it is considering issuing, initiating, ordering or requesting any such agreement;

- (k) **(no dealing with SMX Shareholders)** neither it nor any of its Associates has any agreement, arrangement or understanding with any SMX Shareholder under which that SMX Shareholder (or an Associate of that SMX Shareholder) would be

entitled to receive consideration for their SMX Shares different from the Scheme Consideration;

- (l) **(provision of information to Independent Expert)** all information provided by or on behalf of Lionheart to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report;
- (m) **(provision of information to Investigating Accountant)** all information provided by or on behalf of Lionheart to the Investigating Accountant to enable the Investigating Accountant's Report to be prepared and completed will be provided in good faith and on the understanding that the Investigating Accountant will rely upon that information for the purpose of preparing the Investigating Accountant's Report;
- (n) **(securities)**
 - (i) Lionheart's issued securities as of 24 July 2022 are (A) no Lionheart A Shares (excluding 12,900,000 Lionheart A Shares included in Lionheart Private Units and Lionheart Public Units), (B) 3,125,000 Lionheart B Shares, (C) 2,000,000 Lionheart Private Warrants (excluding 200,000 Private Placement Warrants included in Lionheart Private Units), (D) no Lionheart Public Warrants (excluding 6,250,000 Lionheart Public Warrants included in Lionheart Public Units), (E) 12,500,000 Lionheart Public Units and (F) 400,000 Lionheart Private Units, and Lionheart has not issued or agreed to issue any other securities or instruments which are still outstanding and which may convert into Lionheart Shares, other than as set out in the Lionheart Disclosure Letter or in connection with a PIPE Investment;
 - (ii) it owns, directly or indirectly, all of the issued and outstanding shares or other equity ownership interests of each Subsidiary of Lionheart, free and clear of any Encumbrance (other than transfer restrictions under applicable securities laws), and all of such shares or equity ownership interests are duly authorised and validly issued and are fully paid, nonassessable and free of pre-emptive rights;
- (o) **(vote required)** the Lionheart Shareholder Approval is the only vote of the holders of any class or series of Lionheart's capital stock necessary under applicable law, the Listing Rules, Lionheart's organizational documents and any contract to which Lionheart is a party or is bound necessary for Lionheart to implement the Scheme and the other transactions contemplated by this document;
- (p) **(Insolvency event)** neither Lionheart nor any other material member of the Lionheart Group is Insolvent;
- (q) **(financial information and filings)**
 - (i) the financial statements of the Lionheart Group, included (or incorporated by reference) in the Lionheart Reporting Documents, including the related notes, where applicable:

- (A) have been prepared in accordance with the requirements of the Securities Act, the Exchange Act and any other applicable laws and in accordance with US GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited financial statements, as permitted by Form 10-Q of the SEC); and
 - (B) fairly present, in all material respects, the consolidated financial position of the Lionheart Group and the consolidated results of operations and changes in cash flows and stockholders' equity of the Lionheart Group as of the respective dates and for the periods therein set forth (subject, in the case of unaudited statements, to normal and recurring year-end adjustments which have not had, and would not reasonably be expected to, individually or in the aggregate, be material);
- (ii) except as would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect, no member of the Lionheart Group has any liability of a nature required to be reflected on a balance sheet prepared in accordance with GAAP (whether absolute, accrued, contingent or otherwise and whether due or to become due), other than those liabilities (A) that are reflected or reserved against on the consolidated balance sheet of the Lionheart Group included in its last annual or quarterly report filed with the SEC prior to the date of this document (including any notes thereto), (B) incurred in the ordinary course of business since the date of such balance sheet, or (C) incurred in connection with this document, the BCA and the transactions contemplated by this document or the BCA;
- (iii) no independent public accounting firm of Lionheart has resigned (or informed Lionheart that it intends to resign) or been dismissed as independent public accountants of Lionheart as a result of or in connection with any disagreements with Lionheart on a matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure;
- (iv) except as would not reasonably be expected to have, individually or in the aggregate, a Lionheart Material Adverse Effect:
 - (A) no member of the Lionheart Group, nor, to the knowledge of Lionheart, any director, officer, auditor, accountant or Representative of any member of the Lionheart Group, has received or otherwise had or obtained knowledge of any complaint, allegation, assertion or claim, whether written or, to the knowledge of Lionheart, oral, regarding the accounting or auditing practices, procedures, methodologies or methods (including with respect to reserves, write-downs, charge-offs and accruals) of any member of the Lionheart Group or their respective internal accounting controls, including any complaint, allegation, assertion or claim that a member of the Lionheart Group has engaged in inappropriate accounting or auditing practices; and
 - (B) no employee of or legal adviser representing a member of the Lionheart Group, whether or not employed by a member of the Lionheart Group, has reported in writing evidence of a breach of securities laws, breach of fiduciary duty or similar breach by a

member of the Lionheart Group or any of its directors, officers, employees or agents to the Lionheart Board or any committee thereof or the board of directors or similar governing body of any Subsidiary of Lionheart or any committee thereof, or to the knowledge of Lionheart, to any officer of a member of the Lionheart Group;

- (v) Lionheart has timely filed with or furnished to the SEC all reports, schedules, forms, statements, prospectuses, registration statements and other documents required to be filed with or furnished to the SEC by Lionheart (collectively, together with any exhibits and schedules thereto and other information incorporated therein, the “**Lionheart Reporting Documents**”);
- (vi) as of its date, each Lionheart Reporting Document filed with or furnished to the SEC complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable;
- (vii) none of the Lionheart Reporting Documents as of the date of their respective filings (or, if amended or superseded by a filing, on the date of such amended or superseding filing) contained an untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;
- (viii) as of the date of this document, (i) there are no outstanding or unresolved comments received from the SEC staff with respect to any of the Lionheart Reporting Documents and (ii) to the knowledge of Lionheart, none of the Lionheart Reporting Documents (including the financial statements included therein) are subject to ongoing SEC review;
- (ix) Lionheart maintains disclosure controls and procedures (as defined in Rule 13a-15 under the Exchange Act) that are designed to provide reasonable assurance that all information required to be disclosed in Lionheart’s reports filed under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and that all such information is accumulated and communicated to Lionheart’s management as appropriate to allow timely decisions regarding required disclosure and to enable each of the principal executive officer of Lionheart and the principal financial officer of Lionheart to make the certifications required under the Exchange Act with respect to such reports; and
- (x) Lionheart maintains internal controls designed to provide reasonable assurance regarding the reliability of Lionheart’s financial reporting and the preparation of Lionheart’s financial statements for external purposes in accordance with US GAAP, and Lionheart’s principal executive officer and principal financial officer have disclosed, based on their most recent evaluation of such internal controls prior to the date of this document, to Lionheart’s auditors and the audit committee of the Lionheart Board (i) all significant deficiencies and material weaknesses in the design or operation of internal controls which are reasonably likely to adversely affect Lionheart’s ability to record, process, summarize and report financial information and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in internal

controls. Each of the principal executive officer and principal financial officer of Lionheart (or each former principal executive officer and principal financial officer of Lionheart, as applicable) has made all certifications required by Rules 13a-14 and 15d-14 under the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act of 2002, as amended, and any related rules and regulations promulgated by the SEC and NASDAQ. As of the date of this document, neither Lionheart nor any of its executive officers has received written notice from any Governmental Authority challenging or questioning the accuracy, completeness, form or manner of filing of such certifications.

- (r) **(certain payments)** except as would not reasonably be expected to be, individually or in the aggregate, material to the Lionheart Group (taken as a whole), no member of the Lionheart Group or, to Lionheart's knowledge, any of its respective officers, directors, employees, agents or representatives has, directly or indirectly, in connection with the business of the Lionheart Group:
 - (i) made, offered or promised to make or offer any unlawful payment, loan or transfer of anything of value to or for the benefit of any government official, candidate for public office, political party or political campaign;
 - (ii) paid, offered or promised to make or offer any bribe, payoff, influence payment, kickback, unlawful rebate, or other similar unlawful payment of any nature;
 - (iii) made, offered or promised to make or offer any unlawful contributions, gifts, entertainment or other unlawful expenditures;
 - (iv) established or maintained any unlawful fund of corporate monies or other properties;
 - (v) created or caused the creation of any false or inaccurate books and records of the Lionheart Group or any of its members related to any of the foregoing; or
 - (vi) otherwise violated any provision of the Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§78dd-1, et seq., the UK Bribery Act of 2010, or any other applicable anti-corruption or anti-bribery law;
- (s) **(broker's fees)** with the exception of the engagement of EF Hutton, no member of the Lionheart Group, nor any of their respective officers or directors has employed any broker, finder or financial adviser or incurred any liability for any broker's fees, commissions or finder's fees in connection with the Scheme or transactions contemplated by this document;
- (t) **(absence of certain changes or events)** since 31 December 2021 through to the date of this document, there has not been any effect, change, event, circumstance, condition, occurrence or development that has had, individually or in the aggregate, a Lionheart Material Adverse Effect;
- (u) **(taxes)**: except as would not reasonably be expected to have, individually or in aggregate, a Lionheart Material Adverse Effect:
 - (i) all Tax Returns required to be lodged by a member of the Lionheart Group have been lodged on a timely basis and in accordance with Tax Law with

the relevant Governmental Authority and are or will be true, complete and correct in all material respects;

- (ii) all Taxes for which a member of the Lionheart Group is liable that are or have been due and payable, including any penalty or interest, have been paid or appropriately provided or reserved for in the financial statements of the Lionheart Group, and any obligation on a member of the Lionheart Group under any Tax Law to withhold amounts at source on account of Tax has been complied with;
- (iii) there is no current, pending or threatened audit, review, questionnaire, investigation or dispute between a member of the Lionheart Group and any Governmental Authority in respect of any Tax, and no such activity is anticipated, nor, to Lionheart's knowledge, is there any current, pending or threatened audit, review, questionnaire, investigation or dispute of a member of the Lionheart Group;
- (iv) each member of the Lionheart Group has maintained proper and adequate records to enable it to comply with its obligations to:
 - (A) prepare and submit any information, notices, computations, returns and payments required in respect of any Tax Law;
 - (B) prepare any accounts necessary for the compliance of any Tax Law; and
 - (C) retain necessary records as required by any Tax Law;
- (v) no member of the Lionheart Group is, nor has been, a member or part of or otherwise subject to any income tax consolidated group, GST group or other grouping arrangements in respect of Taxes, with an entity that is not a member of the Lionheart Group;
- (vi) no member of the Lionheart Group has a permanent establishment (within the meaning of an applicable Tax treaty) in, or otherwise conducts a trade or business in, any jurisdiction outside of the relevant member of the Lionheart Group's place of incorporation;
- (vii) to Lionheart's knowledge, no member of the Lionheart Group has entered into or been party to any transaction which contravenes the anti-avoidance provisions of any Tax Law;
- (viii) no member of the Lionheart Group has taken any action which has or might alter or prejudice or fail to comply with any arrangement, agreement or Tax ruling which has previously been negotiated with or obtained from the relevant Governmental Authority or under any Tax Law;
- (ix) no member of the Lionheart Group is or is expected to become liable to pay, reimburse or indemnify any person in respect of any Tax because of the failure of any other person to discharge that Tax;
- (x) each member of the Lionheart Group has been a resident for Tax purposes solely in the jurisdiction of incorporation;

- (xi) since it commenced carrying on business or deriving income, the office of public officer of each member of the Lionheart Group as required under any Tax Law has been occupied without vacancy thereof;
- (xii) to the extent required by applicable law, each member of the Lionheart Group has complied with the provisions of Part 3-6 of the Tax Act and no dividend or other distribution has been paid or will be paid by Lionheart:
 - (A) in respect of which the required franking amount (as provided for in Subdivision 202-D of the Tax Act) exceeded the franked amount (as defined in section 200-15 of the Tax Act) of the dividend;
 - (B) giving rise to franking deficit tax as provided for in section 205-45 of the Tax Act;
 - (C) which has been franked with franking credits in excess of the maximum franking credit for the distribution (as provided for in Subdivision 202-D of the Tax Act); or
 - (D) which has been franked in breach of the benchmark rule and which would result in Lionheart either being liable to pay over-franking tax where the franking percentage for the distribution exceeds the entity's benchmark franking percentage or gives rise to a franking debit where the franking percentage is less than the entity's benchmark franking percentage (as provided for in Division 203 of the Tax Act);
- (xiii) all documents and transactions entered into or made by a member of the Lionheart Group which are required to be stamped have been duly stamped and appropriately lodged with the relevant Governmental Authority, and there are no outstanding assessments of duty (including fines, penalties and interest) in respect of any document, instrument or statement which a member of the Lionheart Group is liable to pay stamp duty on, nor any requirement on the part of a member of the Lionheart Group to upstamp any document or instrument in the future on account of any interim stamping or assessment nor any requirement on the part of a member of the Lionheart Group to lodge and pay stamp duty for any transaction that has occurred but for which the liability to stamp duty has not yet arisen;
- (xiv) no member of the Lionheart Group has obtained, wholly or in part, any corporate reconstruction concession, exemption or ex gratia relief from payment of duty in any Australian jurisdiction;
- (xv) no event has occurred which has resulted in any duty from which a member of the Lionheart Group obtained relief (including but not limited to corporate reconstruction exemption or concession or ex gratia relief), becoming payable, and the implementation of the Scheme will not result in any such duty becoming payable;
- (xvi) each Lionheart Share is not an Indirect Australian Real Property Interest within the meaning of section 855-25 of the Tax Act; and
- (xvii) each member of the Lionheart Group is in material compliance with all applicable transfer pricing laws and regulations, including the execution

and maintenance of contemporaneous documentation substantiating the transfer pricing practices and methodology between members of the Lionheart Group. All intercompany agreements have been adequately documented, and such documents have been duly executed in a timely manner. The prices for any property or services (or for the use of any property) provided by or to a member of the Lionheart Group are arm's-length prices for purposes of all applicable transfer pricing laws;

- (xviii) no member of the Lionheart Group has a share capital account that is tainted under Division 197 or section 160ARDM of the Tax Act;
 - (xix) the commercial debt forgiveness rules contained in Division 245 of the Tax Act (or its predecessor provisions in Schedule 2C of the Tax Act) have not resulted in a net forgiven amount (as defined in those rules) for any member of the Lionheart Group;
 - (xx) each member of the Lionheart Group has not claimed any research and development Tax incentives;
 - (xxi) where a member of the Lionheart Group have claimed any support, financial assistance, payment, deferral or relief in connection with COVID-19 from any Governmental Authority or under any law (including the *Coronavirus Economic Response Package (Payments and Benefits) Act 2020* (Cth)), the member of the Lionheart Group: has satisfied all requirements under applicable laws and administrative practices of the Government Authority; and has satisfied, received and otherwise complied with all applicable authorisations (including administrative practices of the Government Authority), to receive such support, assistance, payment or relief.
- (v) **(trust fund).** As of the date of this deed, Lionheart has no less than \$126,400,000 in the Trust Fund. The monies of such Trust Fund are invested in United States government securities or money market funds meeting certain conditions under Rule 2a-7 promulgated under the Investment Company Act of 1940, as amended, and held in trust by the Trustee pursuant to the Trust Agreement. The Trust Agreement has not been amended or modified and is valid and in full force and effect and is enforceable in accordance with its terms, except as limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, by general equitable principles. Lionheart has complied in all material respects with the terms of the Trust Agreement and is not in breach thereof or default thereunder and there does not exist under the Trust Agreement any event which, with the giving of notice or the lapse of time, would constitute such a breach or default by Lionheart or the Trustee. There are no separate contracts, agreements, side letters or other understandings (whether written or unwritten, express or implied) (a) between Lionheart and the Trustee that would cause the description of the Trust Agreement in the forms, reports, schedules, statements and other documents, including any exhibits thereto, required to be filed by it with the SEC since November 3, 2021, together with any amendments, restatements or supplements thereto to be inaccurate in any material respect or (b) to the knowledge of Lionheart, that would entitle any person (other than Lionheart Shareholders who shall have elected to redeem their Lionheart Shares pursuant to Lionheart's Certificate of Incorporation and its bylaws) to any portion of the proceeds in the Trust Fund. Prior to the Scheme becoming Effective, none of the funds held in the Trust Fund may be released except (i) to pay Taxes from any

interest income earned in the Trust Fund and (ii) any payments due and payable upon the exercise of Redemption Rights. As of the date hereof, there are no actions, suits or claims pending or, to the knowledge of Lionheart, threatened in writing with respect to the Trust Fund. As of the date hereto, there are no actions, suits or claims pending with respect to, or against, the Trust Fund. As of the date hereof, assuming the accuracy of the representations and warranties of SMX herein and the compliance by SMX with its respective obligations hereunder, Lionheart has no reason to believe that any of the conditions to the use of funds in the Trust Account will not be satisfied or funds available in the Trust Fund will not be available to Lionheart at the SPAC Merger Effective Time.

13.4 Parent's representations and warranties

Parent represents and warrants to Lionheart (on its own behalf and separately as trustee or nominee for each of the Lionheart Directors) that each of the following statements is true and correct as at the date of this document and on each subsequent day until and including 8.00am on the Second Court Date (except where any statement is expressed to be made only at a particular date):

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation;
- (b) **(power)** it has power to enter into this document, the BCA and each other Transaction Document to which it is a party in order to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, and its compliance with its obligations and the exercise of its rights under, this document, the BCA and each other Transaction Document to which it is a party does not and will not conflict with or breach:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets;
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document, the BCA and each other Transaction Document to which it is a party and in order for it to comply with its obligations and exercise its rights under them, and to allow them to be enforced, and no other organizational proceedings or approvals of equityholders of Parent are necessary to authorise this document or the transactions contemplated hereby that have not already been taken;
- (e) **(validity of obligations)** its obligations under this document are valid and binding and are enforceable against it in accordance with its terms; and
- (f) **(ownership; operations)** Parent was formed on 1 July 2022 solely for the purpose of engaging in the Transactions. Parent has engaged in no other business activities, acquired no assets, engaged no employees, and has no liabilities or obligations (other than incurred in connection with the transactions contemplated by this document, the BCA, the Schemes, or any other Transaction Document) and has conducted its operations only as contemplated by this document, the BCA, the Schemes, or any other Transaction Document.

- (g) **(structure)** from the date of its incorporation until the Implementation Date, except as contemplated by this document, the BCA, the Schemes or any other Transaction Document:
 - (i) the capital structure of Parent comprises the number of shares as at the date of this document and all of the shares in Parent have been owned by the person who owned them at the date of this document, free from any Encumbrance and Parent has not issued or agreed to issue any shares or other securities, including any securities which may be converted or exercised into Parent shares or other Parent securities;
 - (ii) the directors of Parent consist of the persons who were directors of Parent at the date of this document.
- (h) **(Insolvency)** Parent is not Insolvent.

13.5 Lionheart's indemnity

The Lionheart Group indemnifies the members of the SMX Group against all Losses incurred as a result of any of the representations and warranties in clause 13.3 not being true and correct.

14. Termination

14.1 Termination events

This document may be terminated:

- (a) **(End Date)** by either Lionheart or SMX, if the Scheme has not become Effective on or before the End Date, unless the failure of the Scheme to become Effective on or before the End Date is due to the failure of the party seeking to terminate this document to perform or observe its obligations, covenants and agreements under this document;
- (b) **(SMX adverse change)** by Lionheart at any time prior to 8.00am on the Second Court Date if:
 - (i) any SMX Director (whether or not permitted under this deed):
 - (A)** fails to make, changes, withdraws or adversely modifies his or her recommendation to the SMX Shareholders that they vote in favour of the Capital Reduction and Scheme or statement of intention to vote in favour of the Capital Reduction and Scheme or otherwise makes a public statement indicating that the SMX Director no longer supports the Capital Reduction, the Scheme or the Transactions;
 - (B)** fails to make, changes, withdraws or adversely modifies his or her recommendation to the Option Scheme Participants that they vote in favour of the resolution to approve the Option Scheme or statement of intention to vote in favour of the Option Scheme or otherwise makes a public statement indicating that the SMX Director no longer supports the Option Scheme; or
 - (C)** recommends, supports or endorses a SMX Competing Transaction; or

- (ii) any member of the SMX Group accepts or enters into any agreement, arrangement or understanding to give effect to or implement a SMX Competing Transaction (whether or not permitted to do so under this deed);
- (c) **(Lionheart adverse change)** by SMX at any time prior to 8.00am on the Second Court Date if:
 - (i) any Lionheart Director (whether or not permitted under this deed):
 - (A) fails to make, changes, withdraws or adversely modifies his or her recommendation to the Lionheart Shareholders that they vote in favour of the issuance of Parent Shares or otherwise makes a public statement indicating that it no longer supports the Lionheart Proposals; or
 - (B) recommends, supports or endorses a Lionheart Competing Transaction; or
 - (ii) any member of the Lionheart Group accepts or enters into any agreement, arrangement or understanding to give effect to or implement a Lionheart Competing Transaction (whether or not permitted to do so under this deed).
- (d) **(material breach)** at any time prior to 8.00am on the Second Court by:
 - (i) Lionheart if either SMX or Parent is in material breach of a term of this document (excluding any representation and warranty not being true and correct), taken in the context of the Scheme as a whole, provided that Lionheart has given notice to SMX or Parent (as the case may be) setting out the relevant circumstances of such breach and the relevant circumstances continue to exist 30 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time the notice is given;
 - (ii) SMX and Parent if Lionheart is in material breach of a term of this document (excluding any representation and warranty not being true and correct), taken in the context of the Scheme as a whole, provided that SMX and Parent have given notice to Lionheart setting out the relevant circumstances of such breach and the relevant circumstances continue to exist 30 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the time the notice is given;
- (e) **(SMX Superior Proposal)** by SMX at any time prior to 8.00am on the Second Court Date if the SMX Board determines, after completion of the processes specified in clause 10.7 and clause 10.8, that an SMX Competing Transaction is a SMX Superior Proposal provided that there has not been a breach by SMX of its obligations under clause 10 in respect of that SMX Competing Transaction;
- (f) **(consultation or appeal failure)** by either Lionheart or SMX in accordance with and pursuant to clause 3.9(a), 3.9(b) or 6.9;
- (g) **(agreement)** if agreed to in writing by Lionheart and SMX;
- (h) **(BCA)** if the BCA has been terminated in accordance with its terms; or

- (i) **(Lionheart Board)** by Lionheart at any time prior to 8.00am on the Second Court Date if a majority of the Lionheart Board change their recommendation as permitted by clause 7.2.

Where a party has a right to terminate this document, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other parties stating that it terminates this document.

14.2 Effect of Termination

If this document is terminated by a party, or if this document otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this document, other than the obligations set out in this clause 14 and in clauses 11, 12, and clauses 15 to 21 (inclusive) (other than clause 20.12) will immediately cease to be of further force and effect without further liability of any party to the other parties, provided that nothing in this clause releases any party from liability in the case of fraud or wilful material breach of this document by such party.

14.3 Damages

In addition to the right of termination under clause 14.1 where there is no appropriate remedy for the breach in this document (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of this document.

14.4 Payment of Lionheart Break Fee

SMX and Parent may only exercise a right to termination under this clause 14 if SMX has first paid the Lionheart Break Fee, if payable, to Lionheart in accordance with clause 11. Lionheart may only exercise a right to termination under this clause 14 if Lionheart has first paid the SMX Break Fee, if payable, to SMX in accordance with clause 12.

15. Public announcements

15.1 Public announcement of Scheme

Immediately after signing this document, SMX will issue a public announcement of the proposed Scheme and the Transactions in the form contained in Annexure 7.

15.2 Required disclosure

Where a party is required by any applicable law or any Listing Rule to make any announcement or make any disclosure in connection with the Scheme or the Transactions, it must use commercially reasonable efforts, to the extent possible, to consult in good faith with the other parties prior to making the relevant disclosure, provided that if such required disclosure relates to any Confidential Information, the terms of the Confidentiality Agreement shall govern.

15.3 Other announcements

- (a) Subject to clauses 15.1, 15.2 and 15.3(b), no party may make any public announcement or disclosure ("**Announcement**") in connection with the Scheme or the Transactions (including disclosure to a Governmental Authority) other than in a form approved by each party (acting reasonably). Each party will use commercially reasonable efforts to provide that approval as soon as practicable.

If either a party breaches this clause 15.3, then this clause 15.3 shall not apply to any announcement by the a party in response to such Announcement in breach of this clause 15.3.

- (b) Notwithstanding the foregoing, clause 15.2 and clause 15.3(a) shall not apply to an Announcement made in connection with (i) an SMX Competing Transaction or Lionheart Competing Transaction or the SMX Board or Lionheart Board withdrawing or changing its recommendation in accordance with clause 7.1 or clause 7.2, respectively or (ii) in connection with any dispute between the parties regarding this document, the Scheme, the Transactions or the other transactions contemplated by this document or any Transaction Document.

16. Confidential Information

16.1 Disclosure of Confidential Information

Lionheart and SMX each acknowledge and agree that it continues to be bound by the Confidentiality Agreement in respect of all information received by it from the other party on, before or after the date of this document.

17. Notices and other communications

17.1 Form

- (a) Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.
- (b) All communications (other than email communications) must also be marked for the attention of the person referred to in this clause 17.1(b) (or, if the recipient has notified otherwise, then marked for attention in the way last notified) and:
 - (i) if to Lionheart, with a copy to (which shall not constitute notice):

4218 NE 2nd Avenue
Miami, Florida 33137
Attn: General Counsel
Email: notices@lheartcapital.com
 - (ii) if to SMX or Parent, with a copy to (which shall not constitute notice):

Level 25, 525 Collins Street
Melbourne, Victoria 3000
Attn: Haggai Alon, CEO
Email: haggai@securitymattersltd.com
- (c) Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

17.2 Delivery

Communications must be sent by email to the address referred to in clause 17.1(b).

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

17.3 When effective

Communications take effect from the time they are received or taken to be received under clause 17.4 (whichever happens first) unless a later time is specified in the communication.

17.4 When taken to be received

Communications sent by email in accordance with clause 17.2 are taken to be received:

- (a) when the sender receives an automated message confirming delivery; or
- (b) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed, whichever happens first.

17.5 Receipt outside business hours

Despite anything else in this clause 17, if communications are received or taken to be received under clause 17.4 after 5.00pm on a Business Day or on a non-Business Day for the receiving party, they are taken to be received at 9.00am on the next Business Day of the receiving party.

18. GST

18.1 Definitions and interpretation

For the purposes of this clause:

- (a) **"GST Act"** means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause, unless the contrary intention appears; and
- (c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

18.2 GST exclusive

Unless this document expressly states otherwise, all consideration to be provided under this document is exclusive of GST.

18.3 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply in connection with this document, the party providing the consideration for the supply agrees to pay to the supplier an additional amount equal to the amount of GST payable on that supply (**"GST Amount"**).

- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

18.4 Adjustment events

If an adjustment event arises for a supply made in connection with this document, the GST Amount must be recalculated to reflect that adjustment. The supplier or the recipient (as the case may be) agrees to make any payments necessary to reflect the adjustment and the supplier agrees to issue an adjustment note.

18.5 Reimbursements

Any payment, indemnity, reimbursement or similar obligation that is required to be made in connection with this document which is calculated by reference to an amount paid by another party must be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 18.3 will apply to the reduced payment.

19. Costs

19.1 Costs

Subject to clause 11 and 12, the parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document, except for amounts covered by clause 19.2.

19.2 Stamp duty and registration fees

Lionheart:

- (a) agrees to pay or reimburse all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this document, the Scheme or any transfer of the SMX Shares in connection with the Scheme (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnifies each Scheme Participant against, and agrees to reimburse and compensate it for, any liability directly incurred or suffered by the Scheme Participant arising out of or in connection with any failure by Lionheart to make a payment under clause 19.2(a).

However, Lionheart need not pay, reimburse or indemnify against any fees, fines, penalties or interest to the extent they have been imposed because of delay caused by SMX or an SMX Indemnified Party.

20. General

20.1 Variation and waiver

A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

20.2 Consents, approvals or waivers

By giving any approval, consent or waiver, a party does not give any representation or warranty as to any circumstance in connection with the subject matter of the consent, approval or waiver.

20.3 Discretion in exercising rights

Unless this document expressly states otherwise, a party may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this document in its absolute discretion (including by imposing conditions).

20.4 Partial exercising of rights

Unless this document expressly states otherwise, if a party does not exercise a right, power or remedy in connection with this document fully or at a given time, they may still exercise it later.

20.5 Conflict of interest

Each party may exercise their rights, powers and remedies in connection with this document even if this involves a conflict of duty or they have a personal interest in their exercise.

20.6 Remedies cumulative

The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

20.7 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document:

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;
- (b) is independent of any other obligations under this document; and
- (c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

20.8 Inconsistent law

To the extent the law permits, this document prevails to the extent it is inconsistent with any law.

20.9 Supervening law

Any present or future law which operates to vary the obligations of a party in connection with this document with the result that another party's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

20.10 Counterparts

- (a) This document may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of the document. PDF and electronic signatures are taken to be valid and binding to the same extent as physical signatures.
- (b) A party may sign electronically a soft copy of this deed through an electronic signature or digital platform that indicates on the instrument that a digital signature was applied (including DocuSign) and bind itself accordingly. This will satisfy any statutory or other requirements for this deed to be in writing and signed by that party. The parties intend that:
 - (i) any soft copy so signed will constitute an executed original counterpart, and any print-out of the copy with the relevant signatures appearing will also constitute an executed original counterpart; and
 - (ii) each signatory confirms that their signature appearing in this deed, including any such print-out (irrespective of which party printed it), is their personal signature authenticating it.

20.11 Entire agreement

This document and the Transaction Documents constitute the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

20.12 Further steps

Each party agrees to do anything (such as obtaining consents, signing and producing documents, producing receipts and getting documents completed and signed), which another party asks and considers necessary to:

- (a) bind the party and any other person intended to be bound under this document; or
- (b) show whether the party is complying with this document.

20.13 No liability for loss

Unless this document expressly states otherwise, a party is not liable for any loss, liability or costs arising in connection with the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right, power or remedy in connection with this document.

20.14 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

20.15 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this document or any part of it.

20.16 Assignment

A party may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the consent of the other parties.

20.17 Specific Performance

The parties acknowledge and agree that irreparable harm would occur and that the parties would not have any adequate remedy at law (a) for any material breach of this document or (b) in the event that any of the material provisions of this document were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent material breaches or threatened material breaches of this document and to specifically enforce the material terms and provisions of this document (this being in addition to any other remedy to which they are entitled under this document or under applicable law). The parties agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to applicable law or inequitable for any reason, and not to assert that a remedy of monetary damages would provide an adequate remedy or that the parties otherwise have an adequate remedy at law.

20.18 Enforceability

For the purpose of this document:

- (a) SMX is taken to be acting as agent and trustee on behalf of and for the benefit of all SMX Indemnified Parties; and
- (b) Lionheart is taken to be acting as agent and trustee on behalf of and for the benefit of all Lionheart Indemnified Parties,

and all of those persons are to this extent taken to be parties to this document.

20.19 No representation or reliance

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this document, except for representations or inducements expressly set out in this document;

- (b) it does not enter into this document in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this document; and
- (c) clauses 20.19(a) and 20.19(b) above do not prejudice any rights a party may have in relation to information which had been filed by another party with ASIC or ASX.

21. Governing law

21.1 Governing law and jurisdiction

Subject to Section [10.06] of the BCA, the law in force in the State of Victoria governs this document. The parties submit to the non-exclusive jurisdiction of the courts of Victoria.

21.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address for service of notices under clause 17.2 or with its process agent.

21.3 Appointment of process agent - Lionheart

Without preventing any method of service allowed under any relevant law, Lionheart:

- (a) irrevocably appoints DLA Piper Australia as its process agent to receive any document in an action in connection with this document, and agrees that any such document may be served on Lionheart, as applicable, by being delivered to or left for Lionheart or Parent, as applicable, at the following address:

DLA Piper Australia
Level 22, No. 1, Martin Place
Sydney NSW 2000
Attention: David Ryan

- (b) agrees that failure by a process agent to notify DLA Piper Australia of any document in an action in connection with this document does not invalidate the action concerned.

If for any reason DLA Piper Australia ceases to be able to act as process agent, Lionheart agrees to appoint another person as its process agent in the place referred to in clause 21.1 and ensure that the replacement process agent accepts its appointment and confirms its appointment to SMX.

Lionheart agrees that service of documents on its process agent is sufficient service on it.

21.4 Appointment of process agent – SMX and Parent

Without preventing any method of service allowed under any relevant law, each of SMX and Parent:

- (a) irrevocably appoints K&L Gates Australia as its process agent to receive any document in an action in connection with this document, and agrees that any

such document may be served on SMX or Parent, as applicable, by being delivered to or left for SMX or Parent, as applicable, at the following address:

K&L Gates
Level 25, South Tower, 525 Collins Street
Melbourne, Victoria 3000
Attention: Harry Kingsley and Marcia Vlahovic

- (b) agrees that failure by a process agent to notify K&L Gates Australia of any document in an action in connection with this document does not invalidate the action concerned.

If for any reason K&L Gates Australia ceases to be able to act as process agent, SMX and Parent agrees to appoint another person as its process agent in the place referred to in clause 21.1 and ensure that the replacement process agent accepts its appointment and confirms its appointment to SMX and Parent.

SMX and Parent agree that service of documents on its process agent is sufficient service on it.

EXECUTED as a deed

Schedule 1 - Timetable (clause 6.1)

Event	Indicative Dates
Enter into Scheme Implementation Deed	26 July 2022
Lodge Scheme Booklet with ASIC	Early September 2022
First Court Date	Mid to late September 2022
Scheme Booklet registered with ASIC	Late September 2022
Printing and despatch of Scheme Booklet	Late September 2022
Scheme Meeting held	Late October 2022
Second Court Date	Early November 2022
Lodge Court order with ASIC (Effective Date)	Early November 2022
Record Date	Mid November 2022
Implementation Date	Mid November 2022

Signing page

Signed for and on behalf of **Lionheart III Corp**
by its duly authorised representative in the
presence of:

DocuSigned by:

.....E45E46F1B12B48A.....
Signature of witness

Jennifer Stehouwer
.....
Name of witness
(please print)

DocuSigned by:

.....48E1C8AD2635415.....
Signature of authorised representative
By executing this agreement the representative
states that they have received no notice that
their authority to do so has been revoked.

OPHIR STERNBERG
.....
Name of authorised representative
(please print)

SIGNED AND DELIVERED

for and on behalf of and as the deed of

EMPATAN PLC

by its lawfully appointed attorney

in the presence of:

DocuSigned by:

 C5C262CD07C5488...

Signature of witness

Peter Keeran

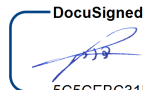
Name of witness

L25, 525 Collins Street,
 Melbourne, Victoria 3000

Address of witness

Lawyer

Occupation of witness


DocuSigned by:

 5C5CEBC31E654EB

Signature of attorney

Doron Afik

Print name of attorney


Executed by Security Matters Limited ACN 626 192 998 in accordance with section 127(1) of the *Corporations Act 2001 (Cth)*:

DocuSigned by:

 E43F00A6B3B1444...

.....
 Signature of director

Haggai Alon

.....
 Name (please print)

DocuSigned by:

 5C5CEBC31E654FB...

.....
 Signature of director or company secretary*
 *delete whichever does not apply

Ed Hofland

.....
 Name (please print)

K&L GATES

Deed of Variation - Scheme Implementation Deed

Lionheart III Corp

and

Empatan PLC

and

Security Matters Limited
ACN 626 192 998

K&L Gates
Melbourne office
Ref:

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Deed of Variation

Date 08 January 2023

Parties

1. **Lionheart III Corp** a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137 (**Lionheart**)
2. **Empatan PLC** a public limited company incorporated in Ireland with registered number 722009 and a registered address at Mespil Business Centre, Mespil House, Sussex Road, Dublin 4, Ireland, D04 T4A6 (**Parent**)
3. **Security Matters Limited** ACN 626 192 998 of Level 25, 525 Collins Street, Melbourne, Victoria 3000 (**SMX**)

Background

- A. The parties are parties to the SID.
- B. The parties wish to vary the SID as set out in this Deed to implement changes requested by ASIC and to update further matters.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

- (a) In this Deed:

ASIC means Australian Securities and Investments Committee;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Melbourne;

Deed means this deed including the background, any schedules and any annexures;

Effective Date means the date of this deed;

SID means the Scheme Implementation Deed made between the parties and dated 26 July 2022; and

- (b) Unless otherwise indicated, words or expressions defined in the Deed have the same meaning in this deed.

1.2 Interpretation

In this Deed, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;

- (c) headings are used for convenience only and do not affect the interpretation of this Deed;
- (d) other grammatical forms of a defined word or expression have a corresponding meaning;
- (e) a reference to a document is to that document as amended, novated, supplemented, extended or restated from time to time;
- (f) a reference to a party is to a party to this deed and includes that party's executors, administrators, successors, permitted assigns and permitted substitutes;
- (g) "person" includes a natural person, partnership, body corporate, association, joint venture, governmental or local authority, and any other body or entity whether incorporated or not;
- (h) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) is to that statute as amended, consolidated, re-enacted or replaced from time to time;
- (i) "include", "for example" and any similar expressions are not used, and must not be interpreted, as words of limitation;
- (j) a reference to any agency or body that ceases to exist, is reconstituted, renamed or replaced, or has its powers or functions removed (**defunct body**) is to the agency or body that performs most closely the powers or functions of the defunct body;
- (k) any provision in this Deed which is in favour of more than one person benefits all of them jointly and each of them severally; and
- (l) any provision in this Deed which binds more than one person binds all of them jointly and each of them severally.

2. Variation of SID

2.1 Variation

With effect on and from the Effective Date, the SID is varied by:

- (a) replacing the definition of **Cashless Exercise** in the Option Scheme with the revised definition set out in Part A of Schedule 1;
- (b) replacing the definition of **Lionheart Material Adverse Effect** to the revised definition set out in Part B of Schedule 1;
- (c) replacing the definition of **SMX Material Adverse Effect** to the revised definition set out in Part C of Schedule 1;
- (d) delete the wording "*and acting reasonably*" from clause 7.1(a)(i);
- (e) delete the wording "*and acting reasonably*" from clause 7.1(b)(i);
- (f) delete the wording "*and acting reasonably*" from clause 7.2; and

- (g) the parties acknowledge that the share capital of SMX has changed since the execution of the SID and the changes set out below are to replace the incorrect share capital currently contained in the SID:
 - (i) a total of 167,854,581 SMX Shares on issue;
 - (ii) a total of 32,122,957 SMX Options on issue; and
 - (iii) a total of 13,050,114 ESOP Options on issue.

2.2 Confirmation of the SID

All provisions of the SID other than those varied by clause 2.1 remain unchanged and continue in full force.

2.3 Prior rights and obligations not affected

3. This Deed does not affect the rights and obligations of the parties to the extent that they relate to the period prior to the Effective Date.

Inconsistency

If there is any inconsistency between the provisions of this Deed and the provisions of the SID, then the provisions of this Deed prevail to the extent of that inconsistency.

4. General

4.1 Severability

Any provision of this Deed which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from this Deed in any other case,

without invalidating or affecting the remaining provisions of this Deed or the validity of that provision in any other jurisdiction.

4.2 No variation

This Deed cannot be amended or varied except in writing signed by the parties.

4.3 Execution and delivery

By executing this Deed, a party intends:

- (i) to be immediately bound by this Deed; and
- (ii) for such execution to constitute delivery of this Deed to each other party.

- (b) Nothing in this clause 4.3 should be taken to exclude any statutory or common law principle applicable to the proper execution and delivery of a deed.
- (c) This clause 4.3 supersedes, terminates and replaces any prior agreements and communications between the parties which indicate that the agreements recorded in this Deed are "subject to contract" or similar arrangements.

4.4 Counterparts

If this Deed consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document. A party may sign a counterpart by executing a signature page and electronically transmitting a copy of the signed page to each other party or their authorised representative. Signatures on behalf of one party that are on different counterparts will be taken to be, and have the same effect as, signatures on the same counterpart and on a single copy of this Deed.

4.5 Governing law and jurisdiction

- (a) This Deed is governed by and must be construed in accordance with the laws of Victoria.
- (b) The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Deed, its performance or subject matter.

Schedule 1

Part A

Definition - Cashless Exercise

Cashless Exercise means the exercise of that portion of Scheme Options held by each Option Scheme Participant, with the exercise price of such options being reduced to nil, and the expiry of the balance of Scheme Options held by that Option Scheme Participant occurring on the Implementation Date, such that each Option Scheme Participant receives the number of Option Exercise Shares determined in accordance with the Schedule and following which all Scheme Options of the Option Scheme Participant have either been exercised or have expired.

Part B

Definition - Lionheart Material Adverse Effect

Lionheart Material Adverse Effect means any event, matter or circumstance which has, or would be reasonably likely to have, either individually or when aggregated with any other events, matters or circumstances:

- (a) a material adverse effect on the assets, liabilities, financial condition, business or results of operations of the Lionheart Group (taken as a whole); and
- (b) the effect of diminishing the value of the net assets of the Lionheart Group (which net assets shall include the assets in the Trust Fund) by an amount of 20% or more, as compared to the value of the net assets of the Lionheart Group set out in the most recent accounts disclosed to the SEC prior to the date of this Deed, excluding any diminishment of such net assets resulting from redemptions from the Trust Fund,

but does not include events, matters or circumstances to the extent resulting from or arising out of:

- (c) changes in general economic, industry, regulatory or political conditions, the securities or other capital markets in general or law;
- (d) any epidemic, pandemic (including COVID-19 or COVID-19 Measures), hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing);
- (e) geopolitical conditions, hostilities, civil or political unrest, any acts of war, sabotage, or terrorism (including any outbreak, escalation or worsening of any of the foregoing);
- (f) any change in taxation rates, interest rates or exchange rates;
- (g) any change in generally accepted accounting principles or the authoritative interpretation of them;
- (h) the taking of any action required under this document, the BCA, the Schemes or the transactions contemplated by them, including the Transactions (other than, to

the extent not excluded by another clause of this definition, Lionheart's compliance with its obligations pursuant to clause 9);

- (i) any change in the market price or trading volume of Lionheart Shares or the Lionheart Warrants (but this exception will not prevent the underlying cause or contributing factor of any such change, if not falling within any other exception in this definition, from being taken into account in determining whether there has been a Lionheart Material Adverse Effect);
- (j) any failure, in and of itself, by Lionheart or a member of the Lionheart Group to meet any internal or published projections, forecasts, estimates or predictions of revenues, earnings or other financial or operating metrics for any period (but this exception will not prevent the underlying cause or contributing factor of any such failure, if not falling within any other exception in this definition, from being taken into account in determining whether there has been a Lionheart Material Adverse Effect);
- (k) the execution, delivery or performance of this document or the BCA, or the announcement of the Schemes or the other transactions contemplated by this document or the BCA (including in the impact of any of the foregoing on the relationship of Lionheart or a member of the Lionheart Group with their respective employees, customers, creditors, suppliers or contractual counterparties), provided that this clause (i) shall not apply with respect to any representation or warranty that addresses the consequences of the execution, delivery or performance of this document or the announcement or pendency of the Scheme or the BCA or the other transactions contemplated by this document or the BCA or with respect to the Conditions Precedent that relate to such representations or warranties;
- (l) the identity of, or any facts or circumstances relating to, SMX or any member of the SMX Group;
- (m) any actions, suits or claims arising from allegations of a breach of fiduciary duty or violation of securities laws, in each case relating to this document, the Schemes, the BCA or the transactions contemplated by this document or the BCA; or
- (n) any action (or the failure to take any action) with the written consent or at the written request of SMX,

except, in the case of each of the foregoing clauses (a), (b), (c), (d) and (e), if the effects of such events, matters or circumstances are disproportionately adverse to the Lionheart Group as compared to the effects on other companies in the industry in which the Lionheart Group operates, and then solely to the extent of such disproportionate effect.

Part C

Definition - SMX Adverse Effect

SMX Material Adverse Effect means any event, matter or circumstance which has, or would be reasonably likely to have, either individually or when aggregated with any other events, matters or circumstances,

- (a) a material adverse effect on the assets, liabilities, financial condition, business or results of operations of the SMX Group (taken as a whole); and

- (b) the effect of diminishing the value of the net assets of the SMX Group by an amount of 20% or more, as compared to the value of the net assets of the SMX Group set out in the 20 June 2022 accounts,

but does not include events, matters or circumstances to the extent resulting from or arising out of:

- (c) changes in general economic, industry, regulatory or political conditions, the securities or other capital markets in general or law;
- (d) any epidemic, pandemic (including COVID-19 or COVID-19 Measures), hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing);
- (e) geopolitical conditions, hostilities, civil or political unrest, any acts of war, sabotage, or terrorism (including any outbreak, escalation or worsening of any of the foregoing);
- (f) any change in taxation rates, interest rates or exchange rates;
- (g) any change in generally accepted accounting principles or the authoritative interpretation of them;
- (h) the taking of any action required under this document, the BCA, the Schemes or the transactions contemplated by them, including the Transactions (other than, to the extent not excluded by another clause of this definition, SMX's compliance with its obligations pursuant to clause 9);
- (i) any change in the market price or trading volume of SMX Shares (but this exception will not prevent the underlying cause or contributing factor of any such change, if not falling within any other exception in this definition, from being taken into account in determining whether there has been an SMX Material Adverse Effect);
- (j) any failure, in and of itself, by SMX or a member of the SMX Group to meet any internal or published projections, forecasts, estimates or predictions of revenues, earnings or other financial or operating metrics for any period (but this exception will not prevent the underlying cause or contributing factor of any such failure, if not falling within any other exception in this definition, from being taken into account in determining whether there has been an SMX Material Adverse Effect);
- (k) the execution, delivery or performance of this document or the BCA, or the announcement of the Schemes or the other transactions contemplated by this document or the BCA (including the impact of any of the foregoing on the relationship of SMX or a member of the SMX Group with their respective employees, customers, creditors, suppliers or contractual counterparties), provided that this clause (i) shall not apply with respect to any representation or warranty that addresses the consequences of the execution, delivery or performance of this document or the announcement of the Schemes or the other transactions contemplated by this document or the BCA or with respect to the Conditions Precedent that relate to such representations or warranties;
- (l) the identity of, or any facts or circumstances relating to, Lionheart or any member of the Lionheart Group;

- (m) actions, suits or claims arising from allegations of a breach of fiduciary duty or violation of securities laws, in each case relating to this document, the Schemes or the BCA or the transactions contemplated by this document or the BCA; or
- (n) any action (or the failure to take any action) with the written consent or at the written request of Lionheart,

except, in the case of each of the foregoing clauses (a), (b), (c), (d) and (e), if the effects of such events, matters or circumstances are disproportionately adverse to the SMX Group as compared to the effects on other companies in the industry in which the SMX Group operates, and then solely to the extent of such disproportionate effect.

Executed as a deed

Signed for and on behalf of **Lionheart III Corp**
by its duly authorised representative in the
presence of:


.....
Signature of witness

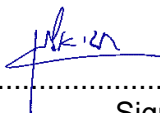
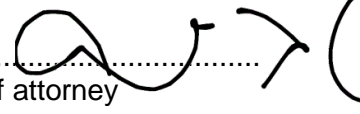
.....
Signature of authorised representative
By executing this agreement the representative
states that they have received no notice that their
authority to do so has been revoked

.....
Name of witness (please print)

.....
Name (please print)

Signed and delivered for and on behalf of and
as a deed of **Empatan PLC** by its lawful
appointed attorney in the presence of:


.....
Signature of witness

 
.....
Signature of attorney

Doron Afik

Haggai Alon

amir bader

.....
Name of witness (please print)

.....
Name of attorney (please print)


103 Hahashmonaim St., Tel Aviv, Israel

.....
Address of witness


Attorney

.....
Occupation of witness

**Executed by Security Matters Limited ACN
626 192 998** in accordance with section 127(1)
of the *Corporations Act 2001* (Cth):

.....

Signature of director

.....
Ed Hofland
.....
Name (please print)

.....

Signature of director

.....
Haggai Alon
.....
Name (please print)

Annexure E – Deed Polls

K&L GATES

Empatan Deed Poll

Empatan PLC (“**Parent**”)

Each Scheme Participant

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Deed Poll

Date

Parties

This Deed Poll is made by:

Empatan PLC, a public limited company incorporated in Ireland with registered number 722009 and a registered address at 10 Earlsfort Terrace, Dublin 2, Ireland (**Parent**)

in favour of:

Each Scheme Participant.

Background

- A. On 26 July 2022, Parent, Lionheart III Corp. a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137 (**Lionheart**) and Security Matters Limited ACN 626 192 998 (**SMX**) entered into a scheme implementation deed with respect to the Scheme (as defined below) and associated matters (**Scheme Implementation Deed**).
- B. The effect of the Scheme is that all Scheme Shares will be cancelled in return for the issuance of the Scheme Consideration to the Scheme Participants.
- C. Parent is entering into this Deed Poll to covenant in favour of the Scheme Participants that Parent will perform all actions attributed to it under the Scheme.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Deed Poll, unless otherwise defined, capitalised words and phrases have the same meaning as given to them in the Scheme and:

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act;

Insolvent has the meaning given in the Scheme Implementation Deed; and

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between SMX and Scheme Participants in respect of all Scheme Shares in the form set out in Annexure 2 of the Scheme Implementation Deed, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Parent, Lionheart and SMX.

1.2 Interpretation

The provisions of clause 1.2 of the Scheme form part of this Deed Poll as if set out at length in this Deed Poll, except that references to "this Scheme" are to be read as references to "this Deed Poll".

1.3 Nature of deed poll

Parent acknowledges and agrees that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Participant in accordance with its terms, even though the Scheme Participant is not party to it; and
- (b) each Scheme Participant irrevocably appoints SMX as its agent and attorney to enforce this Deed Poll against Parent on behalf of that Scheme Participant and that SMX may sub-delegate its functions, authorities and powers to all or any of its directors and officers (jointly and severally).

2. Condition precedent and termination

2.1 Condition precedent to obligations of the Scheme

The obligations of Parent under this Deed Poll are subject to the Scheme becoming Effective.

2.2 Termination

The obligations of Parent under this Deed Poll will automatically terminate, and the terms of this Deed Poll will be of no force or effect, if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Deed is terminated in accordance with its terms, unless SMX, the Parent and Lionheart agree in writing otherwise, with the approval of the Court, if required.

2.3 Consequences of termination

If this Deed Poll is terminated under clause 2.2:

- (a) Parent is released from its obligations to further perform this Deed Poll, except those obligations under clause 7.5; and
- (b) each Scheme Participant retains the rights it has against Parent in respect of any breach of this Deed Poll which occurs before it is terminated.

3. Scheme obligations

3.1 Undertaking Scheme obligations

Subject to clause 2, Parent covenants in favour of each Scheme Participant to perform all actions attributed to it under, and otherwise comply with, the Scheme as if it were a party to the Scheme.

3.2 Provision of Scheme Consideration

Subject to clause 2, Parent undertakes in favour of each Scheme Participant to issue the Scheme Consideration, in accordance with the terms of the Scheme.

4. Representations and warranties

Parent represents and warrants in favour of each Scheme Participant that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (c) it has taken all necessary corporate action to authorise its entry into this Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (d) the obligations of Parent under this Deed Poll constitute legal, valid and binding obligations on Parent and are enforceable against Parent in accordance with its terms; and
- (e) Parent is not Insolvent.

5. Continuing obligations

This Deed Poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Parent has fully performed its obligations under this Deed Poll; or
- (b) the earlier termination of this Deed Poll under clause 2.

6. Notices

Any notice or other communication to Parent in respect of this Deed Poll:

- (a) must be given in accordance with this clause 6;
- (b) may be given by personal service, post or email;
- (c) must be in writing, legible and in English addressed (depending on the manner in which it is given) as shown below:

Doron Afik
C/- Afik & Co
103 Ha'Hahashmonaim Street
Tel Aviv 6120101
Tel: +972 73 2073207
Email: doron@afiklaw.com

or addressed in accordance with any updated details last notified by Parent;

- (d) must be signed by the sender (if an individual) or by that party's authorised officer, agent or representative:
 - (i) in the case of a corporation registered in Australia, by any authorised representative or by the appropriate office holders of that corporation under section 127 of the Corporations Act; or

- (ii) in the case of a corporation registered outside of Australia, by a person duly authorised by the sender in accordance with the laws governing the place of registration of that corporation; and
- (e) if sent by email
 - (i) the email itself (whether or not a notice is attached to it) must be signed by typing the signatory's name after the substantive text of the email and any notice attached to the email must be signed in accordance with clause 6(d); and
 - (ii) any attached file must be a .pdf, .jpeg, .tiff or other appropriate and commonly used format; and
- (f) is deemed to be given by the sender and received by the addressee:
 - (i) if delivered in person, when delivered to the addressee;
 - (ii) if posted, at 9.00 am on the third Business Day after the date of posting to the addressee or, if posted to or from a place outside Australia, on the seventh Business Day after the date of posting to the addressee, whether delivered or not; or
 - (iii) if sent by email, 1 hour after the time the email is sent to the party's email address set out in clause 6(c) above, unless the sender receives, within that time period, an automatic notification (other than an out of office message) indicating that the email has not been delivered.

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

7. General

7.1 Waiver

- (a) A failure to exercise, a delay in exercising or partially exercising any power, right or remedy conferred on a Scheme Participant by this Deed Poll does not operate as a waiver by that party of the power, right or remedy.
- (b) A single or partial exercise of any power, right or remedy does not preclude a further exercise of it or the exercise of any other power, right or remedy under this Deed Poll.
- (c) A waiver of a breach does not operate as a waiver of any other breach.

7.2 Variation

This Deed Poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to in writing by Parent, Lionheart and SMX; or

- (b) if on or after the First Court Date, the variation is agreed to in writing by Parent, Lionheart and SMX and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Parent must enter into a further deed poll in favour of the Scheme Participants giving effect to the variation.

7.3 Remedies cumulative

The powers, rights and remedies of the parties and the Scheme Participants under this Deed Poll are cumulative with and not exclusive of any powers, rights or remedies provided by law independently of this Deed Poll.

7.4 No assignment

The rights created by this Deed Poll are personal to the parties and each Scheme Participant and may only be assigned with the prior written consent of Parent. Any purported assignment in contravention of this clause is invalid.

7.5 Stamp duty

Parent must pay any stamp duties and any related fines and penalties in respect of this Deed Poll, the performance of this Deed Poll and each transaction effected by or made under or pursuant to this Deed Poll.

7.6 Further assurances

Parent must, at its own expense, promptly do all things necessary or expedient to be done by it to give full effect to this Deed Poll.

7.7 Governing law

- (a) This Deed Poll is governed by and must be construed in accordance with the laws in force in the State of Victoria.
- (b) The parties irrevocably, generally and unconditionally submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Deed Poll, its performance or subject matter.
- (c) The parties irrevocably waive any objection to the venue of any legal process in any court referred to in this clause and agree not to make any application to stay proceedings on the basis that the process has been brought in an inconvenient forum.

Executed as a deed poll.

SIGNED AND DELIVERED

for and on behalf of and as the deed of

EMPATAN PLC

by its lawfully appointed attorney in the
presence of:

Signature of attorney

Signature of witness

Print name of attorney

Name of witness

Address of witness

Occupation of witness

K&L GATES

Lionheart Scheme Deed Poll

Lionheart III Corp (“**Lionheart**”)

in favour of each Scheme Participant

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Deed Poll

Date

Parties

This Deed Poll is made by:

Lionheart III Corp. a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137 (**Lionheart**)

in favour of:

Each Scheme Participant.

Background

- A. On 26 July 2022, the Lionheart, Empatan PLC, a public limited company incorporated in Ireland with registered number 722009 and a registered address at 10 Earlsfort Terrace, Dublin 2, Ireland (**Parent**) and Security Matters Limited ACN 626 192 998 (**SMX**) entered into a scheme implementation deed with respect to the Scheme (as defined below) and associated matters (**Scheme Implementation Deed**).
- B. The effect of the Scheme is that all Scheme Shares will be cancelled in return for the issuance of the Scheme Consideration to the Scheme Participants.
- C. Lionheart is entering into this Deed Poll to covenant in favour of the Scheme Participants that Lionheart will perform all actions attributed to it under the Scheme.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Deed Poll, unless otherwise defined, capitalised words and phrases have the same meaning as given to them in the Scheme and:

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act;

Insolvent has the meaning given in the Scheme Implementation Deed; and

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between SMX and Scheme Participants in respect of all Scheme Shares in the form set out in Annexure 1 of the Scheme Implementation Deed, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Parent, Lionheart and SMX.

1.2 Interpretation

The provisions of clause 1.2 of the Scheme form part of this Deed Poll as if set out at length in this Deed Poll, except that references to "this Scheme" are to be read as references to "this Deed Poll".

1.3 Nature of deed poll

Lionheart acknowledges and agrees that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Participant in accordance with its terms, even though the Scheme Participant is not party to it; and
- (b) each Scheme Participant irrevocably appoints SMX as its agent and attorney to enforce this Deed Poll against Lionheart on behalf of that Scheme Participant and that SMX may sub-delegate its functions, authorities and powers to all or any of its directors and officers (jointly and severally).

2. Condition precedent and termination

2.1 Condition precedent to obligations of the Scheme

The obligations of Lionheart under this Deed Poll are subject to the Scheme becoming Effective.

2.2 Termination

The obligations of Lionheart under this Deed Poll will automatically terminate, and the terms of this Deed Poll will be of no force or effect, if:

- (a) the Effective Date does not occur on or before the End Date; or
 - (b) the Scheme Implementation Deed is terminated in accordance with its terms,
- unless Lionheart, Parent and SMX agree in writing otherwise, with the approval of the Court, if required.

2.3 Consequences of termination

If this Deed Poll is terminated under clause 2.2, in addition and without prejudice to any other available rights, powers or remedies:

- (a) Lionheart is released from its obligations to further perform this Deed Poll, except those obligations under clause 7.5; and
- (b) each Scheme Participant retains the rights it has against Lionheart in respect of any breach of this Deed Poll which occurs before it is terminated.

3. Scheme obligations

3.1 Undertaking Scheme obligations

Subject to clause 2, Lionheart covenants in favour of each Scheme Participant to perform all actions attributed to it under, and otherwise comply with, the Scheme as if it were a party to the Scheme.

3.2 Merger

Subject to clause 2, Lionheart undertakes in favour of each Scheme Participant:

- (a) by the Business Day before the Implementation Date, file or procure the filing of the Certificate of Merger with the Secretary of State of Delaware, on the basis that the Merger will take effect on the Implementation Date; and
- (b) not to withdraw the Certificate of Merger so that the filing of the Certificate of Merger is effective on the Implementation Date.

4. Representations and warranties

Lionheart represents and warrants in favour of each Scheme Participant that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (c) it has taken all necessary corporate action to authorise its entry into this Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (d) the obligations of Lionheart under this Deed Poll constitute legal, valid and binding obligations on Lionheart and are enforceable against Lionheart in accordance with its terms; and
- (e) Lionheart is not Insolvent.

5. Continuing obligations

This Deed Poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Lionheart has fully performed its obligations under this Deed Poll; or
- (b) the earlier termination of this Deed Poll under clause 2.

6. Notices

Any notice or other communication to Lionheart in respect of this Deed Poll:

- (a) must be given in accordance with this clause 6;
- (b) may be given by personal service, post or email;
- (c) must be in writing, legible and in English addressed (depending on the manner in which it is given) as shown below:

DLA Piper Australia
Level 22, No. 1, Martin Place
Sydney NSW 2000
Attention: David Ryan

or addressed in accordance with any updated details last notified by Lionheart;

- (d) must be signed by the sender (if an individual) or by that party's authorised officer, agent or representative:
 - (i) in the case of a corporation registered in Australia, by any authorised representative or by the appropriate office holders of that corporation under section 127 of the Corporations Act; or
 - (ii) in the case of a corporation registered outside of Australia, by a person duly authorised by the sender in accordance with the laws governing the place of registration of that corporation; and
- (e) if sent by email
 - (i) the email itself (whether or not a notice is attached to it) must be signed by typing the signatory's name after the substantive text of the email and any notice attached to the email must be signed in accordance with clause 6(d); and
 - (ii) any attached file must be a .pdf, .jpeg, .tiff or other appropriate and commonly used format; and
- (f) is deemed to be given by the sender and received by the addressee:
 - (i) if delivered in person, when delivered to the addressee;
 - (ii) if posted, at 9.00 am on the third Business Day after the date of posting to the addressee or, if posted to or from a place outside Australia, on the seventh Business Day after the date of posting to the addressee, whether delivered or not; or
 - (iii) if sent by email, 1 hour after the time the email is sent to the party's email address set out in clause 6(c) above, unless the sender receives, within that time period, an automatic notification (other than an out of office message) indicating that the email has not been delivered.

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

7. General

7.1 Waiver

- (a) A failure to exercise, a delay in exercising or partially exercising any power, right or remedy conferred on a Scheme Participant by this Deed Poll does not operate as a waiver by that party of the power, right or remedy.
- (b) A single or partial exercise of any power, right or remedy does not preclude a further exercise of it or the exercise of any other power, right or remedy under this Deed Poll.
- (c) A waiver of a breach does not operate as a waiver of any other breach.

7.2 Variation

This Deed Poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to in writing by the Parent, Lionheart and SMX; or
- (b) if on or after the First Court Date, the variation is agreed to in writing by the Parent, Lionheart and SMX and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Lionheart must enter into a further deed poll in favour of the Scheme Participants giving effect to the variation.

7.3 Remedies cumulative

The powers, rights and remedies of the parties and the Scheme Participants under this Deed Poll are cumulative with and not exclusive of any powers, rights or remedies provided by law independently of this Deed Poll.

7.4 No assignment

The rights created by this Deed Poll are personal to the parties and each Scheme Participant and may only be assigned with the prior written consent of Lionheart. Any purported assignment in contravention of this clause is invalid.

7.5 Stamp duty

Lionheart must pay any stamp duties and any related fines and penalties in respect of this Deed Poll, the performance of this Deed Poll and each transaction effected by or made under or pursuant to this Deed Poll.

7.6 Further assurances

Lionheart must, at its own expense, promptly do all things necessary or expedient to be done by it to give full effect to this Deed Poll.

7.7 Governing law

- (a) This Deed Poll is governed by and must be construed in accordance with the laws in force in the State of Victoria.
- (b) The parties irrevocably, generally and unconditionally submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Deed Poll, its performance or subject matter.
- (c) The parties irrevocably waive any objection to the venue of any legal process in any court referred to in this clause and agree not to make any application to stay proceedings on the basis that the process has been brought in an inconvenient forum.

Executed as a deed poll.

In witness hereof, LIONHEART III CORP has caused this deed poll to be executed by a duly authorized officer:

LIONHEART III CORP

By: _____

Name:

Title:

Annexure F – Option Scheme Deed Polls

K&L GATES

Option Deed Poll

Empatan PLC (**“Parent”**)

Each Option Scheme Participant

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Option Deed Poll

Date

Parties

This Option Deed Poll is made by:

Empatan PLC, a public limited company incorporated in Ireland with registered number 722009 and a registered address at 10 Earlsfort Terrace, Dublin 2, Ireland (**Parent**)

in favour of:

Each Option Scheme Participant

Background

- A. On 26 July 2022, Parent, Lionheart III Corp. a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137 (**Lionheart**) and Security Matters Limited ACN 626 192 998 (**SMX** or **Target**) entered into a scheme implementation deed with respect to the Option Scheme (as defined below) and associated matters (**Scheme Implementation Deed**).
- B. In the Scheme Implementation Deed, Parent agreed (among other things) to provide the Cancellation Consideration to Option Scheme Participants, subject to the terms of the Option Scheme.
- C. Parent is entering into this Option Deed Poll to covenant in favour of the Option Scheme Participants that Parent will perform all actions attributed to it under the Option Scheme.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Option Deed Poll, unless otherwise defined, capitalised words and phrases have the same meaning as given to them in the Option Scheme and:

First Court Date means the date the Court first hears the application to order the convening of the Option Scheme Meeting under section 411(1) of the Corporations Act;

Insolvent has the meaning given in the Scheme Implementation Deed; and

Option Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act, between SMX and Option Scheme Participants in respect of all Scheme Options in the form set out in Annexure 2 of the Scheme Implementation Deed, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Parent, Lionheart and SMX.

1.2 Interpretation

The provisions of clause 1.2 of the Option Scheme form part of this Option Deed Poll as if set out at length in this Option Deed Poll, except that references to "this Option Scheme" are to be read as references to "this Option Deed Poll".

1.3 Nature of deed poll

Parent acknowledges and agrees that:

- (a) this Option Deed Poll may be relied on and enforced by any Option Scheme Participant in accordance with its terms, even though the Option Scheme Participant is not party to it; and
- (b) each Option Scheme Participant irrevocably appoints SMX as its agent and attorney to enforce this Option Deed Poll against Parent on behalf of the Option Scheme Participant and that SMX may sub-delegate its functions, authorities and powers to all of any of its directors and officers (jointly and severally).

2. Condition precedent and termination

2.1 Condition precedent to obligations of the Scheme

The obligations of Parent under this Option Deed Poll are subject to the Option Scheme becoming Effective.

2.2 Termination

The obligations of Parent under this Option Deed Poll will automatically terminate, and the terms of this Option Deed Poll will be of no force or effect, if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Deed is terminated in accordance with its terms, unless SMX, Parent and Lionheart agree in writing otherwise, with the approval of the Court, if required.

2.3 Consequences of termination

If this Option Deed Poll is terminated under clause 2.2:

- (a) Parent is released from its obligations to further perform this Option Deed Poll, except those obligations under clause 7.5; and
- (b) each Option Scheme Participant retains the rights it has against Parent in respect of any breach of this Option Deed Poll which occurs before it is terminated.

3. Scheme obligations

3.1 Undertaking Scheme obligations

Subject to clause 2, Parent covenants in favour of each Option Scheme Participant to perform all actions attributed to it under, and otherwise comply with, the Option Scheme as if it were a party to the Option Scheme.

3.2 Provision of Cancellation Consideration

Subject to clause 2, Parent undertakes in favour of each Option Scheme Participant to issue the Cancellation Consideration to each Option Scheme Participant, in accordance with the terms of the Option Scheme.

4. Representations and warranties

Parent represents and warrants in favour of each Option Scheme Participant that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this Option Deed Poll and to carry out the transactions contemplated by this Option Deed Poll;
- (c) it has taken all necessary corporate action to authorise its entry into this Option Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this Option Deed Poll and to carry out the transactions contemplated by this Option Deed Poll;
- (d) the obligations of Parent under this Option Deed Poll constitute legal, valid and binding obligations on Parent and are enforceable against Parent in accordance with its terms and
- (e) Parent is not Insolvent.

5. Continuing obligations

This Option Deed Poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Parent has fully performed its obligations under this Option Deed Poll; or
- (b) the earlier termination of this Option Deed Poll under clause 2.

6. Notices

Any notice or other communication to Parent in respect of this Option Deed Poll:

- (a) must be given in accordance with this clause 6;
- (b) may be given by personal service, post or email;
- (c) must be in writing, legible and in English addressed (depending on the manner in which it is given) as shown below:

Doron Afik
C/- Afik & Co
103 Ha'Hahashmonaim Street
Tel Aviv 6120101
Tel: +972 73 2073207
Email: doron@afiklaw.com

or addressed in accordance with any updated details last notified by Parent;

- (d) must be signed by the sender (if an individual) or by that party's authorised officer, agent or representative:

- (i) in the case of a corporation registered in Australia, by any authorised representative or by the appropriate office holders of that corporation under section 127 of the Corporations Act; or
 - (ii) in the case of a corporation registered outside of Australia, by a person duly authorised by the sender in accordance with the laws governing the place of registration of that corporation; and
- (e) if sent by email
 - (i) the email itself (whether or not a notice is attached to it) must be signed by typing the signatory's name after the substantive text of the email and any notice attached to the email must be signed in accordance with clause 7(d); and
 - (ii) any attached file must be a .pdf, .jpeg, .tiff or other appropriate and commonly used format; and
- (f) is deemed to be given by the sender and received by the addressee:
 - (i) if delivered in person, when delivered to the addressee;
 - (ii) if posted, at 9.00 am on the third Business Day after the date of posting to the addressee or, if posted to or from a place outside Australia, on the seventh Business Day after the date of posting to the addressee, whether delivered or not; or
 - (iii) if sent by email, 1 hour after the time the email is sent to the party's email address set out in clause 7(c) above, unless the sender receives, within that time period, an automatic notification (other than an out of office message) indicating that the email has not been delivered.

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

7. General

7.1 Waiver

- (a) A failure to exercise, a delay in exercising or partially exercising any power, right or remedy conferred on an Option Scheme Participant by this Option Deed Poll does not operate as a waiver by that party of the power, right or remedy.
- (b) A single or partial exercise of any power, right or remedy does not preclude a further exercise of it or the exercise of any other power, right or remedy under this Option Deed Poll.
- (c) A waiver of a breach does not operate as a waiver of any other breach.

7.2 Variation

This Option Deed Poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to in writing by Parent, Lionheart and SMX; or

- (b) if on or after the First Court Date, the variation is agreed to in writing by Parent, Lionheart and SMX and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event the parties must enter into a further deed poll in favour of the Option Scheme Participants giving effect to the variation.

7.3 Remedies cumulative

The powers, rights and remedies of the parties and the Option Scheme Participants under this Option Deed Poll are cumulative with and not exclusive of any powers, rights or remedies provided by law independently of this Option Deed Poll.

7.4 No assignment

The rights created by this Option Deed Poll are personal to the parties and each Option Scheme Participant and may only be assigned with the prior written consent of Parent. Any purported assignment in contravention of this clause is invalid.

7.5 Stamp duty

Parent must pay and stamp duties and any related fines and penalties in respect of this Option Deed Poll, the performance of this Option Deed Poll and each transaction effected by or made under or pursuant to this Option Deed Poll.

7.6 Further assurances

Parent must, at its own expense, promptly do all things necessary or expedient to be done by it to give full effect to this Option Deed Poll.

7.7 Governing law

- (a) This Option Deed Poll is governed by and must be construed in accordance with the laws in force in the State of Victoria.
- (b) The parties irrevocably, generally and unconditionally submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Option Deed Poll, its performance or subject matter.
- (c) The parties irrevocably waive any objection to the venue of any legal process in any court referred to in this clause and agree not to make any application to stay proceedings on the basis that the process has been brought in an inconvenient forum.

Executed as a deed poll.

SIGNED AND DELIVERED

for and on behalf of and as the deed of

EMPATAN PLC

by its lawfully appointed attorney in the
presence of:

Signature of attorney

Signature of witness

Print name of attorney

Name of witness

Address of witness

Occupation of witness

Lionheart Option Scheme Deed Poll

Lionheart III Corp (“**Lionheart**”)

in favour of each Option Scheme Participant

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Lionheart Option Scheme Deed Poll

Date

Parties

This Option Deed Poll is made by:

Lionheart III Corp. a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137 (**Lionheart**)

in favour of:

Each Option Scheme Participant.

Background

- A. On 26 July 2022, the Lionheart, Empatan PLC, a public limited company incorporated in Ireland with registered number 722009 and a registered address at 10 Earlsfort Terrace, Dublin 2, Ireland (**Parent**) and Security Matters Limited ACN 626 192 998 (**SMX**) entered into a Scheme Implementation Deed with respect to the Option Scheme (as defined below) and associated matters (**Scheme Implementation Deed**).
- B. Lionheart is entering into this Option Deed Poll to covenant in favour of the Option Scheme Participants that Lionheart will perform all actions attributed to it under the Option Scheme.

Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Option Deed Poll, unless otherwise defined, capitalised words and phrases have the same meaning as given to them in the Option Scheme and:

First Court Date means the date the Court first hears the application to order the convening of the Option Scheme Meeting under section 411(1) of the Corporations Act;

Insolvent has the meaning given in the Scheme Implementation Deed; and

Option Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act, between SMX and Option Scheme Participants in respect of all Scheme Options in the form set out in Annexure 2 of the Scheme Implementation Deed, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Parent, Lionheart and SMX.

1.2 Interpretation

The provisions of clause 1.2 of the Option Scheme form part of this Option Deed Poll as if set out at length in this Option Deed Poll, except that references to "this Option Scheme" are to be read as references to "this Option Deed Poll".

1.3 Nature of Option Deed Poll

Lionheart acknowledges and agrees that:

- (a) this Option Deed Poll may be relied on and enforced by any Option Scheme Participant in accordance with its terms, even though the Option Scheme Participant is not party to it; and
- (b) each Option Scheme Participant irrevocably appoints SMX as its agent and attorney to enforce this Option Deed Poll against Lionheart on behalf of that Option Scheme Participant and that SMX may sub-delegate its functions, authorities and powers to all or any of its directors and officers (jointly and severally).

2. Condition precedent and termination

2.1 Condition precedent to obligations of the Option Scheme

The obligations of Lionheart under this Option Deed Poll are subject to the Option Scheme becoming Effective.

2.2 Termination

The obligations of Lionheart under this Option Deed Poll will automatically terminate, and the terms of this Option Deed Poll will be of no force or effect, if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Deed is terminated in accordance with its terms, unless SMX, Parent and Lionheart agree in writing otherwise, with the approval of the Court, if required.

2.3 Consequences of termination

If this Option Deed Poll is terminated under clause 2.2:

- (a) Lionheart is released from its obligations to further perform this Option Deed Poll, except those obligations under clause 7.5; and
- (b) each Option Scheme Participant retains the rights it has against Lionheart in respect of any breach of this Option Deed Poll which occurs before it is terminated.

3. Option Scheme obligations

3.1 Undertaking Option Scheme obligations

Subject to clause 2, Lionheart covenants in favour of each Option Scheme Participant to perform all actions attributed to it under, and otherwise comply with, the Option Scheme as if it were a party to the Option Scheme.

3.2 Merger

Subject to clause 2, Lionheart undertakes in favour of each Option Scheme Participant:

- (a) by the Business Day before the Implementation Date, file or procure the filing of the Certificate of Merger with the Secretary of State of Delaware, on the basis that the Merger will take effect on the Implementation Date; and
- (b) not to withdraw the Certificate of Merger so that the filing of the Certificate of Merger is effective on the Implementation Date.

4. Representations and warranties

Lionheart represents and warrants in favour of each Option Scheme Participant that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this Option Deed Poll and to carry out the transactions contemplated by this Option Deed Poll;
- (c) it has taken all necessary corporate action to authorise its entry into this Option Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this Option Deed Poll and to carry out the transactions contemplated by this Option Deed Poll;
- (d) the obligations of Lionheart under this Option Deed Poll constitute legal, valid and binding obligations on Lionheart and are enforceable against Lionheart in accordance with its terms; and
- (e) Lionheart is not Insolvent.

5. Continuing obligations

This Option Deed Poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Lionheart has fully performed its obligations under this Option Deed Poll; or
- (b) the earlier termination of this Option Deed Poll under clause 2.

6. Notices

Any notice or other communication to Lionheart in respect of this Option Deed Poll:

- (a) must be given in accordance with this clause 6;
- (b) may be given by personal service, post or email;
- (c) must be in writing, legible and in English addressed (depending on the manner in which it is given) as shown below:

DLA Piper Australia
Level 22, No. 1, Martin Place
Sydney NSW 2000
Attention: David Ryan

or addressed in accordance with any updated details last notified by Lionheart;

- (d) must be signed by the sender (if an individual) or by that party's authorised officer, agent or representative:
 - (i) in the case of a corporation registered in Australia, by any authorised representative or by the appropriate office holders of that corporation under section 127 of the Corporations Act; or
 - (ii) in the case of a corporation registered outside of Australia, by a person duly authorised by the sender in accordance with the laws governing the place of registration of that corporation; and
- (e) if sent by email
 - (i) the email itself (whether or not a notice is attached to it) must be signed by typing the signatory's name after the substantive text of the email and any notice attached to the email must be signed in accordance with clause 6(d); and
 - (ii) any attached file must be a .pdf, .jpeg, .tiff or other appropriate and commonly used format; and
- (f) is deemed to be given by the sender and received by the addressee:
 - (i) if delivered in person, when delivered to the addressee;
 - (ii) if posted, at 9.00 am on the third Business Day after the date of posting to the addressee or, if posted to or from a place outside Australia, on the seventh Business Day after the date of posting to the addressee, whether delivered or not; or
 - (iii) if sent by email, 1 hour after the time the email is sent to the party's email address set out in clause 6(c) above, unless the sender receives, within that time period, an automatic notification (other than an out of office message) indicating that the email has not been delivered.

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

7. General

7.1 Waiver

- (a) A failure to exercise, a delay in exercising or partially exercising any power, right or remedy conferred on a Option Scheme Participant by this Option Deed Poll does not operate as a waiver by that party of the power, right or remedy.
- (b) A single or partial exercise of any power, right or remedy does not preclude a further exercise of it or the exercise of any other power, right or remedy under this Option Deed Poll.
- (c) A waiver of a breach does not operate as a waiver of any other breach.

7.2 Variation

This Option Deed Poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to in writing by the Parent, Lionheart and SMX; or
- (b) if on or after the First Court Date, the variation is agreed to in writing by the Parent, Lionheart and SMX and the Court indicates that the variation would not of itself preclude approval of the Option Scheme,

in which event Lionheart must enter into a further Option Deed Poll in favour of the Option Scheme Participants giving effect to the variation.

7.3 Remedies cumulative

The powers, rights and remedies of the parties and the Option Scheme Participants under this Option Deed Poll are cumulative with and not exclusive of any powers, rights or remedies provided by law independently of this Option Deed Poll.

7.4 No assignment

The rights created by this Option Deed Poll are personal to the parties and each Option Scheme Participant and may only be assigned with the prior written consent of Lionheart. Any purported assignment in contravention of this clause is invalid.

7.5 Stamp duty

Lionheart must pay any stamp duties and any related fines and penalties in respect of this Option Deed Poll, the performance of this Option Deed Poll and each transaction effected by or made under or pursuant to this Option Deed Poll.

7.6 Further assurances

Lionheart must, at its own expense, promptly do all things necessary or expedient to be done by it to give full effect to this Option Deed Poll.

7.7 Governing law

- (a) This Option Deed Poll is governed by and must be construed in accordance with the laws in force in the State of Victoria.
- (b) The parties irrevocably, generally and unconditionally submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Option Deed Poll, its performance or subject matter.
- (c) The parties irrevocably waive any objection to the venue of any legal process in any court referred to in this clause and agree not to make any application to stay proceedings on the basis that the process has been brought in an inconvenient forum.

Executed as a deed poll.

In witness hereof, LIONHEART III CORP has caused this Option Deed Poll to be executed by a duly authorized officer:

LIONHEART III CORP

By: _____

Name:

Title:

Annexure G – Scheme of Arrangement

K&L GATES

Scheme of Arrangement

Security Matters Limited (“**SMX**”)
ACN 626 192 998

and

Each Scheme Participant

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Scheme of arrangement

Date

Parties

1. **Security Matters Limited** ACN 626 192 998 of Level 25, 525 Collins Street, Melbourne, Victoria 3000, Australia (**SMX**)
2. Each Scheme Participant

Background

- A. SMX, the Parent and Lionheart have entered into a Scheme Implementation Deed pursuant to which SMX has agreed to propose the Scheme to Scheme Participants.
- B. The Parent has executed a Deed Poll pursuant to which the Parent covenants in favour of Scheme Participants to perform certain obligations to give effect to the Scheme.
- C. Lionheart has executed the Lionheart Deed Poll pursuant to which Lionheart covenants in favour of Scheme Participants to perform certain obligations to give effect to the Scheme.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

In this Scheme:

ASIC means the Australian Securities and Investments Commission;

ASX means ASX Limited or the financial market known as the Australian Securities Exchange operated by it, as appropriate;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in: (a) Melbourne, Victoria, Australia; (b) Delaware, United States of America; or (c) Dublin, Ireland;

Capital Reduction means an equal capital reduction of capital under section 256B of the Corporations Act pursuant to which all SMX Shares are to be cancelled in accordance with the terms of the Capital Reduction Resolution;

Capital Reduction Resolution has the meaning given in the Scheme Implementation Deed;

Certificate of Merger means the certificate of merger contemplated by clause 2.3(b)(i);

CHES means the Clearing House Electronic Subregister System of share transfers operated by ASX Settlement;

CHES Holding has the meaning given in the Settlement Rules;

Claim means any claim, action demand, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunction, specific performance or any other remedy;

Condition has the meaning given in clause 3.1(a) of this Scheme;

Conversion has the meaning given in the Settlement Rules;

Corporations Act means the *Corporations Act 2001 (Cth)*;

Court means the Supreme Court of Victoria or any other court of competent jurisdiction under the Corporations Act as SMX, the Parent and Lionheart may agree in writing;

Deed Poll means the deed poll dated [insert] executed by the Parent under which the Parent covenants in favour of each Scheme Participant to perform (amongst other things) the actions attributed to it under this Scheme;

Duty means any stamp, transaction or registration duty or similar charge which is imposed by any Regulatory Authority and includes any associated interest, penalty, charge or other amount which is imposed;

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme;

Effective Date means the date on which the Scheme becomes Effective;

Employee Share Option has the meaning given to ESOP Option in the Scheme Implementation Deed.

Encumbrance means:

- (a) any:
 - (i) legal or equitable interest or power created, arising in or reserved in or over an interest in any property or asset; or
 - (ii) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or retention of title arrangement, right of set-off, assignment of income, garnishee order, monetary claim and flawed deposit arrangement);
- (b) any thing or preferential interest or arrangement of any kind giving a person priority or preference over claims or other persons with respect to any property or asset;
- (c) a PPSA Security Interest; or
- (d) any agreement or arrangement (whether legally binding or not) to grant or create anything referred to in paragraph (a), (b) or (c);

End Date means 8 May 2023 or such other date and time agreed in writing between Lionheart and SMX;

Foreign Scheme Participant means a Scheme Participant whose Registered Address is a place outside of:

- (a) who (as at the Record Date) is (or is acting on behalf of) a citizen or resident of a jurisdiction other than residents of Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands, Israel and the United States; or
- (2) whose address shown in the Register (as at the Record Date) is a place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands, Israel and the United States or who is acting on behalf of such a person,

unless Lionheart has determined prior to the Implementation Date that:

- (3) it is lawful and not unduly onerous or unduly impracticable to issue that Scheme Participant with the New Parent Shares on implementation of the Scheme; and
- (4) it is lawful for that Scheme Participant to participate in the Scheme by the law of the relevant place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands Israel and the United States;

General Meeting means the meeting of SMX Shareholders to approve the Capital Reduction in accordance with section 256C(1) of the Corporations Act;

Implementation Date means, the fifth Business Day after the Record Date, or such other Business Day as Lionheart and SMX agree in writing;

Ineligible Scheme Participants means Foreign Scheme Participants;

Issuer Sponsored Holding has the meaning given in the Settlement Rules;

Lionheart means Lionheart III Corp. a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137;

Lionheart Deed Poll means the deed poll dated [insert] executed by Lionheart under which Lionheart covenants in favour of each Scheme Participant to perform (amongst other things) the actions attributed to it under this Scheme;

Merger has the meaning given in clause 2.2(d);

Merger Sub means Aryeh Merger Sub, Inc. a Delaware Corporation;

NASDAQ means the NASDAQ Stock Market LLC or any other stock exchange in the United States of America upon which the Parent Shares are listed;

New Parent Shares means the Parent Shares to be issued under the Scheme as Scheme Consideration;

Option Scheme has the meaning given in the Scheme Implementation Deed;

Parent means Empatan PLC, a public limited company incorporated in Ireland with registered number 722009;

Parent's Constitution means the constituent documents of the Parent as amended from time to time;

Parent Share means one ordinary share in the share capital of the Parent;

PPSA means the *Personal Property Securities Act 2009* (Cth);

PPSA Security Interest means a security interest as defined in the PPSA;

Proceeds means the gross proceeds of the sale of the Sale Shares under clause 5.3(a)(ii), after deducting applicable brokerage, Duty and other selling costs, taxes and charges;

Record Date means 7.00 pm on the date which is 2 Business Days after the Effective Date, or such other Business Day agreed by Lionheart, the Parent and SMX;

Register means the register of members of SMX maintained by or on behalf of SMX in accordance with section 168(1) of the Corporations Act;

Registered Address means the address of a Scheme Participant shown in the Register;

Regulatory Authority means:

- (a) any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, tribunal, agency or entity;
- (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or
- (c) any regulatory organisation established under statute,

in any part of the world, and whether foreign, federal, state, territorial or local;

Sale Agent means the person appointed by SMX to sell the Sale Shares under clause 5.3;

Sale Shares means the New Parent Shares to which Ineligible Scheme Participants would have been entitled under this Scheme but for the operation of clause 5.3;

Scheme means this scheme of arrangement pursuant to Part 5.1 of the Corporations Act between SMX and Scheme Participants in respect of the Scheme Shares, subject to:

- (d) any amendments agreed in writing by Lionheart, the Parent and SMX, and approved by the Court; and
- (e) any amendments made or required by the Court under section 411(6) of the Corporations Act and approved by Lionheart, the Parent and SMX in writing;

Scheme Implementation Deed means the Scheme Implementation Deed dated [●] July 2022 between the Parent, Lionheart and SMX;

Scheme Consideration means subject to clauses 5.3, 5.4 and 5.6 of this Scheme, the number of New Parent Shares per Scheme Share calculated in accordance with the following formula:

$$NPS = \frac{N}{A + B + C}$$

where:

NPS is the number of New Parent Shares per Scheme Share;

A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and Employee Share Options);

B is the total number of Option Exercise Shares (as defined in the Option Scheme) to be issued on exercise of all Scheme Options on the basis of a Cashless Exercise (as defined in the Option Scheme) under the Option Scheme;

C is the total number of Employee Share Options on issue as at the Record Date; and

N is 20,000,000.

Scheme Meeting means the meeting of SMX Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Scheme;

Scheme Option has the meaning given in the Option Scheme;

Scheme Participant means a person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date;

Scheme Share means an SMX Share on issue as at the Record Date;

Second Court Date means the first day on which the application to approve the Scheme under section 411(4)(b) of the Corporations Act is heard by the Court or scheduled to be heard or, if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard;

Settlement Rules means the ASX Settlement Operating Rules;

SMX Convertible Notes means the A\$828,240 convertible notes issued by SMX in May 2022.

SMX Option means an option granted by SMX to acquire by way of issue one or more SMX Shares.

SMX Registry means Boardroom Pty Limited or any replacement provider of share registry services to SMX;

SMX Share means a fully paid ordinary share in the capital of SMX;

SMX Shareholder means each person who is registered in the Register as a holder of SMX Shares; and

Tax means any tax, levy, charge, excise, impost, rates, fee, deduction, compulsory loan or withholding, which is assessed, levied, imposed or collected by any fiscal Regulatory Authority and includes any interest, fine, penalty, charge, fee, expenses or

other statutory charges or any other such amount imposed by any fiscal Regulatory Authority on or in respect of any of the above, but excludes Duty.

Tax Law means a law with respect to or imposing any Tax.

Trust Account means a US dollar denominated trust account operated by Parent as trustee for the benefit of Ineligible Scheme Participants.

Unclaimed Money Act means the *Unclaimed Money Act 2008* (Vic).

1.2 Interpretation

In this Scheme unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) headings are used for convenience only and do not affect the interpretation of this Scheme;
- (d) other grammatical forms of a defined word or expression have a corresponding meanings;
- (e) a reference to a document is to that document as amended, novated, supplemented, extended or restated from time to time;
- (f) a reference to a party is to a party to this Scheme and includes that party's executors, administrators, successors, permitted assigns and permitted substitutes;
- (g) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (h) "person" includes a natural person, partnership, body corporate, association, joint venture, governmental or local authority, and any other body or entity whether incorporated or not;
- (i) "month" means calendar month and "year" means 12 consecutive months;
- (j) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) is to that statute as amended, consolidated, re-enacted or replaced from time to time;
- (k) "include", "for example" and any similar expressions are not used, and must not be interpreted, as words of limitation;
- (l) money amounts are stated in Australian currency unless otherwise specified;
- (m) a reference to time is to Melbourne, Australia time;
- (n) a reference to any agency or body that ceases to exist, is reconstituted, renamed or replaced, or has its powers or functions removed (**defunct body**) is to the agency or body that performs most closely the powers or functions of the defunct body;

- (o) any provision in this Scheme which is in favour of more than one person benefits all of them jointly and each of them severally; and
- (p) any provision in this Scheme which binds more than one person binds all of them jointly and each of them severally.

2. Preliminary

2.1 SMX

- (a) SMX is a public company limited by shares, incorporated and registered in Victoria, Australia.
- (b) SMX is admitted to the official list of the ASX and SMX Shares are officially quoted on the financial market operated by ASX.
- (c) As at the date of the Scheme Implementation Deed, SMX had the following securities on issue:

Number	Type
165,854,581	SMX Shares
39,607,007	SMX Options (various exercise prices, various expiry dates) (excluding ESOP)
10,000,000	Legacy Performance Options
7,376,732	Employee Share Options
828,240	AUD \$1.00 denominated SMX Convertible Notes

2.2 Merger

- (a) Merger Sub is a wholly owned subsidiary of the Parent, incorporated as a Delaware, USA Corporation.
- (b) Lionheart is a Delaware incorporated special purpose acquisition company listed on the NASDAQ.
- (c) On or before the Implementation Date (and as further described below), Lionheart will merge with Merger Sub and will become a wholly owned subsidiary of Parent (**Merger**).

2.3 Consequences of this Scheme becoming Effective

If the Scheme becomes Effective then:

- (a) Parent will apply for the New Parent Shares to be listed on NASDAQ.

- (b) subject to the terms of this Scheme:
 - (i) by no later than the Business Day prior to the Implementation Date Lionheart will file a Certificate of Merger with the Secretary of State of Delaware, with the certificate of Merger to take effect on the Implementation Date, resulting in the Merger completing.
 - (ii) on the Implementation Date, subject to completion of the step set out in clause 2.3(b)(i):
 - (A) SMX will implement the Capital Reduction under which all Scheme Shares will be cancelled; and
 - (B) Parent will issue the Scheme Consideration to Scheme Participants, in accordance with this Scheme.
 - (iii) subject to completion of the steps set out in clauses 2.3(b)(i) and 2.3(b)(ii)(A), and in consideration of the issuance of the Scheme Consideration, SMX will immediately issue one SMX Share to the Parent.
- (c) it will bind SMX and all Scheme Participants, including those who do not attend the Scheme Meeting, those who do not vote at that meeting and those who vote against this Scheme at that meeting; and
- (d) it will override the constitution of SMX, to the extent of any inconsistency.

2.4 Scheme Implementation Deed, Deed Poll and Lionheart Deed Poll

- (a) The Parent and SMX have agreed, by executing the Scheme Implementation Deed, to implement the terms of this Scheme.
- (b) This Scheme attributes actions to the Parent but does not itself impose an obligation on the Parent to perform those actions. The Parent has agreed by executing the Deed Poll for the benefit of the Scheme Participants to perform (or procure the performance of) its obligations as contemplated by this Scheme, including to provide (or procure the provision of) the Scheme Consideration to Scheme Participants.
- (c) This Scheme attributes certain actions to Lionheart but does not itself impose an obligation on Lionheart to perform those actions. Lionheart has agreed by executing the Lionheart Deed Poll for the benefit of Scheme Participants to perform (or procure the performance of) its obligations as contemplated by this Scheme.

3. Conditions, Effective Date and Sunset Date

3.1 Conditions to the Scheme

- (a) The Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions (each a **Condition**):
 - (i) all conditions precedent in clause 3.1 of the Scheme Implementation Deed having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed by 8.00am on the Second Court Date

(other than the condition precedent in clause 3.1(c) (**Court approval**) and clause 3.1(t) (**Option Scheme**));

- (ii) neither the Scheme Implementation Deed nor the Deed Poll nor the Lionheart Deed Poll having been terminated in accordance with their terms on or before 8.00am on the Second Court Date;
 - (iii) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to in writing by the Parent, Lionheart and SMX;
 - (iv) such other conditions in respect of this Scheme as may be imposed by the Court under section 411(6) of the Corporations Act, as are acceptable to the Parent, Lionheart and SMX, having been satisfied;
 - (v) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Scheme coming into effect, under section 411(10) of the Corporations Act, on or before the End Date; and
 - (vi) unless the condition precedent in clause [3.1(t) (**Option Scheme**)] of the Scheme Implementation Deed has been waived in accordance with the terms of the Scheme Implementation Deed by 8.00am on the Second Court Date:
 - (A) all conditions precedent in respect of the Option Scheme set out in clause 3.2 of the Scheme Implementation Deed being satisfied or waived in accordance with the terms of the Scheme Implementation Deed by 8.00am on the Second Court Date (other than the condition precedent in clause 3.2(b) (**Court approval**) and clause 3.2(e) (**Scheme**));
 - (B) approval of the Option Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed in writing by the Parent, Lionheart and SMX;
 - (C) such other conditions in respect of the Option Scheme as may be imposed by the Court in respect of the Option Scheme under section 411(6) of the Corporations Act, as are acceptable to Parent, Lionheart and SMX having been satisfied or waived; and
 - (D) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Option Scheme coming into effect, under section 411(10) of the Corporations Act, on or before the End Date.
- (b) The satisfaction of the conditions referred to in clause 3.1(a) of this document is a condition precedent to the operation of clauses 4 and 5 and the binding effect of this Scheme.

3.2 Certificates

- (a) The Parent, Lionheart and SMX must each give to the Court on the Second Court Date a certificate confirming (in respect of matters within their knowledge) whether or not:
 - (i) the Conditions in clauses 3.1(a)(i) and 3.1(a)(ii) have been satisfied;
 - (ii) the condition precedent in clause 3.1(t) (**Option Scheme**) of the Scheme Implementation Deed has been waived in accordance with the terms of the Scheme Implementation Deed by 8.00am on the Second Court Date; and
 - (iii) if the condition precedent in clause 3.1(t) of the Scheme Implementation Deed has not been waived by 8.00am on the Second Court Date, whether the Condition in clause 3.1(a)(vi)(A) has been satisfied.
- (b) The certificates referred to in clause 3.2(a) constitute conclusive evidence that such Conditions were satisfied.

3.3 Effective Date

Subject to clause 3.4, the Scheme will take effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

3.4 End Date

The Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Deed or Deed Poll or Lionheart Deed Poll are terminated in accordance with their terms,

unless SMX, the Parent and Lionheart agree in writing otherwise, with the approval of the Court, if required.

4. Implementation of the Scheme

4.1 Lodgement

If all of the Conditions set out in clauses 3.1(a)(i) to (iv) (inclusive) are satisfied or (if relevant) waived, and unless the Condition set out in clause 3.1(a)(iv) has been waived, all of the Conditions in clause 3.1(a)(vi)(A) to (C) (inclusive) are satisfied, or where relevant waived, SMX must lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act, as soon as reasonably practicable after the Court approves this Scheme and in any event before 5.00pm on the Business Day after the Business Day the Court approves the Scheme or such other Business Day as SMX, Lionheart and the Parent agree in writing.

4.2 Merger

By the Business Day before the Implementation Date, Lionheart must file, or procuring the filing of the Certificate of Merger with the Secretary of State of Delaware, on the basis that the Merger will take effect on the Implementation Date.

4.3 Implementation of the Capital Reduction and the Scheme

On the Implementation Date subject to Lionheart confirming in writing that the Certificate of Merger has been filed with the Secretary of State of Delaware in accordance with the clause 4.2 and that has not withdrawn the Certificate of Merger, and subject to the provision of the Scheme Consideration to Scheme Participants in accordance with clause 5:

- (a) all of the Scheme Shares will be cancelled in accordance with the Capital Reduction Resolution without any further act by any Share Scheme Participant (other than acts performed as attorney and agent for Scheme Participants under clause 7.1 or otherwise); and
- (b) subject to, the cancellation of the Scheme Shares in accordance with clause 4.3(a), SMX must immediately issue one SMX Share to the Parent,

and SMX must immediately update, or procure that the Register is updated, accordingly.

5. Scheme Consideration

5.1 Scheme Consideration

Subject to clauses 5.3, 5.4 and 5.6, each Scheme Participant is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Participant.

5.2 Consideration under the Scheme

- (a) Before 5.00pm on the Implementation Date, the Parent must issue all of the New Parent Shares which it is required to issue to Scheme Participants and the Sale Agent under this Scheme by:
 - (i) procuring that the name of each Scheme Participant entitled to receive New Parent Shares under this Scheme is entered in the Parent's register of members as the holder of the New Parent Shares to which the Scheme Participant is entitled (using the same holding name and address and other details as the holding of the relevant Scheme Shares); and
 - (ii) procuring that the name of Sale Agent is entered in the Parent's register of members as the holder of the Sale Shares (using such holding details as are notified by the Sale Agent).
- (b) Subject to this Scheme becoming Effective, the Parent must ensure that each New Parent Share issued as Scheme Consideration will at the time it is issued:
 - (i) rank equally with all Parent Shares then in issue;
 - (ii) be duly and validly issued in accordance with applicable laws and the Parent's Constitution; and
 - (iii) be issued fully paid and free from any Encumbrances and interests of third parties of any kind, whether legal or otherwise.

- (c) Each Scheme Participant that becomes a shareholder of the Parent will be taken, automatically through this Scheme, to have agreed to become a member of the Parent in accordance with the Parent's Constitution.
- (d) On or before the date that is 2 Business Days after the Implementation Date, the Parent must send, or procure the sending of, a certificate, allotment advice or holding statement (or equivalent document) to each Scheme Participant entitled to receive New Parent Shares under this Scheme, reflecting the issue of such New Parent Shares in accordance with clause 5.2(d).

5.3 Ineligible Scheme Participants

- (a) The Parent will be under no obligation under the Scheme to provide and will not provide, any New Parent Shares to Ineligible Scheme Participants, and instead:
 - (i) subject to clause 5.4 and 5.6, the Parent must issue the New Parent Shares which would otherwise be required to be provided to the Ineligible Scheme Participants under the Scheme to the Sale Agent;
 - (ii) Parent must procure that, as soon as reasonably practicable after the Implementation Date and, in any event, not more than 15 Business Days after the Implementation Date, the Sale Agent, sells or procures the sale, in the ordinary course of trading on NASDAQ, of all the Sale Shares issued to the Sale Agent;
 - (iii) as soon as reasonably practicable after the last sale of Sale Shares in accordance with clause 5.3(a)(ii), Parent must procure that Sale Agent remits the Proceeds into the Trust Account (for payment by Parent to the Ineligible Scheme Participants in accordance with clauses 5.3(a)(iv), 5.3(b) to 5.3(f) (inclusive) and 5.4 of this Scheme); and
 - (iv) as soon as practicable following payment into the Trust Account of the Proceeds, Parent must pay, or procure the payment, from the Trust Account to each Ineligible Scheme Participant such amount of cash as is due to that Scheme Participant as Scheme Consideration in respect of their Sale Shares, being in the case of each such person the amount "A" calculated in accordance with the following formula and rounded to the nearest whole cent:

$$A = (B \div C) \times D$$

where

A = the amount to be paid to each relevant Ineligible Scheme Participant;

B = the number of Sale Shares that would have been issued to that Ineligible Scheme Participant had it not been an Ineligible Scheme Participant;

C = the total number of Sale Shares; and

D = the Proceeds.

- (b) None of SMX, the Parent or the Sale Agent gives any assurance as to the price that will be achieved for the sale of New Parent Shares described in clause 5.3(a) above. The sale of Sale Shares by the Sale Agent will be at the risk of the Ineligible Scheme Participants.
- (c) The amount referred to in clause 5.3(a)(iv) must be paid by Parent doing any of the following at its election:
 - (i) sending it (or procuring that it is sent) to the Scheme Participant's Registered Address (or in the case of joint holders, in accordance with clause 5.5(b)) by cheque in US currency drawn out of the Trust Account; or
 - (ii) depositing it via an electronic funds transfer (or procuring that it is deposited via an electronic funds transfer) it into an account with any Australian ADI (as defined in the Corporations Act) notified to Parent (or SMX Registry) by an appropriate authority from the Ineligible Scheme Participant.
- (d) If there is any surplus in the amount held by Parent in the Trust Account, that surplus less any bank fees and other bank charges will be to the account of Parent. Any interest on the amounts deposited in the Trust Account (less bank fees and other charges) will be to the Parent's account.
- (e) If any amount is required under any applicable law or by any Regulatory Authority to be:
 - (i) withheld from an amount payable under clause 5.3(a)(iv) or 5.3(c) and paid to that entity or authority; or
 - (ii) retained by the Parent out of an amount payable under clause 5.3(a)(iv) or 5.3(c),

its payment or retention by or on behalf of Parent will constitute the full discharge of the Parent's obligations under this clause with respect to the amount so paid or retained until, in the case of clause 5.3(e)(ii), it is no longer required to be retained.
- (f) Each Ineligible Scheme Participant appoints Parent as its agent to receive on its behalf any financial services guide or other notices (including any updates of those documents) (or equivalent) that the Sale Agent is required to provide to Ineligible Scheme Participants under the Corporations Act, or any other applicable law.
- (g) Parent agrees to appoint the Sale Agent at least two weeks prior to the Scheme Meeting.

5.4 Orders of a court or Regulatory Authority

- (a) Notwithstanding any other provision of this Scheme, in the case of notice having been given to SMX (or SMX Registry) or Parent receives written notice of an order or direction made by a court of competent jurisdiction or Regulatory Authority that:

- (i) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be required to be paid in or issued to that Scheme Participant in accordance with this clause 5 (including payment of proceeds otherwise payable to an Ineligible Scheme Participant), then SMX or Parent must procure that the provision of that consideration is made in accordance with that order; or
- (ii) prevents SMX or the Parent from providing consideration to any particular Scheme Participant in accordance with this clause 5 (including payment of proceeds otherwise payable to an Ineligible Scheme Participant), or the payment or issuance of Scheme Consideration is otherwise prohibited by applicable law, then SMX or the Parent (as applicable) will be entitled to not pay or issue (or in the case of SMX, direct Parent not to issue) the Scheme Consideration to the relevant Scheme Participant until such time as the provision of the Scheme Consideration in accordance with clause 5 is permitted by that (or another) order or direction or otherwise by the applicable law, or issue (or in the case of SMX, direct the Parent to issue) to a permitted trustee or nominee, the Scheme Consideration that the relevant Scheme Participant would otherwise be entitled under this Scheme,

and such actions will constitute full discharge of each of SMX and the Parent's obligations in respect of the relevant Scheme Consideration.

- (b) If the Parent determines (acting reasonably and after having received professional advice) that it may be required by any Tax Law to pay an amount to any Regulatory Authority (other than Duty) in respect of the cancellation of Scheme Shares of a Scheme Participant:
 - (i) the Parent is permitted to deduct such amount as it reasonably determines (after having received professional advice) from the payment or issuance of Scheme Consideration to that Scheme Participant (including by way of reduction of the number of New Parent Shares otherwise required to be issued to the Scheme Participant) as Parent determines (acting reasonably) to discharge the obligation to pay the applicable amount to the Regulatory Authority; and
 - (ii) deal with the deducted amount as the Parent determines (acting reasonably) to satisfy its obligations under the relevant Tax Law, including by paying applicable amounts to the Regulatory Authority, or procuring the sale of New Parent Shares which would otherwise have been issued to the Scheme Participant and remission of the proceeds of sale (after deducting and paying applicable applicable brokerage, Duty and other selling costs, taxes and charges) to the Regulatory Authority,

and such actions will constitute full discharge of each of SMX and the Parent's obligations in respect of the relevant Scheme Consideration.

5.5 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any New Parent Shares issued as Scheme Consideration, must be issued to and registered in the names of the joint holders;
- (b) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Registry as at the Record Date; and
- (c) any other document required to be sent under this Scheme, will be forwarded to the holder whose name appears first in the Registry as at the Record Date.

5.6 Fractional entitlements and splitting

- (a) Subject to clause 5.6(b), where the calculation of the number of New Parent Shares to be issued to a particular Scheme Participant as Scheme Consideration would result in an entitlement to the issue of a fraction of a Parent Share which is 0.5 or greater, the fractional entitlement will, after aggregating all holdings of the Scheme Participant, be rounded up to the nearest whole number of New Parent Shares, otherwise the rounding will be down to the nearest whole number.
- (b) If Lionheart and SMX reasonably believe that two or more Scheme Participants, each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.6(a), have, on or before the Record Date, been party to shareholding splitting or division in an attempt to obtain an advantage by reference to the rounding provided for under clause 5.6(a), SMX must, if requested by Lionheart, send a notice to those Scheme Participants:
 - (i) setting out their names and Registered Addresses;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice (**Deemed Holder**) all of the Scheme Shares held by all of them, on which, for the purposes of the Scheme:

and after such notice has been given the Scheme Participant specifically identified in the notice as the Deemed Holder of the specified Scheme Shares will, for the purposes of this Scheme, be taken to hold all of those Scheme Shares and each of the other Scheme Participants whose names and Registered Addresses are set out in the notice will, for the purposes of this Scheme, be taken to hold no Scheme Shares. Parent, complying with the provisions of this Scheme relating to it in respect of the Scheme Participant specifically identified in the notice as the Deemed Holder of the specified Scheme Shares, will be taken to have satisfied and discharged its obligations under the terms of the Scheme to all the Scheme Participants named in the notice. For the avoidance of doubt, the Parent must still pay the Scheme Consideration to the Deemed Holder, subject to the terms of this Scheme.

5.7 Trading

Subject to this Scheme becoming Effective, the Parent will apply for the New Parent Shares comprising the Scheme Consideration to be approved for conditional listing on NASDAQ and use its reasonable endeavours to ensure that on and from the Business Day after the Implementation Date, the New Parent Shares comprising the Scheme Consideration will be approved for listing on NASDAQ.

5.8 Definition of 'sending'

For the purposes of clause 5, the expression sending means, in relation to each Scheme Participant:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Scheme Participant as at the Scheme Record Date; or
- (b) delivery to the Registered Address of that Scheme Participant as at the Record Date by any other means at no cost to the recipient.

5.9 Unclaimed monies

- (a) Parent may cancel a cheque issued under clause 5.3(c)(i) if the cheque:
 - (i) is returned to Parent; or
 - (ii) has not been presented for payment within 6 months after the date on which the cheque is sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from an Ineligible Scheme Participant to Parent (or the SMX Registry), which request must not be made until the date which is 20 Business Days after the Implementation Date, Parent must reissue a cheque that was previously cancelled under clause 5.9(a)(ii).
- (c) The Unclaimed Money Act will apply in relation to any Scheme Consideration which becomes “unclaimed money” as defined in that Act.

6. Dealings in Scheme Shares

6.1 Determination of Scheme Participants

To establish the identity of the Scheme Participants, dealings in SMX Shares will only be recognised by SMX if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the relevant SMX Shares on or before 7.00pm on the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in registrable form, or valid requests in respect of other alterations, in relation to those dealings are received on or before 5.00pm the Record Date at the place where the Register is kept,

and SMX must not accept for registration, nor recognise for any purpose (except any transfer by the Parent or its successors in title, following implementation of the steps set out in clause 4.3 of this Scheme, or an issue of SMX Shares on the exercise of SMX Options on the Implementation Date in accordance with the Option Scheme), any transmission application, transfer or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

SMX must register any registrable transmission application or transfers, or other valid request in respect of other alterations, of the Scheme Shares received in accordance with clause 6.1(b) of this Scheme on or before the Record Date.

6.3 No disposals after Record Date

If this Scheme becomes Effective:

- (a) from the Record Date until implementation of the steps set out in clause 4.3 of this Scheme, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them in any way except as set out in this Scheme and any such disposal will be void and of no legal effect; and
- (b) SMX will not accept for registration or recognise for any purpose any transmission, application or transfer, or other valid request in respect of other alterations, in respect of SMX Shares received after 5.00pm on the Record Date (or 7.00pm on the Record Date in the case of dealings of the type effected by CHESS) (except for any transfer by the Parent or its successors in title, following implementation of the steps set out in clause 4.3 of this Scheme, or an issue of SMX Shares on the exercise of SMX Options on the Implementation Date in accordance with the Option Scheme).

6.4 Maintenance of SMX Register

For the purpose of determining entitlements to the Scheme Consideration, SMX must maintain the Register in accordance with the provisions of this clause 6 until the Scheme Consideration has been provided to the Scheme Participants and the and the other steps set out in clause 4.3 of this Scheme have been completed. The Register in this form will solely determine entitlements to the Scheme Consideration.

6.5 Effect of certificates and holding statements

- (a) Any statements of holding in respect of Scheme Shares will cease to have effect after the Record Date as documents of title in respect of those SMX Shares.
- (b) As from the Record Date, each entry current on the Register as at the Record Date will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to an entity.

6.6 Details of Scheme Participants

As soon as practicable after the Record Date, and in any event on the first Business Day after the Record Date, SMX must ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Participant, as shown in the Register on the Record Date are available to the Parent in such form as the Parent reasonably requires.

6.7 Quotation of SMX Shares

- (a) SMX must apply to ASX to suspend trading on ASX in SMX Shares with effect from the close of trading on ASX on the Effective Date.

- (b) On the next trading day after the Implementation Date (or such other date to be determined by the Parent and notified to SMX in writing), and only after the cancellation of all Scheme Shares has been registered in accordance with clause 4.3, SMX must apply:
 - (i) for termination of the official quotation of SMX Shares on ASX; and
 - (ii) to have itself removed from the official list of the ASX.

7. General Scheme provisions

7.1 Appointment of agent and attorney

On the Effective Date, each Scheme Participant, without the need for any further act:

- (a) irrevocably appoints SMX as its agent and attorney for the purpose of executing any document or form or doing any other act necessary or incidental to give effect to the terms of this Scheme and the transactions contemplated by it, including the cancellation of the Scheme Shares pursuant to the Capital Reduction and the giving of the Scheme Participant's consent under clause 7.8; and
- (b) irrevocably appoints SMX as its agent and attorney for the purpose of enforcing the Deed Poll against the Parent and the Lionheart Deed Poll against Lionheart,

and SMX accepts such appointment. SMX, as agent and attorney of each Scheme Participant, and may sub-delegate its functions, authorities or powers under this clause 7.1 to all or any of its directors and officers (jointly, severally or jointly and severally).

7.2 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to the Scheme Participants in the manner contemplated by clause 5, and until all of the Scheme Shares have been cancelled, each Scheme Participant:

- (a) is deemed to have irrevocably appointed the Parent as attorney and agent (and directed the Parent in each such capacity) to appoint any director, officer, secretary or agent nominated by the Parent as its sole proxy and, where applicable or appropriate, corporate representative to attend SMX shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any SMX Shareholders' resolution or document;
- (b) must not attend or vote at any SMX shareholders' meetings or sign any SMX Shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 7.2(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as the Parent reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 7.2(a), the Parent and any director, officer, secretary or agent nominated by the Parent under clause 7.2(a) may act in the best interests of the Parent.

7.3 Alterations to Scheme or condition

SMX may, by its counsel or solicitors, and with the written consent of the Parent and Lionheart (which cannot be unreasonably withheld), consent on behalf of all persons concerned, including a Scheme Participant, to any alteration or condition to the Scheme which the Court thinks fit to impose. Each Scheme Participant agrees to any such variation, alteration or condition.

7.4 Further action by SMX

- (a) SMX must execute all documents and do all things (on its own behalf and on behalf of each Scheme Participant) necessary or expedient to implement, and perform its obligations under and give effect to, this Scheme and the transactions contemplated by it, including the Capital Reduction.
- (b) Each Scheme Participant consents to SMX executing all documents and doing all things necessary or expedient to implement and give effect to this Scheme and the transactions contemplated by it, including the Capital Reduction.

7.5 No liability when acting in good faith

Each Scheme Participant agrees that neither SMX, the Parent, Lionheart nor any of their respective officers, employees and advisers (as applicable), will be liable for anything done or omitted to be done in the performance of this Scheme, the Deed Poll or the Lionheart Deed Poll in good faith.

7.6 Enforcement of Deed Poll and Lionheart Deed Poll

SMX undertakes in favour of each Scheme Participant that it will enforce the Deed Poll against the Parent and the Lionheart Deed Poll against Lionheart on behalf of and as agent and attorney for the Scheme Participants.

7.7 Binding effect of Scheme

This Scheme binds SMX and all Scheme Participants (including those who did not attend the Scheme Meeting, those who did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of SMX.

7.8 Scheme Participants' consent

Each Scheme Participant irrevocably:

- (a) agrees to the cancellation of their SMX Shares together with all rights and entitlements attaching to those SMX Shares in accordance with this Scheme and the Capital Reduction;
- (b) consents to SMX, Lionheart and the Parent doing all things and executing all deeds, instruments, other documents as may be necessary, incidental or expedient to the implementation and performance of the Scheme and the Capital Reduction;
- (c) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted or resulting from the Scheme and the Capital Reduction;

- (d) who holds their SMX Shares in a CHESS Holding, agrees to the Conversion of those SMX Shares to an Issuer Sponsored Holding and irrevocably authorises SMX to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such Conversion;
- (e) agrees to, on the direction of the Parent, destroy any holding statements or share certificates relating to their Scheme Shares;
- (f) agrees to become a shareholder of Parent, to have their name registered in the register of members of the Parent as holder of Parent Shares (in respect of the New Parent Shares which they are to be issued pursuant to this Scheme) and to be bound by the Parent's Constitution.

7.9 Warranty by Scheme Participants

- (a) Each Scheme Participant is deemed to have warranted to SMX in its own right and for the benefit of the Parent on the Implementation Date that:
 - (i) all their Scheme Shares (including any rights and entitlements attaching to those shares) will, at the date of their cancellation, be fully paid and free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on cancellation of any kind, whether legal or otherwise; and
 - (ii) it has no existing right to be issued any SMX Shares, SMX Options, SMX performance rights, SMX convertible notes or any other SMX securities, other than in accordance with the Option Scheme.
- (b) SMX undertakes that it will provide the warranties in clause 7.9(a) to the Parent as agent and attorney of each Scheme Participant.

7.10 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Regulatory Authority), all instructions, notifications or elections by a Scheme Participant to SMX binding or deemed binding between the Scheme Participant and SMX relating to SMX or SMX Shares (including any email addresses, instructions relating to communications from SMX, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from SMX) will be deemed from the Implementation Date (except to the extent determined otherwise by the Parent in its sole discretion), by reason of this Scheme, to be made by the Scheme Participant to the Parent and to be a binding instruction, notification or election to, and accepted by, the Parent in respect of the New Parent Shares issued to that Scheme Participant until that instruction, notification or election is revoked or amended in writing addressed to the Parent at its registry.

8. General

8.1 Notices

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to SMX (or the SMX Registry), it will be deemed to be received on the date (if any) on which it is actually received at SMX's registered office (or at the office of the SMX Registry), and will not be deemed to be received on any other date.

- (b) An accidental omission to give notice of the Scheme Meeting to any SMX Shareholder, or the non-receipt of such a notice by any SMX Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

8.2 Nature of obligations

Each obligation imposed on a party by this Scheme in favour of another is a separate obligation. Unless specified otherwise, the performance of one obligation is not dependent or conditional on the performance of any other obligation.

8.3 No variation

This Scheme cannot be amended or varied except in writing signed by Parent, Lionheart and SMX and, if after orders have been made by the Court in accordance with section 411(1) of the Corporations Act, then only with the consent of the Court.

8.4 Duty

Any Duty (including related interest or penalties) payable in connection with the cancellation of the Scheme Shares must be paid by the Parent.

8.5 Governing law and jurisdiction

- (a) This Scheme is governed by and must be construed in accordance with the laws in force in Victoria.
- (b) The parties submit to the exclusive jurisdiction of the courts exercising jurisdiction in Victoria and courts of appeal from them in respect of all matters arising out of or relating to this Scheme, its performance or subject matter.

Annexure H –Option Scheme

K&L GATES

Option scheme of arrangement

Security Matters Limited (“**SMX**”)
ACN 626 192 998

and

Each Option Scheme Participant

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Option scheme of arrangement

Date

Parties

1. **Security Matters Limited** ACN 626 192 998 of Level 25, 525 Collins Street, Melbourne, Victoria 3000, Australia (**SMX**)
2. Each Option Scheme Participant

Background

- A. SMX, Parent and Lionheart have entered into a Scheme Implementation Deed pursuant to which SMX has agreed to propose the Option Scheme to Option Scheme Participants.
- B. Parent has executed an Option Deed Poll pursuant to which Parent covenants in favour of Option Scheme Participants to perform certain obligations to give effect to the Option Scheme.
- C. Lionheart has executed the Lionheart Option Deed Poll pursuant to which Lionheart covenants in favour of Option Scheme Participants to perform certain obligations to give effect to the Option Scheme.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

In this Option Scheme:

ASIC means the Australian Securities and Investments Commission;

ASX means ASX Limited or the financial market known as the Australian Securities Exchange operated by it, as appropriate;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in: (a) Melbourne, Victoria, Australia; (b) Delaware, United States of America; or (c) Dublin, Ireland;

Cancellation Consideration means the consideration to be provided to Option Scheme Participants under this Option Scheme, in exchange for cancellation of Option Exercise Shares issued to the Option Scheme Participant, being subject to clauses 5.3, 5.5 and 5.6 the number of New Parent Shares per Option Exercise Share determined in accordance with the following formula:

$$NPS = \frac{N}{A + B + C}$$

where:

NPS is the number of New Parent Shares per Option Exercise Share;

A is the total number of SMX Shares on issue as at the Record Date (or which would be on issue if all securities of SMX convertible into SMX Shares had converted on that date, other than Scheme Options and Employee Share Options);

B is the total number of Option Exercise Shares to be issued on exercise of all Scheme Options on a Cashless Exercise basis under this Option Scheme;

C is the total number of Employee Share Options on issue as at the Record Date; and

N is 20,000,000.

Capital Reduction means an equal capital reduction of capital under section 256B of the Corporations Act pursuant to which all SMX Shares are to be cancelled in accordance with the terms of the Capital Reduction Resolution;

Capital Reduction Resolution has the meaning given in the Scheme Implementation Deed;

Cashless Exercise means the exercise of each Scheme Option on the basis that the obligation to pay the exercise price in cash in respect of each Scheme Option is offset against the obligation to issue one or more SMX Shares on the exercise of the Scheme Option, such that each Option Scheme Participant receives the Option Exercise Shares per Scheme Option determined in accordance with the Schedule in place of the number of SMX Shares that would otherwise be issued on exercise of the Scheme Option and is not required to pay the exercise price in cash that would otherwise be required to be paid in respect of the Scheme Option.

Certificate of Merger means the certificate of merger contemplated by clause 2.3(b)(i);

Claim means any claim, action demand, suit or proceeding for damages, debt, restitution, equitable compensation, account, injunction, specific performance or any other remedy;

Condition has the meaning given in clause 3.1(a) of this Option Scheme.

Corporations Act means the *Corporations Act 2001 (Cth)*;

Court means the Supreme Court of Victoria or any other court of competent jurisdiction under the Corporations Act as SMX, the Parent and Lionheart may agree in writing;

Duty means any stamp, transaction or registration duty or similar charge which is imposed by any Regulatory Authority and includes any associated interest, penalty, charge or other amount which is imposed;

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Option Scheme;

Effective Date means the date on which the Option Scheme becomes Effective;

Employee Share Option has the meaning given to ESOP Option in the Scheme Implementation Deed.

Encumbrance means:

- (a) any:
 - (i) legal or equitable interest or power created, arising in or reserved in or over an interest in any property or asset; or
 - (ii) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or retention of title arrangement, right of set-off, assignment of income, garnishee order, monetary claim and flawed deposit arrangement);
- (b) any thing or preferential interest or arrangement of any kind giving a person priority or preference over claims or other persons with respect to any property or asset;
- (c) a PPSA Security Interest; or
- (d) any agreement or arrangement (whether legally binding or not) to grant or create anything referred to in paragraph (a), (b) or (c);

End Date means 8 May 2023 or such other date and time agreed between Lionheart, Parent and SMX in writing;

Excluded Optionholder means any SMX Optionholder that enters into an agreement to cancel all of their SMX Options with Parent and SMX, on terms approved by Lionheart in writing, prior to the Option Scheme Meeting Record Date;

Foreign Option Scheme Participant means an Option Scheme Participant whose Registered Address is a place outside of:

- (e) who (as at the Record Date) is (or is acting on behalf of) a citizen or resident of a jurisdiction other than residents of Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands Israel and the United States; or
- (f) whose address shown in the Register (as at the Record Date) is a place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands Israel and the United States or who is acting on behalf of such a person,

unless Lionheart has determined prior to the Implementation Date that:

- (g) it is lawful and not unduly onerous or unduly impracticable to issue that Option Scheme Participant with SMX Shares or the New Parent Shares on implementation of the Option Scheme; and
- (h) it is lawful for that Option Scheme Participant to participate in the Option Scheme by the law of the relevant place outside Australia and its external territories, Canada, France, Netherlands, England, St Kitts and Nevis, Luxembourg, Singapore, British Virgin Islands Israel and the United States;

Implementation Date means, the fifth Business Day after the Record Date, or such other Business Day the parties agree;

Ineligible Option Scheme Participants means Foreign Option Scheme Participants;

Ineligible Shares has the meaning given in clause 5.3(a);

Legacy Performance Option has the meaning given in the Scheme Implementation Deed.

Lionheart means Lionheart III Corp. a Delaware Corporation of 4218 NE 2nd Avenue, Miami, FL 33137;

Lionheart Option Deed Poll means the deed poll dated [insert] executed by Lionheart under which Lionheart covenants in favour of each Option Scheme Participant to perform (amongst other things) the actions attributed to it under this Option Scheme.

Merger has the meaning given in clause 2.2(c);

Merger Sub means Aryeh Merger Sub, Inc. a Delaware Corporation with a registered office c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, New Castle County, Delaware, 19808;

NASDAQ means the NASDAQ Stock Market LLC or any other stock exchange in the United States of America upon which the Parent Shares are listed.

New Parent Shares means Parent Shares to be issued under the Option Scheme in return for the cancellation of the SMX Shares issued as Option Exercise Shares;

Option Deed Poll means the deed poll dated [insert] executed by Parent under which Parent covenants in favour of each Option Scheme Participant to perform (among other things) the actions attributed to it under this Option Scheme;

Option Exercise Shares means the number of SMX Shares to be issued on exercise of a Scheme Option on a Cashless Exercise basis, being the number of SMX Shares per Scheme Option determined in accordance with the Schedule;

Option Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act, between SMX and Option Scheme Participants, subject to:

- (a) any amendments agreed in writing by Lionheart, Parent and SMX and approved by the Court;
- (b) any amendments made or required by the Court under section 411(6) of the Corporations Act and approved by Lionheart, the Parent and SMX in writing.

Option Scheme Meeting means the meeting of SMX Optionholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Option Scheme and includes any meeting convened following any adjournment or postponement of that meeting;

Option Scheme Meeting Record Date means the time for determining a person's entitlement to vote at the Option Scheme Meeting, as determined by the Court.

Option Scheme Participant means and SMX Optionholder, other than an Excluded Optionholder;

Parent means Empatan PLC, a public limited company incorporated in Ireland with registered number 722009 and a registered address at 10 Earlsfort Terrace, Dublin 2, Ireland;

Parent's Constitution means the constituent documents of the Parent as amended from time to time;

Parent Share means one ordinary share in the share capital of the Parent;

PPSA means the *Personal Property Securities Act 2009* (Cth);

PPSA Security Interest means a security interest as defined in the PPSA;

Proceeds means the gross proceeds of the sale of the Sale Shares under clause 5.3(b)(ii), after deducting applicable brokerage, Duty and other selling costs, taxes and charges;

Record Date means 7.00 pm on the date which is 2 Business Days after the Effective Date, or such other Business Day agreed by Lionheart, the Parent and SMX;

Register means the register of members and optionholders of SMX maintained by or on behalf of SMX in accordance with the Corporations Act;

Registered Address means the address of an Option Scheme Participant shown in the Register;

Regulatory Authority means:

- (a) any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, tribunal, agency or entity;
- (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or
- (c) any regulatory organisation established under statute,

in any part of the world, and whether foreign, federal, state, territorial or local;

Sale Agent means the person appointed by SMX to sell the Sale Shares under clause 5.3;

Sale Shares means the New Parent Shares to which Ineligible Option Scheme Participants would have been entitled under this Option Scheme but for the operation of clause 5.3;

Scheme Implementation Deed means the Scheme Implementation Deed dated [●] July 2022 between Parent, Lionheart and SMX;

Scheme Option means an SMX Option on issue at the Record Date which is held by an Option Scheme Participant;

Second Court Date means the first day on which the application to approve the Option Scheme under section 411(4)(b) of the Corporations Act is heard by the Court or scheduled to be heard or, if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard;

Share Scheme has the meaning given to 'Scheme' in the Scheme Implementation Deed;

SMX Convertible Notes has the meaning given in the Scheme Implementation Deed.

SMX Option means an option granted by SMX to acquire by way of issue one or more SMX Shares, other than an Employee Share Option, a Legacy Performance Option or SMX Convertible Note.

SMX Optionholder means each person who is registered in the Register as a holder of one or more SMX Options;

SMX Share means a fully paid ordinary share in the capital of SMX;

SMX Registry means Boardroom Pty Limited or any replacement provider of share registry services to SMX;

Tax means any tax, levy, charge, excise, impost, rates, fee, deduction, compulsory loan or withholding, which is assessed, levied, imposed or collected by any fiscal Regulatory Authority and includes any interest, fine, penalty, charge, fee, expenses or other statutory charges or any other such amount imposed by any fiscal Regulatory Authority on or in respect of any of the above, but excludes Duty.

Tax Law means a law with respect to or imposing any Tax.

Trust Account means an US dollar denominated trust account operated by Parent as trustee for the benefit of Ineligible Option Scheme Participants.

Unclaimed Money Act means the *Unclaimed Money Act 2008* (Vic).

1.2 Interpretation

In this Option Scheme unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes the other genders;
- (c) headings are used for convenience only and do not affect the interpretation of this Option Scheme;
- (d) other grammatical forms of a defined word or expression have a corresponding meanings;
- (e) a reference to a document is to that document as amended, novated, supplemented, extended or restated from time to time;
- (f) a reference to a party is to a party to this Option Scheme and includes that party's executors, administrators, successors, permitted assigns and permitted substitutes;
- (g) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;

- (h) "person" includes a natural person, partnership, body corporate, association, joint venture, governmental or local authority, and any other body or entity whether incorporated or not;
- (i) "month" means calendar month and "year" means 12 consecutive months;
- (j) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) is to that statute as amended, consolidated, re-enacted or replaced from time to time;
- (k) "include", "for example" and any similar expressions are not used, and must not be interpreted, as words of limitation;
- (l) money amounts are stated in Australian currency unless otherwise specified;
- (m) a reference to time is to Melbourne, Australia time;
- (n) a reference to any agency or body that ceases to exist, is reconstituted, renamed or replaced, or has its powers or functions removed (**defunct body**) is to the agency or body that performs most closely the powers or functions of the defunct body;
- (o) any provision in this Option Scheme which is in favour of more than one person benefits all of them jointly and each of them severally; and
- (p) any provision in this Option Scheme which binds more than one person binds all of them jointly and each of them severally.

2. Preliminary

2.1 SMX

- (a) SMX is a public company limited by shares, incorporated and registered in Victoria, Australia.
- (b) SMX is admitted to the official list of the ASX and SMX Shares are officially quoted on the financial market operated by ASX.
- (c) As at the date of the Scheme Implementation Deed, SMX had the following securities on issue:

Number	Type
165,854,581	SMX Shares
39,607,007	SMX Options (various exercise prices, various expiry dates) (excluding ESOP)
10,000,000	Legacy Performance Options
7,376,732	Employee Share Options

828,240	AUD \$1.00 denominated SMX Convertible Notes
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2.2 Merger

- (a) Merger Sub is a wholly owned subsidiary of the Parent, incorporated as a Delaware, USA Corporation.
- (b) Lionheart is a Delaware incorporated special purpose acquisition company listed on the NASDAQ.
- (c) On or before the Implementation Date (and as further described below), Lionheart will merge with Merger Sub and will become a wholly owned subsidiary of Parent (**Merger**).

2.3 Consequences of this Option Scheme becoming Effective

If the Option Scheme becomes Effective:

- (a) Parent will apply for the New Parent Shares to be listed on NASDAQ.
- (b) subject to the terms of this Scheme:
 - (i) by no later than the Business Day prior to the Implementation Date Lionheart will file a Certificate of Merger with the Secretary of State of Delaware, with the Certificate of Merger to take effect on the Implementation Date, resulting in the Merger completing.
 - (ii) On the Implementation Date, subject to completion of the step set out in clause 2.3(b)(i):
 - (A) all Scheme Options will be deemed to have been exercised on the basis of a Cashless Exercise;
 - (B) SMX will issue the Option Exercise Shares to Option Scheme Participants, in accordance with this Option Scheme;
 - (C) SMX will implement the Capital Reduction under which all Option Exercise Shares will be cancelled; and
 - (D) Parent will issue the Cancellation Consideration to Option Scheme Participants, in accordance with this Option Scheme.
 - (iii) subject to completion of the steps set out in clauses 2.3(b)(i) and 2.3(b)(ii)(C), SMX will immediately issue one SMX Share to the Parent.
- (c) it will bind SMX and all Option Scheme Participants, including those who do not attend the Option Scheme Meeting, those who do not vote at that meeting and those who vote against this Option Scheme at that meeting.

2.4 Scheme Implementation Deed, Option Deed Poll and Lionheart Deed Poll

- (a) Parent and SMX have agreed, by executing the Scheme Implementation Deed, to implement the terms of this Option Scheme.

- (b) This Option Scheme attributes actions to the Parent but does not itself impose an obligation on the Parent to perform those actions. The Parent has agreed by executing the Option Deed Poll for the benefit of the Option Scheme Participants to perform (or procure the performance of) its obligations as contemplated by this Option Scheme, including to provide (or procure the provision of) the Option Scheme Consideration to Option Scheme Participants.
- (c) This Option Scheme attributes certain actions to Lionheart but does not itself impose an obligation on Lionheart to perform those actions. Lionheart has agreed by executing the Lionheart Option Deed Poll for the benefit of Option Scheme Participants to perform (or procure the performance of) its obligations as contemplated by this Option Scheme.

3. Conditions, Effective Date and End Date

3.1 Conditions to the Option Scheme

- (a) This Option Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions (each a **Condition**):
 - (i) all conditions precedent in respect of the Option Scheme set out in clause 3.2 of the Scheme Implementation Deed being satisfied or waived in accordance with the terms of the Scheme Implementation Deed by 8.00am on the Second Court Date (other than the condition precedent in clause 3.2(b) (**Court approval**) and clause 3.2(e) (**Scheme**));
 - (ii) all conditions precedent in respect of the Share Scheme set out in clause 3.1 of the Scheme Implementation Deed being satisfied or waived in accordance with the terms of the Scheme Implementation Deed by 8.00am on the Second Court Date other than clause 3.1(c) (**Court approval**) and clause 3.1(t) (**Option Scheme**);
 - (iii) neither the Scheme Implementation Deed nor the Option Deed Poll nor the Lionheart Option Deed Poll having been terminated in accordance with their terms on or before 8.00 am on the Second Court Date;
 - (iv) approval of the Option Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed in writing by the Parent, Lionheart and SMX;
 - (v) approval of the Share Scheme by the Court under section 411(4)(b) of the Corporations Act, including any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed in writing by Parent, Lionheart and SMX;
 - (vi) such other conditions in respect of the Option Scheme as may be imposed by the Court in respect of the Option Scheme under section 411(6) of the Corporations Act, as are acceptable to Parent, Lionheart and SMX having been satisfied or waived;
 - (vii) such other conditions in respect of the Share Scheme as may be imposed by the Court in respect of the Option Scheme under section

411(6) of the Corporations Act, as are acceptable to Parent, Lionheart and SMX having been satisfied or waived; and

- (viii) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6) of the Corporations Act approving the Option Scheme and the Share Scheme coming into effect, under section 411(10) of the Corporations Act, on or before the End Date.
- (b) The satisfaction of the conditions referred to in clause 3.1(a) of this document is a condition precedent to the operation of clauses 4 and 5 and the binding effect of this Scheme.

3.2 Certificates

- (a) The Parent, Lionheart and SMX must each give to the Court on the Second Court Date a certificate confirming (in respect of matters within their knowledge) whether or not the Conditions in clauses 3.1(a)(i), 3.1(a)(ii) and 3.1(a)(iii) have been satisfied or where relevant, waived;
- (b) The certificates referred to in clause 3.2(a) constitute conclusive evidence that such Conditions were satisfied.

3.3 Effective Date

Subject to clause 3.4, the Option Scheme will take effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

3.4 End Date

The Option Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Deed or Option Deed Poll or Lionheart Deed Poll are terminated in accordance with their terms,

unless SMX, the Parent and Lionheart agree in writing otherwise, with the approval of the Court, if required.

4. Implementation of the Option Scheme

4.1 Lodgement

If all of the Conditions set out in clauses 3.1(a)(i) to 3.1(a)(vii) (inclusive) are satisfied or (if relevant) waived, SMX must lodge with ASIC an office copy of the orders approving the Option Scheme in accordance with section 411(10) of the Corporations Act, as soon as reasonably practicable after the Court approves this Option Scheme and in any event before 5.00pm on the Business Day after the Business Day the Court approves the Option Scheme or such other Business Day as SMX, Lionheart and the Parent agree in writing.

4.2 Merger

By the Business Day before the Implementation Date, Lionheart must complete the Merger, by filing, or procuring the filing of the Certificate of Merger with the Secretary

of State of Delaware, on the basis that the Merger will take effect on the Implementation Date.

4.3 Implementation of the Capital Reduction and the Scheme

On the Implementation Date subject to Lionheart confirming in writing that the Certificate of Merger has been filed with the Secretary of State of Delaware in accordance with the clause 4.2 and that it has not withdrawn the Certificate of Merger and subject to the provision of the Option Exercise Shares and Cancellation Consideration to Option Scheme Participants in accordance with clause 5:

- (a) all of the Scheme Options will be deemed to have been exercised on a Cashless Exercise basis without any further act by any Option Scheme Participant (other than acts performed as attorney and agent for Option Scheme Participants under clause 7.1 or otherwise);
- (b) all of the SMX Shares issued to each Option Scheme Participant as Option Exercise Shares will be cancelled in accordance with the Capital Reduction Resolution without any further act by any Option Scheme Participant (other than acts performed as agent of attorney for Option Scheme Participants under clause 7.1); and
- (c) subject to, the cancellation of SMX Shares referred to in accordance with clause 4.3(b), SMX must immediately issue one SMX Share to the Parent,

and SMX must immediately update, or procure that the Register is updated, accordingly.

5. Option Scheme Consideration

5.1 Option Scheme Consideration

Subject to clauses 5.3, 5.4 and 5.5, each Option Scheme Participant is entitled to receive the:

- (a) the Option Exercise Shares in respect of each Scheme Option held by that Option Scheme Participant; and
- (b) the Cancellation Consideration in respect of each SMX Share issued to the Option Scheme Participant as an Option Exercise Share.

5.2 Consideration under the Option Scheme

Prior to the Capital Reduction Resolution taking effect on the Implementation Date:

- (a) SMX must issue all of the Option Exercise Shares it is required to issue to Option Scheme Participants and the Sale Agent under this Option Scheme by:
 - (i) procuring that the name of each Option Scheme Participant entitled to receive Option Exercise Shares under this Option Scheme is entered in the Register as the holder of those Option Exercise Shares to which the Option Scheme Participant is entitled (in holdings having the same holding name and address and other details as the holding of the relevant Scheme Options); and

- (ii) procuring that the name of Sale Agent is entered in the Register as the holder of the Ineligible Shares (with such holding details as Sale Agent notifies).
- (b) Before 5.00pm on the Implementation Date, the Parent must issue all of the New Parent Shares which it is required to issue to Option Scheme Participants and the Sale Agent under this Option Scheme by:
 - (i) procuring that the name of each Option Scheme Participant entitled to receive New Parent Shares under this Option Scheme is entered in the Parent's register of members as the holder of the New Parent Shares to which the Option Scheme Participant is entitled (using the same holding name and address as the holding of the relevant Scheme Options); and
 - (ii) procuring that the name of the Sale Agent is entered in the Parent's register of members as the holder of the Sale Shares (using such holding details as are notified by the Sale Agent).
- (c) Subject to this Option Scheme becoming Effective, Parent must ensure that each New Parent Share issued as Cancellation Consideration will at the time it is issued:
 - (i) rank equally with all Parent Shares then on issue;
 - (ii) be duly and validly issued in accordance with applicable laws and Parent's Constitution; and
 - (iii) be issued fully paid and free from any Encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (d) Each Option Scheme Participant:
 - (i) that becomes a shareholder of SMX, will be taken automatically, through this Scheme, to have agreed to become a member of SMX; and to be bound by SMX's constitution; and
 - (ii) that becomes a shareholder of Parent will be taken, automatically through this Option Scheme, to have agreed to become a member of Parent and to be bound by Parent's Constitution.

5.3 Ineligible Option Scheme Participants

- (a) SMX will be under no obligation under this Option Scheme to provide and will not provide, any Option Exercise Shares to Ineligible Option Scheme Participants, and instead subject to the terms of this Option Scheme SMX must issue the Option Exercise Shares that would otherwise be required to Ineligible Option Scheme Participants due to the Cashless Exercise of Scheme Options under this Scheme to the Sale Agent (**Ineligible Shares**).
- (b) Parent will be under no obligation under the Option Scheme to provide and will not provide, any New Parent Shares to Ineligible Option Scheme Participants, and instead:

- (i) subject to the terms of this Scheme, Parent shall issue the New Parent Shares which would otherwise be required to be provided to the Ineligible Option Scheme Participants under the Option Scheme to the Sale Agent;
- (ii) Parent must procure that, as soon as reasonably practicable after the Implementation Date and, in any event, not more than 15 Business Days after the Implementation Date, the Sale Agent, sells or procures the sale, in the ordinary course of trading on NASDAQ, of the Sale Shares issued to the Sale Agent;
- (iii) as soon as reasonably practicable after the last sale of Sale Shares in accordance with clause 5.3(b)(ii), Parent must procure that Sale Agent pays the Proceeds into the Trust Account (for payment by Parent to the Ineligible Option Scheme Participants in accordance with clauses 5.3(b)(iv), 5.3(c) to 5.3(f) (inclusive) and 5.5 of this Option Scheme; and
- (iv) as soon as practicable following payment into the Trust Account of the Proceeds, Parent must pay, or procure the payment, from the Trust Account to each Ineligible Option Scheme Participant such amount of cash as is due to that Option Scheme Participant as Option Scheme Consideration in respect of their Sale Shares, being in the case of each such person the amount "A" calculated in accordance with the following formula and rounded to the nearest whole cent:

$$A = (B \div C) \times D$$

where

A = the amount to be paid to each relevant Ineligible Option Scheme Participant;

B = the number of Sale Shares that would have been issued to that Ineligible Option Scheme Participant had it not been an Ineligible Option Scheme Participant;

C = the total number of Sale Shares; and

D = the Proceeds (as defined above).

- (c) None of SMX, Parent or Sale Agent gives any assurance as to the price that will be achieved for the sale of New Parent Shares described in paragraph 5.3(b) above. The sale of Sale Shares by the Sale Agent will be at the risk of the Ineligible Option Scheme Participants.
- (d) The amount referred to in clause 5.3(b)(iv) must be paid by SMX doing any of the following at its election:
 - (i) sending it (or procuring that it is sent) to the Option Scheme Participant's Registered Address (or in the case of joint holders, in accordance with clause 5.5(b)) by cheque in US currency drawn out of the Trust Account; or
 - (ii) depositing it via an electronic funds transfer (or procuring that it is deposited via an electronic funds transfer) it into an account with any

Australian ADI (as defined in the Corporations Act) notified to Parent (or SMX Registry) by an appropriate authority from the Ineligible Scheme Participant.

- (e) If there is any surplus in the amount held by Parent in the Trust Account, that surplus less any bank fees and other bank charges will be to the account of Parent. Any interest on the amounts deposited in the Trust Account (less bank fees and other charges) will be to Parent's account.
- (f) If any amount is required under any applicable or by any Regulatory Authority to be:
 - (i) withheld from an amount payable under clause 5.3(b)(iv) or 5.3(d) and paid to that entity or authority; or
 - (ii) retained by Parent out of an amount payable under clause 5.3(b)(iv) or 5.3(d),
 its payment or retention by Parent will constitute the full discharge of Parent's obligations under this clause with respect to the amount so paid or retained until, in the case of 5.3(f)(ii), it is no longer required to be retained.
- (g) Each Ineligible Option Scheme Participant appoints Parent as its agent to receive on its behalf any financial services guide or other notices (including any updates of those documents) (or equivalent) that Sale Agent is required to provide to Ineligible Option Scheme Participants under the Corporations Act, or any other applicable law.
- (h) Parent agrees to appoint the Sale Agent at least two weeks prior to the Option Scheme Meeting.

5.4 Orders of a court or Regulatory Authority

- (a) Notwithstanding any other provision of this Option Scheme, in the case of notice having been given to SMX (or SMX Registry) or Parent receives written notice of an order or direction made by a court of competent jurisdiction or Regulatory Authority that:
 - (i) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Options held by a particular Option Scheme Participant, which would otherwise be required to be paid in or issued to that Option Scheme Participant in accordance with this clause 5 (including payment of proceeds otherwise payable to an Ineligible Option Scheme Participant), then SMX or Parent must procure that the provision of that consideration is made in accordance with that order; or
 - (ii) prevents SMX or the Parent from providing consideration to any particular Option Scheme Participant in accordance with this clause 5 (including payment of proceeds otherwise payable to an Ineligible Option Scheme Participant), or the payment or issuance of Option Exercise Shares or Cancellation Consideration is otherwise prohibited by applicable law, then SMX or the Parent (as applicable) will be entitled to not pay or issue (or in the case of SMX, direct Parent not to issue) the Option Exercise Shares or Cancellation Consideration to the

relevant Option Scheme Participant until such time as the provision of the Option Exercise Shares or Cancellation Consideration in accordance with clause 5 is permitted by that (or another) order or direction or otherwise by the applicable law, or issue (or in the case of SMX, direct the Parent to issue) to a permitted trustee or nominee, the Option Scheme Consideration that the relevant Option Scheme Participant would otherwise be entitled under this Option Scheme,

and such actions will constitute full discharge of each of SMX and the Parent's obligations in respect of the relevant Option Exercise Shares or Option Scheme Consideration.

- (b) If the Parent determines (acting reasonably and after having received professional advice) that it may be required by any Tax Law to pay an amount to any Regulatory Authority (other than Duty) in respect of the exercise of the Scheme Options or the cancellation of the Option Exercise Shares of an Option Scheme Participant:
 - (i) the Parent is permitted to deduct such amount as it reasonably determines (after having received professional advice) from the payment or issuance of Option Exercise Shares or Cancellation Consideration to that Option Scheme Participant (including by way of reduction of the number of Option Exercise Shares or New Parent Shares otherwise required to be issued to the Option Scheme Participant) as Parent determines (acting reasonably) to discharge the obligation to pay the applicable amount to the Regulatory Authority; and
 - (ii) deal with the deducted amount as the Parent determines (acting reasonably) to satisfy its obligations under the relevant Tax Law, including by paying applicable amounts to the Regulatory Authority, or procuring the sale of New Parent Shares which would otherwise have been issued to the Option Scheme Participant and remission of the proceeds of sale (after deducting and paying applicable applicable brokerage, Duty and other selling costs, taxes and charges) to the Regulatory Authority,

and such actions will constitute full discharge of each of SMX and the Parent's obligations in respect of the requirement to issue Option Shares in respect of the relevant Scheme Options, and the relevant Cancellation Consideration.

5.5 Joint holders

In the case of Scheme Options held in joint names:

- (a) any Option Exercise Shares issued in respect of the exercise of the Scheme Options under this Scheme, and New Parent Shares issued as Cancellation Consideration, must be issued to and registered in the names of the joint holders;
- (b) any cheque required to be sent under this Option Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Registry as at the Record Date; and

- (c) any other document required to be sent under this Option Scheme, will be forwarded to the holder whose name appears first in the Registry as at the Record Date.

5.6 Fractional entitlements and splitting

Where the:

- (a) calculation of the number of Option Exercise Shares to be issued to a particular Option Scheme Participant would result in the issue of a fraction of an SMX Share which is 0.5 or greater, the fractional entitlement will, after aggregating all holdings of the Option Scheme Participant, be rounded up to the nearest whole number of SMX Shares, otherwise the rounding will be down to the nearest whole number; and
- (b) calculation of the number of New Parent Shares to be issued to a particular Option Scheme Participant would result in the issue of a fraction of a Parent Share which is 0.5 or greater, the fractional entitlement will, after aggregating all holdings of the Option Scheme Participant, be rounded up to the nearest whole number of New Parent Shares, otherwise the rounding will be down to the nearest whole number.

5.7 Trading

Subject to this Option Scheme becoming Effective, the Parent will apply for the New Parent Shares comprising the Cancellation Consideration to be approved for conditional listing on NASDAQ and use its reasonable endeavours to ensure that on and from the Business Day after the Implementation Date, the New Parent Shares comprising the Option Scheme Consideration will be approved for listing on NASDAQ.

5.8 Definition of 'sending'

For the purposes of clause 5, the expression sending means, in relation to each Option Scheme Participant:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Option Scheme Participant as at the Option Scheme Record Date; or
- (b) delivery to the Registered Address of that Option Scheme Participant as at the Record Date by any other means at no cost to the recipient.

5.9 Unclaimed monies

- (a) Parent may cancel a cheque issued under clause 5.3(d)(i) if the cheque:
 - (i) is returned to Parent; or
 - (ii) has not been presented for payment within 6 months after the date on which the cheque is sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from an Ineligible Option Scheme Participant to Parent (or the SMX Registry), which request must not be made until the date which is 20

Business Days after the Implementation Date, Parent must reissue a cheque that was previously cancelled under clause 5.9(a)(ii).

- (c) The Unclaimed Money Act will apply in relation to any Option Scheme Consideration which becomes “unclaimed money” as defined in that Act.

6. Dealings in Scheme Options

6.1 Determination of Option Scheme Participants

To establish the identity of the Option Scheme Participants, to the extent that Scheme Options are otherwise permitted to be dealt with in accordance with their respect terms, dealings in SMX Options by Option Scheme Participants will only be recognised by SMX if:

- (a) registrable transmission applications or transfers in registrable form, or valid requests in respect of other alterations, in relation to those dealings are received on or before 5.00pm on the Record Date at the place where the Register is kept; and
- (b) in the case of an exercise of SMX Options (other than in accordance with the terms of this Option Scheme), the SMX Option is exercised in accordance with its terms such that the resulting SMX Shares are issued by the Record Date,

and SMX must not accept for registration, nor recognise for any purpose (except an issue of Option Exercise Shares in accordance with this Option Scheme), any transmission application, transfer or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

SMX must register any registrable transmission application or transfers, or other valid request in respect of other alterations, of the SMX Options, or issue of SMX Shares on the valid exercise of Scheme Options, received in accordance with clause 6.1 of this Option Scheme on or before the Record Date.

6.3 No disposals after Record Date

If this Option Scheme becomes Effective:

- (a) from the Record Date until implementation of the steps set out in clause 4.3 of this Option Scheme, a holder of Scheme Options (and any person claiming through that holder) must not dispose of, exercise or purport or agree to dispose of or exercise, any Scheme Options or any interest in them after the Record Date in any way except as set out in this Option Scheme and any such disposal or exercise will be void and of no legal effect; and
- (b) SMX will not accept for registration or recognise for any purpose any transmission, application or transfer, or other valid request in respect of other alterations, in respect of SMX Options of Option Scheme Participants, received after 5.00pm on the Record Date or an issue of SMX Shares on the otherwise valid exercise of SMX Options held by an Option Scheme Participant not received in time to allow the resulting SMX Shares to be issued by the Record Date (except for any an issue of Option Exercise Shares in accordance with this Option Scheme).

6.4 Maintenance of SMX Register

For the purpose of determining entitlements to the Option Scheme Consideration, SMX must maintain the Register in accordance with the provisions of this clause 6 until the Cancellation Consideration has been provided to the Option Scheme Participants. The Register in this form will solely determine entitlements to Option Exercise Shares and Cancellation Consideration.

6.5 Effect of certificates and holding statements

- (a) Subject to provision of the Option Exercise Shares and Cancellation Consideration in accordance with this Option Scheme, any option certificates, statements of holding or other indicia or title in respect of Scheme Options will cease to have effect after the Record Date as documents of title in respect of those SMX Options.
- (b) As from the Record Date, each entry current on the Register in respect of Scheme Options as at the Record Date will cease to have effect except as evidence of entitlement to the Option Exercise Shares and Cancellation Consideration in respect of the Scheme Options relating to an entity.

6.6 Details of Option Scheme Participants

As soon as practicable after the Record Date, and in any event on the first Business Day after the Record Date, SMX must ensure that details of the names, Registered Addresses and holdings of Scheme Options for each Option Scheme Participant, as shown in the Register on the Record Date are available to Parent in such form as Parent reasonably requires.

7. General Option Scheme provisions

7.1 Appointment of agent and attorney

On the Effective Date, each Option Scheme Participant, without the need for any further act:

- (a) irrevocably appoints SMX as its agent and attorney for the purpose of executing any document or form or doing any other act necessary or incidental to give effect to the terms of this Option Scheme and the transactions contemplated by it including, the giving of the Option Scheme Participant's consent under clause 7.7 or as considered necessary by SMX:
 - (i) to amend the terms of the Scheme Options to the extent necessary to give effect to the terms of this Option Scheme and the transactions contemplated by it;
 - (ii) to give effect to the Capital Reduction; or
 to in accordance with the terms of this Scheme:
 - (iii) exercise the Scheme Options on a Cashless Exercise basis;
 - (iv) issue or cancellation Option Exercise Shares; or
 - (v) issue Cancellation Consideration; and

- (b) on the Effective Date, irrevocably appoints SMX as its agent and attorney for the purpose of enforcing the Option Deed Poll against Parent and the Lionheart Option Deed Poll against Lionheart,

and SMX accepts such appointment. SMX, as agent of each Option Scheme Participant, and may sub-delegate its functions, authorities or powers under this clause 7.1 to all or any of its directors and officers (jointly, severally or jointly and severally).

7.2 Alterations to Option Scheme or condition

SMX may, by its counsel or solicitors, and with the written consent of Parent and Lionheart (which cannot be unreasonably withheld, denied or delayed), consent on behalf of all persons concerned, including an Option Scheme Participant, to any alteration or condition to the Option Scheme which the Court thinks fit to impose. Each Option Scheme Participant agrees to any such variation, alteration or condition.

7.3 Further action by SMX

- (a) SMX must execute all documents and do all things (on its own behalf and on behalf of each Option Scheme Participant) necessary or expedient to implement, and perform its obligations under and give effect to, this Option Scheme and the transactions contemplated by it, including the Capital Reduction.
- (b) Each Option Scheme Participant consents to SMX executing all documents and doing all things necessary or expedient to implement and give effect to this Option Scheme and the transactions contemplated by it, including the Capital Reduction.

7.4 No liability when acting in good faith

Each Option Scheme Participant agrees that neither SMX, Parent, Lionheart nor any of their respective officers, employees and advisers (as applicable), will be liable for anything done or omitted to be done in the performance of this Option Scheme or the Option Deed Poll or the Lionheart Option Deed Poll in good faith.

7.5 Enforcement of Option Deed Poll and Lionheart Option Deed Poll

SMX undertakes in favour of each Option Scheme Participant that it will enforce the Option Deed Poll against Parent and the Lionheart Option Deed Poll against Lionheart on behalf of and as agent and attorney for the Option Scheme Participants.

7.6 Binding effect of Option Scheme

This Option Scheme binds SMX and all Option Scheme Participants (including those who did not attend the Option Scheme Meeting, those who did not vote at that meeting, or voted against this Option Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of SMX and the terms of the Scheme Options.

7.7 Option Scheme Participants' consent

Each Option Scheme Participant irrevocably:

- (a) agrees that the terms of their Scheme Options are deemed amended, by the force of this Scheme, to the extent necessary to give effect to this Scheme;
- (b) consents to SMX and Parent doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of the Option Scheme;
- (c) agrees to the variation, cancellation or modification attached to their Scheme Options constituted or resulting from the Option Scheme;
- (d) agrees to, on the direction of Parent, destroy any holding statements or option certificates or indicia of title relating to their Scheme Options; and
- (e) agrees to become a shareholder of SMX and to be bound by SMX's constitution;
- (f) agrees to become a shareholder of Parent and to be bound by Parent's Constitution.

7.8 Warranty by Option Scheme Participants

- (a) Each Option Scheme Participant is deemed to have warranted to Parent on the Implementation Date that:
 - (i) all their Scheme Options (including any rights and entitlements attaching to those shares) will, at the date of their exercise in accordance with this Option Scheme, and at the time of issue all Option Exercise Shares issued on the exercise of those Scheme Options, in accordance with this Option Scheme, be free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on cancellation of any kind; and
 - (ii) it has no existing right to be issued any SMX Shares, SMX Options, SMX performance rights, SMX convertible notes or any other SMX securities, other than in accordance with this Option Scheme.
- (b) SMX undertakes that it will provide the warranties in clause 7.8(a) to Parent as agent and attorney of each Option Scheme Participant.

7.9 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Regulatory Authority), all instructions, notifications or elections by an Option Scheme Participant to SMX binding or deemed binding between the Option Scheme Participant and SMX relating to SMX or Scheme Options (including any email addresses, instructions relating to communications from SMX, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from SMX) will be deemed from the Implementation Date (except to the extent determined otherwise by Parent in its sole discretion), by reason of this Option Scheme, to be made by the Option Scheme Participant to Parent and to be a binding instruction, notification or election to, and accepted by, Parent in respect of the New Parent Shares issued to that Option Scheme Participant until that instruction, notification or election is revoked or amended in writing addressed to Parent at its registry.

8. General

8.1 Notices

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in the Option Scheme is sent by post to SMX, it will be deemed to be received on the date (if any) on which it is actually received at SMX's registered office, and will not be deemed to be received on any other date.
- (b) An accidental omission to give notice of the Option Scheme Meeting to any SMX Optionholder, or the non-receipt of such notice by any SMX Optionholder may not, unless so ordered by the Court, invalidate the Option Scheme Meeting or the proceedings of the Option Scheme Meeting.

8.2 Nature of obligations

Each obligation imposed on a party by this Option Scheme in favour of another is a separate obligation. Unless specified otherwise, the performance of one obligation is not dependent or conditional on the performance of any other obligation.

8.3 No variation

This Option Scheme cannot be amended or varied except in writing signed by Parent, Lionheart and SMX, if after orders have been made by the Court in accordance with section 411(1) of the Corporations Act, then only with the consent of the Court.

8.4 Duty

Any Duty (including related interest or penalties) payable in connection with the cancellation of the Option Exercise Shares must be paid by Parent.

8.5 Governing law and jurisdiction

- (a) This Option Scheme is governed by and must be construed in accordance with the laws in force in Victoria.
- (b) The parties submit to the exclusive jurisdiction of the courts of Victoria and the Commonwealth of Australia in respect of all matters arising out of or relating to this Option Scheme, its performance or subject matter.

Schedule - Scheme Options

Code	Date Granted	Expiry Date	Exercise Price AUD	SMX Shares issued per option on Cashless exercise
SMXAA	9-Jul-21	9-Jul-24	\$ 0.60	0.7031
SMXAAC	27-Nov-20	27-Nov-23	\$ 0.60	0.7030
SMXAAE	29-Dec-20	29-Dec-23	\$ 0.70	0.6698
SMXAAG	4-Jan-21	4-Jan-24	\$ 0.60	0.7030
SMXAAI	4-Jan-21	4-Jan-24	\$ 0.70	0.6698
SMXAAT	10-Dec-21	10-Dec-23	\$ 0.35	0.7789
SMXAAW	4-Jan-21	31-Dec-24	\$ 0.50	0.7709
SMXAAY	18-Jan-22	18-Jan-25	\$ 0.28	0.8357
SMXAAZ	25-Mar-22	25-Mar-27	\$ 0.40	0.8274
SMXAAJ	27-Nov-20	27-Nov-23	\$ 0.60	0.7030
SMXAK	25-Oct-20	25-Oct-25	\$ 0.36	0.8402
SMXAAK	29-May-20	1-Jun-25	\$ 0.20	0.8987
SMXAO	5-Jun-19	5-Jun-24	\$ 0.31	0.8571
SMXAP	12-Mar-20	12-Mar-23	\$ 0.60	0.7030
SMXAQ	25-Mar-20	25-Mar-23	\$ 0.60	0.7030
SMXAR	29-May-20	29-May-23	\$ 0.60	0.7030
SMXAT	8-Oct-18	14-Oct-23	\$ 0.20	0.8988
SMXAU	23-Nov-20	23-Nov-23	\$ 0.60	0.7030
SMXAZ	28-Jan-20	28-Jan-25	\$ 0.39	0.8306

Annexure I –Notice of Scheme Meeting



**Security Matters Limited ACN 626 192 998 (SMX)
Explanatory Statement and Notice of Scheme Meeting**

Date: 1 February 2022
Time: 9.00am(AEDT)
Venue: Online Only, visit <https://www.votingonline.com.au/smxgm2023>
Passcode: Per Proxy Form
LUMI link: <https://web.lumiagm.com/310257505>

Virtual Meeting Notice

The SMX Board has decided that the Scheme Meeting will be held virtually using technology only. SMX Shareholders can attend using the online platform LUMI meeting application accessible at the above link. A technology-only meeting is permitted under section 249R of the *Corporations Act 2001* (Cth), as amended under the *Corporations Amendment (Meetings and Documents) Act 2022* (Cth) and rule 15.3 of the SMX Constitution, as amended on or around 6 May 2022. Shareholders will be given a reasonable opportunity to participate in the meeting as required under section 249S(7) of the Corporations Act.

Notice of Scheme Meeting

Notice is hereby given, by order of the Federal Court of Australia on 9 January 2023, pursuant to subsection 411(1) of the Corporations Act, a meeting of holders of ordinary shares in SMX (**SMX Shareholders**) will be held virtually at 9.00AM (AEDT) on 1 February 2023 .

Shareholders can attend using the online platform LUMI Meeting application accessible at the above link. A technology-only meeting is permitted under section 249R of the *Corporations Act 2001* (Cth), as amended under the *Corporations Amendment (Meetings and Documents) Act 2022* (Cth) and rule 15.3 of the SMX Constitution, as amended on or around 6 May 2022. Shareholders will be given a reasonable opportunity to participate in the meeting as required under section 249S(7) of the Corporations Act.

Business of the Scheme Meeting

The purpose of the Scheme Meeting is to consider, and if thought fit, to agree (with or without amendment or any alterations or conditions required by the Court to which SMX, Lionheart and Empatan agree) to a scheme of arrangement proposed to be made between SMX and SMX shareholders.

Scheme Resolution

Shareholders will be asked to consider and, if thought fit, pass (with or without amendment) the following resolution:

*"That pursuant to and in accordance with section 411 of the Corporations Act 2001 (Cth), the scheme of arrangement proposed between Security Matters Limited ("**SMX**") and the holders of its fully paid ordinary shares (the details of which are described in the Scheme Booklet of which the notice convening this meeting forms part) is approved (with or without alteration or conditions as approved by the Federal Court of Australia and agreed to by SMX, Lionheart III Corp and Empatan PLC) and, subject to approval of the Scheme by the Court, the SMX Board is authorised to implement the Scheme in accordance with its terms and with any such alterations or conditions."*

SMX comment and recommendations¹

For the reasons set out in the Scheme Booklet, the SMX Board unanimously recommends that eligible SMX Shareholders vote in favour of the Scheme Resolution in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of SMX Shareholders and each SMX Director intends to vote all of the SMX Shares held or controlled by them in favour of the Scheme.

By Order of the SMX Board

¹ Please note that some directors of SMX currently hold (directly or indirectly) SMX Shares the subject of which the Scheme relates. As contemplated by the terms of the Scheme Implementation Deed, the directors will each be receiving a benefit if the Scheme proceeds.

With respect to the recommendations of Messrs Alon and Hofland, SMX Shareholders and SMX Optionholders should have regard to the fact that, if the Schemes and Capital Reduction become Effective, Messrs Alon and Hofland will receive certain benefits. With respect to Mr Alon, these benefits include incentives under his employment with Empatan, including an increase in his salary as set out in Section **Error! Reference source not found.** in addition to payment of the Scheme Consideration for the SMX Shares (and the Cancellation Consideration for the SMX Options which convert to SMX Shares as a result of the Option Scheme). With respect to Mr Hofland, these benefits include incentives resulting from the operation of his employment agreement with SMX, including an increase in his salary as set out in Section **Error! Reference source not found.** and **Error! Reference source not found.**

Despite the interest in the outcome of the Scheme, the directors consider that, given the importance of the Scheme, and their role as directors of SMX, it is important and appropriate for them to provide a recommendation to shareholders in relation to voting on the Scheme Resolution. The SMX Board (excluding those directors with relevant interests in SMX Shares) also considers that it is appropriate for them to make a recommendation on the Scheme given their role in the management and operation of SMX.

Everardus Hofland

Everardus Hofland
Chairman
Date: 9 January 2023

Explanatory Statement

1.1 Background

This explanatory statement (**Explanatory Statement**) relates to the Scheme and should be read in conjunction with the Notice of Scheme Meeting and the information in the Scheme Booklet dated 9 January 2023 of which that notice forms part.

Capitalised terms used in the Notice of Scheme Meeting and in this Explanatory Statement but not defined have the same meaning as set out in section **Error! Reference source not found.** (Glossary) of the Scheme Booklet, unless the context requires otherwise. Further details in respect of the Scheme Resolution to be put to the Scheme Meeting are set out in the Scheme Booklet.

1.2 Chair

The Court has directed that Everardus Hofland, or failing him, Amir Bader, act as chair of the Scheme Meeting (**Chair**) and has directed the Chair to report the result of the meeting to the Court.

1.3 Scheme Required Majorities

For the proposed Scheme to be binding in accordance with section 411(4)(a)(ii) of the Corporations Act, the Scheme Resolution must be passed by:

- (a) more than 50% in number (unless the Court orders otherwise) of eligible SMX Shareholders who are present and voting, either in person online or by proxy, by attorney or, in the case of a corporation, by its duly appointed corporate representative at the Scheme Meeting; and
- (b) at least 75% of the total number of votes cast on the Scheme Resolution by eligible SMX Shareholders who are present and voting, either in person online or by proxy, by attorney or, in the case of a corporation, by its duly appointed corporate representative at the Scheme Meeting.

(together, the **Scheme Requisite Majorities**).

The vote will be conducted by poll.

1.4 Court approval

Under paragraph 411(4)(b) of the Corporations Act, the Scheme (with or without amendment or any alteration or condition required by the Court) is subject to the approval of the Court. If the Scheme Resolution is passed by the Scheme Requisite Majorities set out above, and the other conditions to the Scheme (other than approval by the Court) are satisfied or waived (if capable of being waived) by the time required under the Scheme, SMX intends to apply to the Court for the necessary orders to give effect to the Scheme.

In order for the Scheme to become Effective, it must be approved by the Court and an office copy of the orders of the Court approving the Scheme must be lodged with ASIC.

1.5 Entitlement to attend and vote at the Scheme Meeting

Pursuant to section 411 of the Corporations Act and regulation 7.11.37 of the *Corporations Regulations 2001 (Cth)* (**Corporations Regulations**), the Court, as the convenor of the meeting, has the power to determine the specified time at which shareholders must hold SMX Shares to be entitled to attend and vote at the Scheme Meeting, being 7.00PM (AEDT) on 30 January 2023 (**Voting Eligibility Date**).

Only those SMX Shareholders entered on the SMX Register at the Voting Eligibility Date will be entitled to attend, participate in and vote at the Scheme Meeting, either online, by proxy or attorney, or in the case of a corporate SMX Shareholder, by a body corporate representative.

Accordingly, share transfers registered after the Voting Eligibility Date will be disregarded in determining entitlements to attend, participate in and vote at the Scheme Meeting.

1.6 How to vote at the Scheme Meeting

You can vote in either of the following ways:

- (a) virtually by attending the Scheme Meeting online by using the online platform LUMI Meeting application accessible here: <https://www.votingonline.com.au/smxsharescheme>; or
- (b) by appointing a proxy, attorney or, if you are a body corporate, a duly appointed corporate representative to virtually attend and vote at the Scheme Meeting on your behalf.

Voting at the Scheme Meeting will be conducted by poll.

(c) Attendance and voting virtually at the Scheme Meeting

You will be able to attend and vote at the Scheme Meeting through the online platform LUMI Meeting application link noted above. You will need the latest versions of Chrome, Safari, Edge or Firefox. Please ensure your browser is compatible.

It is recommended that SMX Shareholders login to the online platform LUMI Meeting application at least 15 minutes prior to the scheduled start time for the Scheme Meeting.

If you attend the virtual Scheme Meeting and in your capacity as a SMX Shareholder, any votes cast by your proxy or attorney (if any) will not be counted.

(d) Attendance at the Scheme Meeting by proxy, attorney or corporate representative

If you are unable to attend the Scheme Meeting you are encouraged to appoint a proxy to attend online and vote on your behalf. If you wish to appoint a proxy, please complete the enclosed Proxy Form.

SMX Shareholders should be aware that:

- (i) a shareholder who is entitled to attend and cast a vote at the meeting may appoint a proxy to attend and vote for the member;
- (ii) the appointment may specify the proportion or number of votes that the proxy may exercise;
- (iii) a member who is entitled to cast two or more votes at the meeting may appoint two proxies and may specify the proportion or number of votes each proxy is entitled to exercise. If you appoint two proxies and the appointment does not specify the proportion or number of votes each proxy may exercise, each proxy may exercise half of the votes; and
- (iv) a proxy may be an individual or a body corporate and need not be a member of SMX. If an eligible SMX Shareholder appoints a body corporate as a proxy, the body corporate will need to ensure that it appoints an individual as the corporate representative and provides satisfactory evidence of that appointment.

Voting by Proxy at the Scheme Meeting

You can direct your proxy to vote by following the instructions on the Proxy Form. If the Chair is appointed as your proxy (or is appointed your proxy by default), the Chair can be directed how to vote by ticking the relevant box next to the Scheme Resolution on the Proxy Form. The Chair is required to cast all votes as directed. The Chair intends to vote all undirected and available proxies in favour of the Scheme Resolution.

Any directed proxies that are not voted on a poll at the virtual Scheme Meeting by a SMX Shareholder's appointed proxy will automatically default to the Chair, who is required to vote proxies as directed on a poll.

Lodgement of Proxies

The Proxy Form must be received by the SMX Registry by 9.00AM (AEDT) on 30 January 2023. The completed Proxy Form may be submitted:

- (i) online to the SMX Registry by visiting the website: <https://www.votingonline.com.au/smxsharescheme> You will need your security

holder reference number (**SRN**) or holder identification number (**HIN**) and control number as shown on your Proxy Form. You will be taken to have signed the Proxy Form if you lodge in accordance with the instructions on the website;

- (ii) by mail using the reply paid envelope included with the Scheme Booklet to:
Security Matters Limited
C/o- Boardroom Pty Limited
GPO Box 3993, Sydney NSW 2001
- (iii) by fax to the SMX Registry on +61 2 9290 9655; or
- (iv) by hand delivering the Proxy Form to the SMX Registry during business hours (Monday - Friday, 9:00am - 5:00pm (AEDT)) to:
Boardroom Pty Limited
Level 12, 225 George Street, Sydney NSW 2000

Voting by a corporate representative at the Scheme Meeting

SMX Shareholders (or appointed Proxies) that are body corporates can appoint a corporate representative to attend and vote on their behalf at the Scheme Meeting. The appointment must comply with section 250D and 253B of the Corporations Act. To vote by corporate representative, a corporate representative must provide written evidence of their appointment by obtaining and completing an 'Appointment of Corporate Representative' form from the SMX Registry or online at <https://boardroomlimited.com.au/investor-forms/>. Corporate representative forms must be provided to the SMX Registry by no later than 9.00AM (AEDT) on 30 January 2023. A corporate representative form may be submitted in the same manner as a completed Proxy Form, as described above.

Voting by attorney at the Scheme Meeting

SMX Shareholders (or appointed Proxies) may appoint an attorney to vote on their behalf at the Scheme Meeting (**Power of Attorney**). The Power of Attorney must be duly executed and specify the name of the applicable SMX Shareholder, SMX and the attorney. The instruction may be a standing one.

Certified copies of the Power of Attorney must be received by the SMX Registry by no later than 9.00AM (AEDT) on 30 January 2023. A certified copy of a power of attorney may be submitted in the same manner as a completed Proxy Form, as described above.

1.7 Joint holders

If any SMX Shares are held by joint holders, only one of the joint holders is entitled to vote on the Scheme Resolution at the Scheme Meeting. If more than one SMX Shareholder votes in respect of jointly held SMX Shares, the vote of the senior who tenders a vote must be accepted to the exclusion of the votes of the other joint holders and, for this purpose, seniority is determined by the order in which the names stand in the SMX Register.

1.8 Questions

SMX Shareholders will have a reasonable opportunity to ask questions during the Scheme Meeting.

SMX Shareholders who would like register their questions in advance of the Scheme Meeting are required to do so by submitted their questions to:

Company Secretary

Mark Licciardo

markl@mertons.com.au

Address (hand deliveries)

Boardroom Pty Limited

Level 12, 225 George Street, Sydney NSW 2000

Address (postal deliveries)	Boardroom Pty Limited GPO Box 3993, Sydney NSW 2001
Fax number for lodgement	+61 2 9290 9655

Questions must be submitted by 9.00AM (AEDT) on 30 January 2023.

The Chair will endeavour to address as many of the more frequently raised relevant questions as possible during the course of the Scheme Meeting. However, there may not be sufficient time available during the Scheme Meeting to address all of the questions raised.

Please note that individual responses will not be sent to SMX Shareholders.

1.9 Technical difficulties

In the event that technical difficulties arise during the course of the Scheme Meeting, the Chair has the discretion as to whether the Scheme Meeting should proceed. The Chair, in exercising their discretion, will have regard to the number of SMX Shareholders impacted and the extent to which participation in the business of the meeting is affected. If the Chair considers it appropriate to do so, they may continue to hold the Scheme Meeting and transact business, including conducting a poll and voting in accordance with valid proxy instructions.

1.10 COVID-19 and unforeseen changes to the current arrangements

Due to the uncertainty arising due to the COVID-19 pandemic and the potential for unforeseen circumstances, SMX may be required to make changes to the arrangements for the Scheme Meeting. If SMX anticipates any changes to arise, SMX Shareholders will be given as much notice as possible.

Annexure J – Notice of Option Scheme Meeting



Security Matters Limited (SMX)

Explanatory Statement and Notice of Option Scheme Meeting

Date:	1 February
Time:	9.30am (AEDT)
Venue*:	online visit https://www.votingonline.com.au/smxgm2023
Passcode:	per proxy form
LUMI link:	https://web.lumiagm.com/310257505

Virtual Meeting Notice

The SMX Board has decided that the Option Scheme Meeting will be held using technology only. SMX Optionholders can attend using the online platform LUMI Meeting application accessible at the above link. A technology-only general meeting is permitted under section 249R of the *Corporations Act 2001* (Cth) (**Corporations Act**), as amended under the *Corporations Amendment (Meetings and Documents) Act 2022* (Cth), and rule 15.3 of the SMX Constitution, as amended on or around 6 May 2022. SMX Optionholders will be given a reasonable opportunity to participate in the meeting as required under section 249S(7) of the Corporations Act.

Notice of Option Scheme Meeting

Notice is hereby given, by order of the Federal Court of Australia (**Court**) on 9 January 2023, pursuant to subsection 411(1) of the Corporations Act, a meeting of holders of options in SMX (**SMX Optionholders**) will be held at virtually at 9.30 (AEDT) on 1 February 2023.

SMX Optionholders can attend using the online platform LUMI Meeting application accessible at the above link. A technology-only general meeting is permitted under section 249R of the Corporations Act, as amended under the *Corporations Amendment (Meetings and Documents) Act 2022* (Cth) and rule 15.3 of the SMX Constitution, as amended on or around 6 May 2022. SMX Optionholders will be given a reasonable opportunity to participate in the meeting as required under section 249S(7) of the Corporations Act.

Business of the Option Scheme Meeting

The purpose of the Option Scheme Meeting is to consider, and if thought fit, to agree (with or without amendment or any alterations or conditions required by the Court to which SMX, Lionheart and Empatan agree) to a scheme of arrangement proposed to be made between SMX and SMX Optionholders.

Option Scheme Resolution

SMX Optionholders will be asked to consider and, if thought fit, pass (with or without amendment) the following resolution:

“That pursuant to and in accordance with section 411 of the Corporations Act 2001 (Cth), the scheme of arrangement proposed to be entered into between Security Matters Limited (“SMX”) and the holders of options in SMX (the details of which are described in the Scheme Booklet of which the notice convening this meeting forms part) is approved (with or without alterations or conditions as approved by the Federal Court of Australia and agreed to by SMX, Lionheart III Corp and Empatan PLC) and, subject to approval of the Option Scheme by the Court, the SMX Board is authorised to implement the Option Scheme in accordance with its terms and with any such alterations or conditions.”

SMX comment and recommendations²

For the reasons set out in the Scheme Booklet, the SMX Board unanimously recommends that eligible SMX Optionholders vote in favour of the Option Scheme Resolution in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Option Scheme is in the best interests of SMX Optionholders and each SMX Director intends to vote all of the SMX Options held or controlled by them in favour of the Option Scheme.

By Order of the SMX Board

² Please note that some directors of SMX currently hold (directly or indirectly) SMX Options the subject of which the Option Scheme relates. As contemplated by the terms of the Scheme Implementation Deed, the directors will each be receiving a benefit if the Option Scheme proceeds.

With respect to the recommendations of Messrs Alon and Hofland, SMX Shareholders and SMX Optionholders should have regard to the fact that, if the Schemes and Capital Reduction become Effective, Messrs Alon and Hofland will receive certain benefits. With respect to Mr Alon, these benefits include incentives under his employment with Empatan, including an increase in his salary as set out in Section **Error! Reference source not found.** in addition to payment of the Scheme Consideration for the SMX Shares (and the Cancellation Consideration for the SMX Options which convert to SMX Shares as a result of the Option Scheme). With respect to Mr Hofland, these benefits include incentives resulting from the operation of his employment agreement with SMX, including an increase in his salary as set out in Section **Error! Reference source not found.** and **Error! Reference source not found.**

Despite the interest in the outcome of the Option Scheme, the directors consider that, given the importance of the Option Scheme, and their role as directors of SMX, it is important and appropriate for them to provide a recommendation to SMX Optionholders in relation to voting on the Option Scheme Resolution. The SMX Board (excluding those directors with relevant interests in SMX Options) also considers that it is appropriate for them to make a recommendation on the Option Scheme given their role in the management and operation of SMX.

Everardus Hofland

Everardus Hofland

Chairman

Date: 9 January 2023

Explanatory Statement

1.1 Background

This explanatory statement (**Explanatory Statement**) relates to the Option Scheme and should be read in conjunction with the Notice of Option Scheme Meeting and the information in the Scheme Booklet dated 9 January 2023 of which that notice forms part. Capitalised terms used in the Notice of Option Scheme Meeting and in this Explanatory Statement but not defined have the same meaning as set out in section **Error! Reference source not found.** (Glossary) of the Scheme Booklet, unless the context requires otherwise. Further details in respect of the Option Scheme Resolution to be put to the Option Scheme Meeting are set out in the Scheme Booklet.

1.2 Chair

The Court has directed that Everardus Hofland, or failing Amir Bader, act as chair of the Option Scheme Meeting (**Chair**) and has directed the Chair to report the result of the meeting to the Court.

1.3 Option Scheme Required Majorities

For the proposed Option Scheme to be binding in accordance with section 411(4)(a)(ii) of the Corporations Act, the Option Scheme Resolution must be passed by:

- (a) more than 50% in number (unless the Court orders otherwise) of eligible SMX Optionholders who are present and voting, either in person online or by proxy, by attorney or, in the case of a corporation, by its duly appointed corporate representative at the Option Scheme Meeting; and
- (b) at least 75% of the total number of votes (determined by reference to the value of each of the SMX Options) cast on the Option Scheme Resolution by eligible SMX Optionholders who are present and voting, either in person online or by proxy, by attorney or, in the case of a corporation, by its duly appointed corporate representative at the Option Scheme Meeting.

(together, the **Option Scheme Requisite Majorities**).

The vote will be conducted by poll.

1.4 Court approval

Under paragraph 411(4)(b) of the Corporations Act, the Option Scheme (with or without amendment or any alteration or condition required by the Court) is subject to the approval of the Court. If the Option Scheme Resolution is passed by the Option Scheme Requisite Majorities set out above, and the conditions to the Option Scheme (other than approval by the Court) are satisfied or waived (if capable of being waived) by the time required under the Option Scheme, SMX intends to apply to the Court for the necessary orders to give effect to the Option Scheme.

In order for the Option Scheme to become Effective, it must be approved by the Court and an office copy of the orders of the Court approving the Option Scheme must be lodged with ASIC.

1.5 Entitlement to attend and vote at the Option Scheme Meeting

Pursuant to section 411 of the Corporations Act and regulation 7.11.37 of the *Corporations Regulations 2001 (Cth)* (**Corporations Regulations**), the Court, as the convenor of the meeting, has the power to determine the specified time at which option holders must hold SMX Options to be entitled to attend and vote at the Option Scheme Meeting, being 7.00PM (AEDT) on 30 January on 2023 (**Voting Eligibility Date**).

Only those SMX Optionholders entered on the SMX Register at the Voting Eligibility Date will be entitled to attend, participate in and vote at the Option Scheme Meeting, either online, by proxy or attorney, or in the case of a corporate SMX Optionholder, by a body corporate representative.

Accordingly, option transfers registered after the Voting Eligibility Date will be disregarded in determining entitlements to attend, participate in and vote at the Option Scheme Meeting.

1.6 How to vote at the Option Scheme Meeting

You can vote in either of the following ways:

- (a) virtually by attending the Option Scheme Meeting online by using the online platform LUMI Meeting application accessible here:
<https://www.votingonline.com.au/smxoptionscheme> ; or
- (b) by appointing a proxy, attorney or, if you are a body corporate, a duly appointed corporate representative to virtually attend and vote at the Option Scheme Meeting on your behalf.

Voting at the Option Scheme Meeting will be conducted by poll.

(a) Attendance and voting virtually at the Option Scheme Meeting

You will be able to attend and vote at the Option Scheme Meeting through the online platform LUMI Meeting application link noted above. You will need the latest versions of Chrome, Safari, Edge or Firefox. Please ensure your browser is compatible.

It is recommended that SMX Optionholders login to the online platform LUMI Meeting application at least 15 minutes prior to the scheduled start time for the Option Scheme Meeting.

If you attend the virtual Option Scheme Meeting and in your capacity as a SMX Optionholder, any votes cast by your proxy or attorney (if any) will not be counted.

(b) Attendance at the Option Scheme Meeting by proxy, attorney or corporate representative

If you are unable to attend the Option Scheme Meeting you are encouraged to appoint a proxy to attend online and vote on your behalf. If you wish to appoint a proxy, please complete the enclosed Proxy Form.

SMX Optionholders should be aware that:

- (i) an option holder who is entitled to attend and cast a vote at the meeting may appoint a proxy to attend and vote for the option holder;
- (ii) the appointment may specify the proportion or number of votes that the proxy may exercise;
- (iii) an option holder who is entitled to cast two or more votes at the meeting may appoint two proxies and may specify the proportion or number of votes each proxy is entitled to exercise. If you appoint two proxies and the appointment does not specify the proportion or number of votes each proxy may exercise, each proxy may exercise half of the votes; and
- (iv) a proxy may be an individual or a body corporate and need not be an option holder of SMX. If an eligible SMX Optionholder appoints a body corporate as a proxy, the body corporate will need to ensure that it appoints an individual as the corporate representative and provides satisfactory evidence of that appointment.

Voting by Proxy at the Option Scheme Meeting

You can direct your proxy to vote by following the instructions on the Proxy Form.

If the Chair is appointed as your proxy (or is appointed your proxy by default), the Chair can be directed how to vote by ticking the relevant box next to the Option Scheme Resolution on the Proxy Form. The Chair is required to cast all votes as directed. The Chair intends to vote all undirected and available proxies in favour of the Option Scheme Resolution.

Any directed proxies that are not voted on a poll at the Option Scheme Meeting by a SMX Optionholder's appointed proxy will automatically default to the Chair, who is required to vote proxies as directed on a poll.

Lodgement of Proxies

The Proxy Form must be received by the SMX Registry by 9.00AM (AEDT) on 30 January 2023. The completed Proxy Form may be submitted:

- (i) online to the SMX Registry by visiting the website: :
<https://www.votingonline.com.au/smxoptionscheme>. You will need your security holder reference number (**SRN**) or holder identification number (**HIN**) and control number as shown on your Proxy Form. You will be taken to have signed the Proxy Form if you lodge in accordance with the instructions on the website;
- (ii) by mail using the reply paid envelope included with the Scheme Booklet to:
 Security Matters Limited
 C/o- Boardroom Pty Limited
 GPO Box 3993, Sydney NSW 2001
- (iii) by fax to the SMX Registry on +61 2 9290 9655; or
- (iv) by hand delivering the Proxy Form to the SMX Registry during business hours (Monday - Friday, 9:00am - 5:00pm (AEDT)) to:
 Boardroom Pty Limited
 Level 12, 225 George Street, Sydney NSW 2000

Voting by a corporate representative at the Option Scheme Meeting

SMX Optionholders (or appointed Proxies) that are body corporates can appoint a corporate representative to attend and vote on their behalf at the Option Scheme Meeting. The appointment must comply with section 250D and 253B of the Corporations Act.

To vote by corporate representative, a corporate representative must provide written evidence of their appointment by obtaining and completing an 'Appointment of Corporate Representative' form from the SMX Registry or online at <https://boardroomlimited.com.au/investor-forms/>. Corporate representative forms must be provided to the SMX Registry by no later than 9:00AM (AEDT) on 30 January 2023. A corporate representative form may be submitted in the same manner as a completed Proxy Form, as described above.

Voting by attorney at the Option Scheme Meeting

SMX Optionholders (or appointed Proxies) may appoint an attorney to vote on their behalf at the Option Scheme Meeting (**Power of Attorney**). The Power of Attorney must be duly executed and specify the name of the applicable SMX Optionholder, SMX and the attorney. The instruction may be a standing one.

Certified copies of the Power of Attorney must be received by the SMX Registry by no later than 9:00am (AEDT) on 30 January 2023. A certified copy of a power of attorney may be submitted in the same manner as a completed Proxy Form, as described above.

1.7 Joint holders

If any SMX Options are held by joint holders, only one of the joint holders is entitled to vote on the Option Scheme Resolution at the Option Scheme Meeting. If more than one SMX Optionholder votes in respect of jointly held SMX Options, the vote of the senior who tenders a vote must be accepted to the exclusion of the votes of the other joint holders and, for this purpose, seniority is determined by the order in which the names stand in the SMX Register.

1.8 Questions

SMX Optionholders will have a reasonable opportunity to ask questions during the Option Scheme Meeting.

SMX Optionholders who would like to register their questions in advance of the Option Scheme Meeting are required to do so by submitted their questions to:

Company Secretary

Mark Licciardo

markl@mertons.com.au

Address (hand deliveries)	Boardroom Pty Limited Level 12, 225 George Street, Sydney NSW 2000
Address (postal deliveries)	Boardroom Pty Limited GPO Box 3993, Sydney NSW 2001
Fax number for lodgement	+61 2 9290 9655

Questions must be submitted by 9:00am (AEDT) on 30 January 2023.

The Chair will endeavour to address as many of the more frequently raised relevant questions as possible during the course of the Option Scheme Meeting. However, there may not be sufficient time available during the Option Scheme Meeting to address all of the questions raised. Please note that individual responses will not be sent to SMX Optionholders.

1.9 Technical difficulties

In the event that technical difficulties arise during the course of the Option Scheme Meeting, the Chair has the discretion as to whether the Option Scheme Meeting should proceed. The Chair, in exercising their discretion, will have regard to the number of SMX Options impacted and the extent to which participation in the business of the meeting is affected. If the Chair considers it appropriate to do so, they may continue to hold the Option Scheme Meeting and transact business, including conducting a poll and voting in accordance with valid proxy instructions.

1.10 COVID-19 and unforeseen changes to the current arrangements

Due to the uncertainty arising due to the COVID-19 pandemic and the potential for unforeseen circumstances, SMX may be required to make changes to the arrangements for the Option Scheme Meeting. If SMX anticipates any changes to arise, SMX Optionholders will be given as much notice as possible.

Annexure K – Notice of General Meeting



Security Matters Limited ACN 626 192 998 (SMX) Notice of General Meeting and Explanatory Statement

Date: 1 February 2022
Time: 10.00AM (AEDT)
Venue: The meeting will be held virtually
Access: <https://boardroomlimited.com.au/agm/smx2023>
LUMI link: <https://web.lumiagm.com/321723269>

Virtual meeting notice

The SMX Board has decided that the general meeting will be held virtually, using technology only. SMX shareholders can attend using the online LUMI meeting platform, accessible at the link – and using the details – set out above.

A technology-only general meeting is permitted under section 249R of the *Corporations Act 2001* (Cth) and rule 15.3 of the SMX Constitution.

Shareholders will be given a reasonable opportunity to participate in the meeting as required under section 249S(7) of the Corporations Act.

Notice of general meeting

Notice is hereby given that a meeting of holders of ordinary shares in SMX (**SMX shareholders**) will be held virtually at 10.00AM (AEDT) on 1 February 2023.

SMX shareholders can attend using the online LUMI meeting platform, accessible at the link set out on page 1 of this notice.

Participation in the general meeting

The Board encourages shareholders to monitor the ASX website and the Company's website for any updates about the general meeting.

In the meantime, the Board encourages shareholders to submit their proxies as early as possible, even if they intend to attend the Virtual Meeting, as the situation may change (e.g. there may be restrictions on how the meeting itself may be held or conducted).

Online Voting Procedures during the AGM:

Shareholders who wish to participate in the AGM online may do so by entering the following URL into an internet browser on your computer, laptop, smartphone, tablet or other smart device:

<https://web.lumiagm.com/321723269>

You can log in to the meeting by entering:

1. Your username, which is your Voting Access Code (VAC) which can be located on the first page of your proxy form or Notice of Meeting email.
2. Your password, which is the postcode registered to your holding if you are an Australian shareholder. Overseas shareholders should refer to the online voting user guide for their password details.
3. If you have been nominated as a third party proxy, please contact Boardroom on 1300 737 760.

Attending the meeting online enables shareholders to view the AGM live, ask questions and cast direct votes at the appropriate times whilst the meeting is in progress.

In order to provide for an efficient virtual meeting, we request that any questions from Shareholders are provided to the Company Secretary at least 24 hours in advance of the Meeting. We also strongly recommend that all Shareholders lodge their votes via the Company's share register platform or by appointing a proxy prior to 9.00am on 30 January 2023.

Business of the general meeting

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

"That, subject to and conditional on the proposed schemes of arrangement between:

- (a) the Company and its members (the **Share Scheme**); and*
- (b) the Company and the holders of certain options to acquire by issue shares in SMX (the **Option Scheme**),*

*(copies of which were Annexures 1 and 2 to the scheme implementation deed dated 26 July 2022 between Lionheart III Corp, Empatan PLC, and the Company) (together, the **Schemes**) becoming effective in accordance with section 411(10) of the Corporations Act, and, for the purpose of section 256C(1) of the Corporations Act and for all other purposes, it is approved that the Company's share capital be reduced on the "Implementation Date" (as defined in the Schemes),*

with the reduction to be effected and satisfied by the cancellation of all the shares in the Company on issue as at the “Record Date” (as defined in the Schemes) in consideration for the issue of the Scheme Consideration (as defined in the Share Scheme) and the “Cancellation Consideration” (as defined in the Option Scheme), and in accordance with the Schemes.”

Explanatory statement and recommendations

Background

On 26 July 2022, SMX announced that it had a scheme implementation deed and a business combination with Lionheart III Corp (**Lionheart**) by which it is proposed that SMX will list on the NASDAQ via a newly-formed Irish company. The Irish company is called Empatan PLC (**Empatan**).

Under the scheme implementation deed, SMX agreed to propose (amongst other things):

- (a) a scheme of arrangement under which – if approved by shareholders and the Court – SMX Members will receive shares in Empatan in exchange for their shares in SMX (the **Share Scheme**);
- (b) another scheme of arrangement (the **Option Scheme**), under which – if approved by the option holders and the Court – certain options over SMX shares will be taken to have been exercised and the option holders issued shares in SMX, which will be cancelled in exchange for shares in Empatan (the **Option Scheme**); and
- (c) a capital reduction, under which all SMX’s issued share capital will be cancelled (the **capital reduction**).

Under the business combination agreement, a wholly-owned subsidiary of Empatan will merge with and into Lionheart, and Lionheart will become a wholly-owned subsidiary of Empatan (the **business combination**).

Each of the Share Scheme, the Option Scheme, the capital reduction and business combination are interdependent and conditional on each other.

The schemes of arrangement

SMX has applied to the Federal Court of Australia for approval of the Share Scheme and Option Scheme.

SMX’s application is scheduled for its first hearing on 9 January 2023, when SMX will seek orders (amongst others) convening meetings of SMX’s shareholders and the relevant option holders to consider the respective scheme and for SMX to send a “scheme booklet” explaining in detail the proposed merger between SMX and Lionheart and the schemes of arrangement and including a report from an independent expert.

The capital reduction

The proposed capital reduction is an equal reduction because it applies to each holder of ordinary shares in proportion to the number of shares they hold, and the terms of the reduction of the same for each holder of ordinary shares.

A capital reduction must be approved by a resolution passed at a general meeting of SMX: *Corporations Act 2001*, section 256C(1).

Because a general meeting of the members of a listed company such as ASX requires 28 days notice to meet the proposed timeframes of for the schemes of arrangement, it is necessary now to give notice of the general meeting.

Further material will be provided to shareholders on the Access website listed above prior to the meeting.

Recommendations

On the proviso that the Share Scheme obtains Court approval, the SMX Board unanimously recommends that eligible SMX Shareholders vote in favour of the resolution in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Share Scheme is in the best interests of SMX shareholders.

Each director of SMX intends to vote all of the SMX shares held or controlled by them in favour of the resolution.

By order of the SMX Board

A handwritten signature in black ink, reading "Everardus Hofland". The signature is written in a cursive, flowing style with a large, prominent 'E' and 'H'.

Everardus Hofland

Chairman

Date: 3 January 2023

Annexure L - Virtual Meeting Online Guide

ONLINE SHAREHOLDERS' MEETING GUIDE 2023

Attending the GM virtually

If you choose to participate online, you will be able to view a live webcast of the meeting, ask questions and submit your votes in real time.

To access the meeting:

Visit web.lumiagm.com/321723269 on your computer, tablet or smartphone. You will need the latest version of Chrome, Safari, Edge or Firefox. Please ensure your browser is compatible.

Meeting ID: 321-723-269

To login you must have your **Voting Access Code (VAC)** and **Postcode or Country Code**

The website will be open and available for log in from 9:00am (AEDT), 1st February 2023

Using the Lumi AGM platform:

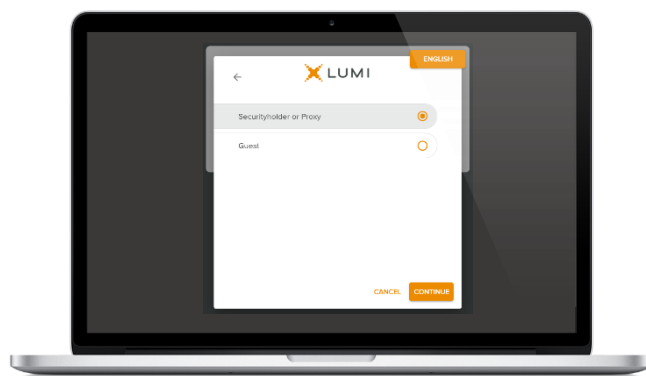
ACCESS

The 1st page of the platform will ask in what capacity you are joining the meeting.

Shareholders or appointed proxies should select

"Shareholder or Proxyholder"

Guests should select **"Guest"**



CREDENTIALS

Shareholders/Proxys

Your username is your **Voting Access Code** and your password is your **Postcode or Country Code**, or, for Non-Australian residents, your **3-letter country code**.

Proxy holders should obtain their log in credentials from the registrar by calling 1300 737 760

Guests

Please enter your name and email address to be admitted into the meeting.

Please note, guests will not be able to ask questions or vote at the meeting.

NAVIGATION

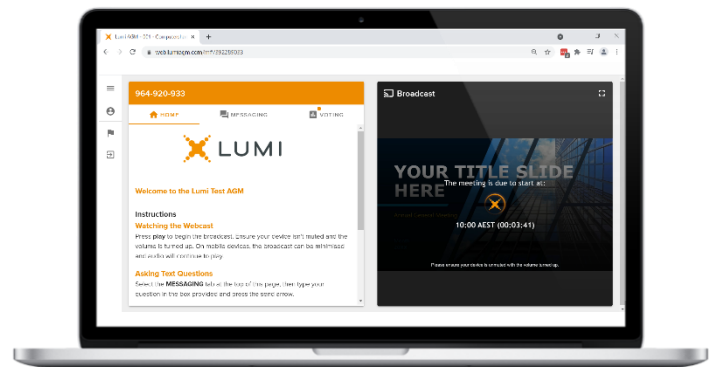
Once successfully authenticated, the home page will appear. You can view meeting instructions, ask questions and watch the webcast.

If viewing on a computer the webcast will appear at the side automatically once the meeting has started.

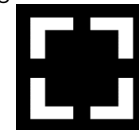
On a mobile device, select the broadcast icon at the bottom of the screen to watch the webcast.



During the meeting, mobile users can minimise the webcast at any time by selecting the arrow by the broadcast icon. You will still be able to hear the meeting. Selecting the broadcast icon again will reopen the webcast.



Desktop / Laptop users can watch the webcast full screen, by selecting the full screen icon.



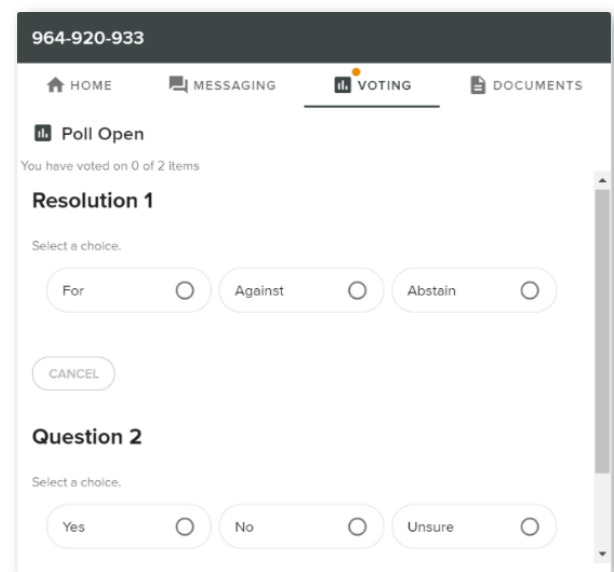
To reduce the webcast to its original size, select the X at the top of the broadcast window.

VOTING

The Chair will open voting on all resolutions at the start of the meeting. Once voting has opened, the voting tab will appear on the navigation bar.



Selecting this tab will open a list of all resolutions and their voting options.

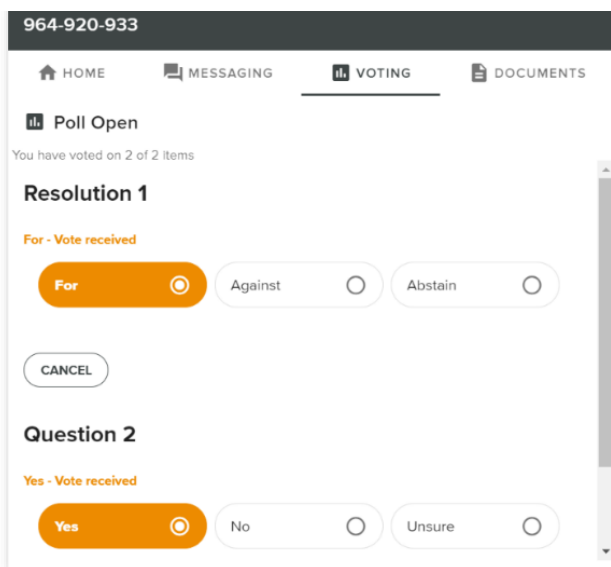


To vote, simply select your voting direction from the options displayed on screen. Your selection will change colour and a confirmation message will appear.

To change your vote, simply select another option. If you wish to cancel your vote, please press cancel.

There is no need to press a submit or send button. Your vote is automatically counted.

Voting can be performed at any time during the meeting until the Chair closes the poll.



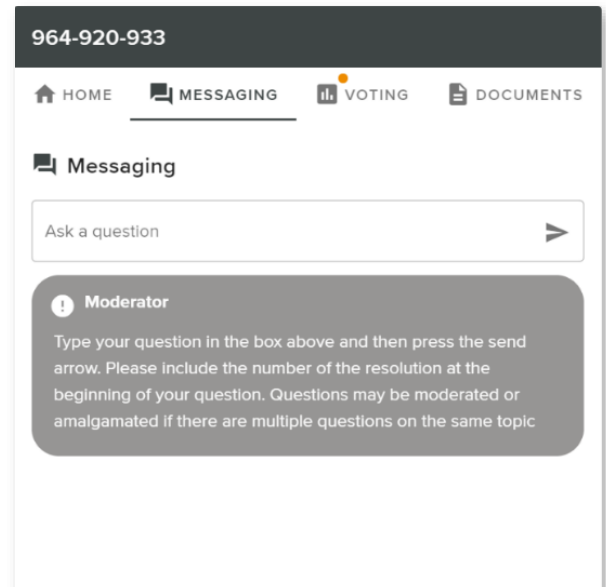
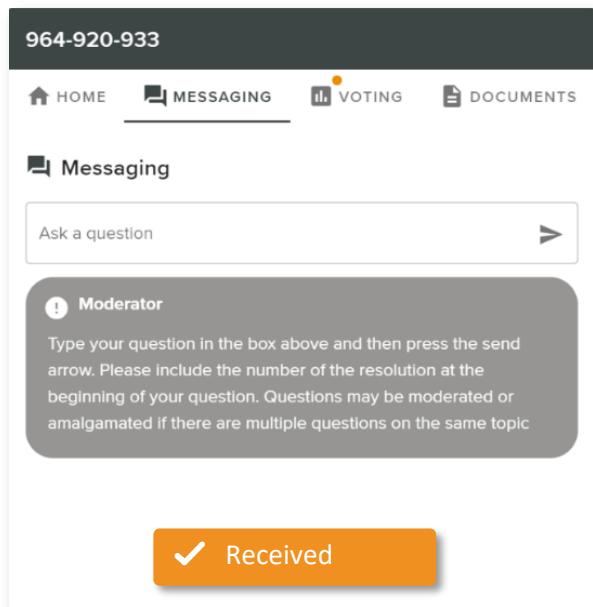
QUESTIONS

Any shareholder or appointed proxy is eligible to ask questions.

If you would like to ask a question. Select the messaging tab.



Messages can be submitted at any time from the start of the meeting, up until the Chair closes the Q&A session.



Select the “Ask a Question” box and type in your message.

Once you are happy with your message, select the send icon.



Questions sent via the Lumi platform may be moderated before being sent to the Chair. This is to avoid repetition and remove any inappropriate language.

Meeting ID: 321-723-269

To login you must have your **Voting Access Code (VAC)** and **Postcode or Country Code**

The website will be open and available for log in from 9:00am (AEDT), 1st February 2023

web.lumiagm.com

Country Codes

For overseas shareholders, select your country code from the list below and enter it into the password field.

ABW Aruba	DZA Algeria	LBR Liberia	ROU Romania
AFG Afghanistan	ECU Ecuador	LBY Libyan Arab Jamahiriya	RUS Russian Federation
AGO Angola	EGY Egypt	LCA St Lucia	RWA Rwanda
AIA Anguilla	ERI Eritrea	LIE Liechtenstein	SAU Saudi Arabia Kingdom Of
ALA Aland Islands	ESH Western Sahara	LKA Sri Lanka	SDN Sudan
ALB Albania	ESP Spain	LSO Lesotho	SEN Senegal
AND Andorra	EST Estonia	LTU Lithuania	SGP Singapore
ANT Netherlands Antilles	ETH Ethiopia	LUX Luxembourg	SGS Sth Georgia & Sth Sandwich Isl
ARE United Arab Emirates	FIN Finland	LVA Latvia	SHN St Helena
ARG Argentina	FJI Fiji	MAC Macao	SJM Svalbard & Jan Mayen
ARM Armenia	FLK Falkland Islands (Malvinas)	MAF St Martin	SLB Solomon Islands
ASM American Samoa	FRA France	MAR Morocco	SCG Serbia & Outlying
ATA Antarctica	FRO Faroe Islands	MCO Monaco	SLE Sierra Leone
ATF French Southern	FSM Micronesia	MDA Republic Of Moldova	SLV El Salvador
ATG Antigua & Barbuda	GAB Gabon	MDG Madagascar	SMR San Marino
AUS Australia	GBR United Kingdom	MDV Maldives	SOM Somalia
AUT Austria	GEO Georgia	MEX Mexico	SPM St Pierre And Miquelon
AZE Azerbaijan	GGY Guernsey	MHL Marshall Islands	SRB Serbia
BDI Burundi	GHA Ghana	MKD Macedonia Former Yugoslav Rep	STP Sao Tome And Principe
BEL Belgium	GIB Gibraltar	MLI Mali	SUR Suriname
BEN Benin	GIN Guinea	MLT Mauritania	SVK Slovakia
BFA Burkina Faso	GLP Guadeloupe	MMR Myanmar	SVN Slovenia
BGD Bangladesh	GMB Gambia	MNE Montenegro	SWE Sweden
BGR Bulgaria	GNB Guinea-Bissau	MNG Mongolia	SWZ Swaziland
BHR Bahrain	GNQ Equatorial Guinea	MNP Northern Mariana Islands	SYC Seychelles
BHS Bahamas	GRC Greece	MOZ Mozambique	SYR Syrian Arab Republic
BIH Bosnia & Herzegovina	GRD Grenada	MRT Mauritania	TCA Turks & Caicos Islands
BLM St Barthelemy	GRL Greenland	MSR Montserrat	CD Chad
BLR Belarus	GTM Guatemala	MTQ Martinique	TGO Togo
BLZ Belize	GUF French Guiana	MUS Mauritius	THA Thailand
BMU Bermuda	GUM Guam	MWI Malawi	TJK Tajikistan
BOL Bolivia	GUY Guyana	MYS Malaysia	TKL Tokelau
BRA Brazil	HKG Hong Kong	MYT Mayotte	TKM Turkmenistan
BRB Barbados	HMD Heard & Mcdonald Islands	NAM Namibia	TLS Timor-Leste
BRN Brunei Darussalam	HND Honduras	NCL New Caledonia	TMP East Timor
BTN Bhutan	HRV Croatia	NER Niger	TON Tonga
BUR Burma	HTI Haiti	NFK Norfolk Island	TTO Trinidad & Tobago
BVT Bouvet Island	HUN Hungary	NGA Nigeria	TUN Tunisia
BWA Botswana	IDN Indonesia	NIC Nicaragua	TUR Turkey
CAF Central African Republic	IMN Isle Of Man	NIU Niue	TUV Tuvalu
CAN Canada	IND India	NLD Netherlands	TWN Taiwan
CCK Cocos (Keeling) Islands	IOT British Indian Ocean Territory	NOR Norway Montenegro	TZA Tanzania United Republic of
CHE Switzerland	IRL Ireland	NPL Nepal	UGA Uganda
CHL Chile	IRN Iran Islamic Republic of	NRU Nauru	UKR Ukraine
CHN China	IRQ Iraq	NZL New Zealand	UMI United States Minor
CIV Cote D'ivoire	ISM Isle of Man	OMN Oman	URY Uruguay
CMR Cameroon	ISL Iceland	PAK Pakistan	USA United States of America
COD Democratic Republic of Congo	ISR Israel	PAN Panama	UZB Uzbekistan
COK Cook Islands	ITA Italy	PCN Pitcairn Islands	VNM Vietnam
COL Colombia	JAM Jamaica	PER Peru	VUT Vanuatu
COM Comoros	JEY Jersey	PHL Philippines	WLF Wallis & Futuna
CPV Cape Verde	JOR Jordan	PLW Palau	WSM Samoa
CRI Costa Rica	JPN Japan	PNG Papua New Guinea	YEM Yemen
CUB Cuba	KAZ Kazakhstan	POL Poland	YMD Yemen Democratic
CYM Cayman Islands	KEN Kenya	PRI Puerto Rico	YUG Yugoslavia Socialist Fed Rep
CYP Cyprus	KGZ Kyrgyzstan	PRK Korea Dem Peoples Republic of	ZAF South Africa
CXR Christmas Island	KHM Cambodia	PRT Portugal	ZAR Zaire
CZE Czech Republic	KIR Kiribati	PRY Paraguay	ZMB Zambia
DEU Germany	KNA St Kitts And Nevis	PSE Palestinian Territory Occupied	ZWE Zimbabwe
DJI Djibouti	KOR Korea Republic of	PYF French Polynesia	
DMA Dominica	KWT Kuwait	QAT Qatar	
DNK Denmark	LAO Laos	REU Reunion	
DOM Dominican Republic	LBN Lebanon		

Annexure M – Sample Proxy Forms

All Correspondence to:

- ✉ **By Mail** Boardroom Pty Limited
GPO Box 3993
Sydney NSW 2001 Australia
- 📠 **By Fax:** +61 2 9290 9655
- 💻 **Online:** www.boardroomlimited.com.au
- ☎ **By Phone:** (within Australia) 1300 737 760
(outside Australia) +61 2 9290 9600

YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 10:00am (AEDT) on Monday 30 January 2023.**

🖥 TO VOTE ONLINE

📱 BY SMARTPHONE

STEP 1: VISIT <https://www.votingonline.com.au/smxgm2023>

STEP 2: Enter your Postcode OR Country of Residence (if outside Australia)

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



Scan QR Code using smartphone
QR Reader App

TO VOTE BY COMPLETING THE PROXY FORM

STEP 1 APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

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

Appointment of a Second Proxy

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

To appoint a second proxy you must:

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

STEP 2 VOTING DIRECTIONS TO YOUR PROXY

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

Proxy which is a Body Corporate

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

STEP 3 SIGN THE FORM

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

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

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

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

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

STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **10:00am (AEDT) on Monday, 30 January 2023.** Any Proxy Form received after that time will not be valid for the scheduled meeting.

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

- 🖥 **Online** <https://www.votingonline.com.au/smxgm2023>
- 📠 **By Fax** + 61 2 9290 9655
- ✉ **By Mail** Boardroom Pty Limited
GPO Box 3993,
Sydney NSW 2001 Australia
- 👤 **In Person** Boardroom Pty Limited
Level 8, 210 George Street
Sydney NSW 2000 Australia

Attending the Meeting

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

☐**Your Address**

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

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

PROXY FORM**STEP 1 APPOINT A PROXY**

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

☐

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

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

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the General Meeting of the Company to be held virtually via <https://web.lumiagm.com/321723269> on **Wednesday, 1 February 2022 at 10:00am (AEDT)** and at any adjournment of that meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

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

STEP 2 VOTING DIRECTIONS

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

Resolution 1 *That, subject to and conditional on the proposed scheme of arrangement between the Company and its members (a copy of which was Annexure 1 to the scheme implementation deed dated 26 July 2022 between Lionheart III Corp, Empatan PLC, and the Company) (the **Scheme**) becoming effective in accordance with section 411(10) of the Corporations Act, and, for the purpose of section 256C(1) of the Corporations Act and for all other purposes, it is approved that the Company's share capital be reduced on the Scheme Implementation Date (as defined in the Scheme), with the reduction to be effected and satisfied by the cancellation of all the shares in the Company on issue as at the Record Date (as defined in the Scheme) in consideration for the issue of the Scheme Consideration (as defined in the Scheme) and in accordance with the Scheme."*

For **Against** **Abstain***

☐☐☐**STEP 3 SIGNATURE OF SECURITYHOLDERS**

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

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director / Company Secretary

Contact Name.....

Contact Daytime Telephone.....

Date / / 2023

All Correspondence to:

- ✉ **By Mail** Boardroom Pty Limited
GPO Box 3993
Sydney NSW 2001 Australia
- 📠 **By Fax:** +61 2 9290 9655
- 💻 **Online:** www.boardroomlimited.com.au
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(outside Australia) +61 2 9290 9600

YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 9:30am (AEDT) on Monday 30 January 2023.**

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📱 BY SMARTPHONE

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STEP 2: Enter your Postcode OR Country of Residence (if outside Australia)

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Scan QR Code using smartphone
QR Reader App

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Appointment of a Second Proxy

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- return both forms together in the same envelope.

STEP 2 VOTING DIRECTIONS TO YOUR PROXY

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

Proxy which is a Body Corporate

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

STEP 3 SIGN THE FORM

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

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

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

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

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

STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **9:30am (AEDT) on Monday, 30 January 2023.** Any Proxy Form received after that time will not be valid for the scheduled meeting.

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

- 🖥 **Online** <https://www.votingonline.com.au/smxoptionscheme>
- 📠 **By Fax** + 61 2 9290 9655
- ✉ **By Mail** Boardroom Pty Limited
GPO Box 3993,
Sydney NSW 2001 Australia
- 👤 **In Person** Boardroom Pty Limited
Level 8, 210 George Street
Sydney NSW 2000 Australia

Attending the Meeting

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

☐

Your Address

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

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PROXY FORM

STEP 1 APPOINT A PROXY

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☐

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

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

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the Shareholder Scheme Meeting of the Company to be held **virtually at <https://web.lumiagm.com/399731351> on Wednesday, 1 February 2023 at 9:30am (AEDT)** and at any adjournment of that meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

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

STEP 2 VOTING DIRECTIONS

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

Resolution 1 "That, pursuant to and in accordance with section 411 of the Corporations Act 2001 (Cth):

- (a) the scheme of arrangement proposed between Security Matters Limited (**SMX**) and the holders of an option granted by SMX to acquire by way of issue one or more shares in SMX (other than a "Employee Share Option", a "Legacy Performance Option" or "SMX Convertible Note "SMX Options" (**Option Scheme**), the terms of which are contained in and more particularly described in the scheme booklet (of which this notice of meeting forms part), is agreed to (with or without any alterations or conditions agreed in writing between SMX, Lionheart III Corp (**Lionheart**) and Empatan PLC (**Empatan**) and approved by the Federal Court of Australia or any alterations or conditions as thought just by the Court to which SMX, Lionheart and Empatan agree in writing); and

For **Against** **Abstain***

☐☐☐

- (b) the directors of SMX are authorised, subject to the terms of the scheme implementation deed dated 26 July 2022 between SMX, Lionheart and Empatan:

- (1) to agree to any modifications, alterations or conditions with Lionheart and Empatan;
(2) to agree to any modifications, alterations or conditions as are thought just by the Court; and
(3) subject to the approval of the Share Scheme by the Court, to implement the Share Scheme with any such modifications, alterations or conditions."

STEP 3 SIGNATURE OF SECURITYHOLDERS

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

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director / Company Secretary

Contact Name.....

Contact Daytime Telephone.....

Date / / 2023

All Correspondence to:

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

📠 **By Fax:** +61 2 9290 9655

💻 **Online:** www.boardroomlimited.com.au

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

YOUR VOTE IS IMPORTANT

For your vote to be effective it must be recorded **before 9:00am (AEDT) on Monday 30 January 2023.**

🖥 TO VOTE ONLINE

📱 BY SMARTPHONE

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



Scan QR Code using smartphone
QR Reader App

TO VOTE BY COMPLETING THE PROXY FORM

STEP 1 APPOINTMENT OF PROXY

Indicate who you want to appoint as your Proxy.

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

Appointment of a Second Proxy

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

To appoint a second proxy you must:

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

STEP 2 VOTING DIRECTIONS TO YOUR PROXY

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

Proxy which is a Body Corporate

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

STEP 3 SIGN THE FORM

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

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

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

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

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

STEP 4 LODGEMENT

Proxy forms (and any Power of Attorney under which it is signed) must be received no later than 48 hours before the commencement of the meeting, therefore by **9:00am (AEDT) on Monday, 30 January 2023.** Any Proxy Form received after that time will not be valid for the scheduled meeting.

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

- 🖥 **Online** <https://www.votingonline.com.au/smxsharescheme>
- 📠 **By Fax** + 61 2 9290 9655
- ✉ **By Mail** Boardroom Pty Limited
GPO Box 3993,
Sydney NSW 2001 Australia
- 👤 **In Person** Boardroom Pty Limited
Level 8, 210 George Street
Sydney NSW 2000 Australia

Attending the Meeting

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

☐
Your Address

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

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

PROXY FORM

STEP 1 APPOINT A PROXY

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

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

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

or failing the individual or body corporate named, or if no individual or body corporate is named, the Chair of the Meeting as my/our proxy at the Shareholder Scheme Meeting of the Company to be held **virtually at <https://web.lumiagm.com/310257505> on Wednesday, 1 February 2023 at 9:00am (AEDT)** and at any adjournment of that meeting, to act on my/our behalf and to vote in accordance with the following directions or if no directions have been given, as the proxy sees fit.

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

STEP 2 VOTING DIRECTIONS

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

Resolution 1 "That, pursuant to and in accordance with section 411 of the Corporations Act 2001 (Cth):

- (a) the scheme of arrangement proposed between Security Matters Limited (**SMX**) and the holders of its ordinary shares (**Share Scheme**), the terms of which are contained in and more particularly described in the scheme booklet (of which this notice of meeting forms part) is agreed to (with or without any alterations or conditions agreed in writing between SMX, Lionheart III Corp (**Lionheart**) and Empatan PLC (**Empatan**) and approved by the Federal Court of Australia or any alterations or conditions as thought just by the Court to which SMX, Lionheart and Empatan agree in writing); and

- (b) the directors of SMX are authorised, subject to the terms of the scheme implementation deed dated 26 July 2022 between SMX, Lionheart and Empatan:

(1) to agree to any modifications, alterations or conditions with Lionheart and Empatan;

(2) to agree to any modifications, alterations or conditions as are thought just by the Court; and

(3) subject to the approval of the Share Scheme by the Court, to implement the Share Scheme with any such modifications, alterations or conditions."

For **Against** **Abstain***

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☐
☐

STEP 3 SIGNATURE OF SECURITYHOLDERS

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

Individual or Securityholder 1

Sole Director and Sole Company Secretary

Securityholder 2

Director

Securityholder 3

Director / Company Secretary

Contact Name.....

Contact Daytime Telephone.....

Date / / 2023

Corporate Directory**COMPANY**

Security Matters Limited
ACN 626 192 998

2 The Esplanade
Perth, WA 6000

Telephone: +972 8 630 6336 (ISR)

Website: <https://www.smx.tech>

REGISTERED OFFICE

K&L Gates
Level 25
525 Collins Street
Melbourne VIC 3000

DIRECTORS

Haggai Alon
Everardus Hofland
Jovanka Naumoska
Amir Bader
Kathryn Davies

COMPANY SECRETARY

Mark Licciardo

SMX REGISTRY

Boardroom Pty Limited
Level 12, 225 George Street,
Sydney NSW 2000

AUSTRALIAN LEGAL ADVISER

Mann Lawyers
Level 17,
31 Queen Street
Melbourne, VIC 3000

IRISH LEGAL ADVISER

Arthur Cox
10 Earlsfort Terrace
Dublin 2, Ireland D02 T380

INDEPENDENT EXPERT

Nexia Australia
Level 16, 1 Market Street,
Sydney NSW 2000

INDEPENDENT ACCOUNT

Moore Australia Corporate Finance (WA) Pty Ltd
Level 15, Exchange Tower