



## ASX Release

16 February 2023

### **CORRECTION OF NOTICE OF GENERAL MEETING MEETING DATE: 20 FEBRUARY 2023**

Security Matters Limited (ASX.**SMX**) (**the Company**) advises that the Notice of General Meeting released to ASX on 3 January 2023, contained a typographical error to the single resolution proposed.

A description of the error and the proposed correction is found at paragraph 1(b) in the Further Supplementary Scheme Disclosure released to ASX on 14 February 2023, as follows:

*(b) The General Meeting*

*Postponement of the General Meeting*

The SMX board has resolved to further postpone the General Meeting, so that it will also be held on **20 February 2023**. Subject to the following, the details for attendance at the General Meeting are otherwise the same, and proxies lodged for that meeting remain valid.

*Alteration to Capital Reduction Resolution*

SMX takes this opportunity to notify SMX Shareholders and SMX Optionholders that, at the General Meeting, an amendment will be moved to the Capital Reduction Resolution to be considered at the meeting.

The Capital Reduction Resolution provides for SMX's share capital to be reduced and cancelled in consideration for the issue of the "Scheme Consideration" (as defined in the Scheme) and the "Cancellation Consideration" (as defined in the Option Scheme), and in accordance with the Schemes. The form of the resolution (set out in the Notice of General Meeting at Annexure K of the Scheme Booklet) is that the share capital (emphasis added):

*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.*

The intention behind the resolution is that **all** SMX's share capital will be cancelled, including SMX shares that will be issued following the cashless exercise of SMX options under the Option Scheme (called the "Option Exercise Shares"). Under the Option Scheme, that cashless exercise and share issue will occur on the "**Implementation Date**", which (if the Schemes are approved at the Scheme Meetings and by the Court) SMX expects will be 5 March 2023.

Unfortunately, the Capital Reduction Resolution wrongly refers to the cancellation taking place on the "Record Date", which will be not only before the "Implementation Date"<sup>1</sup> but also before the issue of the "Option Exercise Shares" under the Option Scheme.

Accordingly, it is necessary to amend the Capital Reduction Resolution before it is considered by the General Meeting. Therefore, at that meeting, there will be a motion to amend the resolution by substituting for the words “on issue as at the “Record Date””, the words “on issue immediately after the issue of the “Option Exercise Shares” under the Option Scheme”.

<sup>1</sup> The “Record Date” is the day, two business days after the Scheme becomes effective, on which the identity of the “Scheme Participants” will be confirmed.

A copy of the Notice of General Meeting containing the amended resolution that will be proposed at the meeting is attached hereto. This also contains the updated meeting date and date for return of proxies in accordance with recent orders of the Federal Court of Australia. The amendment to the resolution will be effected by motion passed at the meeting.

The “Explanatory statement and recommendations” contained in the Notice of Meeting are otherwise accurate.

This announcement has been approved for release by the CEO.

**For further information contact:**

**MEDIA ENQUIRIES**

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**About Security Matters Limited**

Security Matters is the next generation solution to address the anti-counterfeit, brand protection, client liability and track and trace markets. The Company has developed a suite of integrated solutions to solve both authentication and track and trace challenges in order to uphold supply chain integrity, and provide quality assurance and brand accountability to producers of goods.



**Security Matters Limited ACN 626 192 998 (SMX)**

**Notice of General Meeting and Explanatory Statement**

<b>Date:</b>	20 February 2023
<b>Time:</b>	10:00AM (AEDT)
<b>Venue:</b>	The meeting will be held virtually
<b>Access:</b>	<a href="https://boardroomlimited.com.au/agm/smx2023">https://boardroomlimited.com.au/agm/smx2023</a>
<b>LUMI link:</b>	<a href="https://web.lumiagm.com/321723269">https://web.lumiagm.com/321723269</a>

**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 20 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 19 February 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 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 immediately after the issue of the "Option Exercise Shares" under the Option Scheme (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."*

## **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 Empatán PLC (**Empatán**).

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 Empatán 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 eligible to participate in the Share Scheme (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 Empatán will merge with and into Lionheart, and Lionheart will become a wholly-owned subsidiary of Empatán (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 20 February 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 that reads "Everardus Hofland". The signature is written in a cursive, flowing style. To the right of the signature, there is a thin, light grey diagonal line that extends from the top right towards the bottom left.

**Everardus Hofland**  
Chairman  
Date: 16 February 2023

## Further Information

### *Voting by proxy*

Any Shareholder entitled to attend and vote at this meeting is entitled to appoint a proxy to attend and vote instead of that Shareholder. The proxy does not need to be a Shareholder of the Company and can be either an individual or a body corporate. A Shareholder can appoint a proxy by completing and returning a signed proxy form.

A Shareholder who is entitled to cast 2 or more votes may appoint 2 proxies and may specify the proportion or number of votes each proxy is appointed to exercise. If no proportion or number is specified, each proxy may exercise half of the Shareholder's votes.

If a Shareholder appoints a body corporate as a proxy, that body corporate will need to ensure that it:

- (a) appoints an individual as its corporate representative to exercise its powers at the meeting, in accordance with section 250D of the *Corporations Act 2001* (Cth) (the **Corporations Act**); and
- (b) provides satisfactory evidence of the appointment of its corporate representative prior to commencement of the meeting.

If you wish to indicate how your proxy should vote, please mark the appropriate boxes on the proxy form. If you do not direct your proxy how to vote on a particular item of business, you are authorising your proxy to vote as they decide, subject to any applicable voting exclusions.

If your proxy does not attend the Meeting, the Chairman will become your proxy by default. The Chairman intends to vote in favour of all resolutions on the agenda.

If you appoint the Chairman of the Meeting as your proxy or the Chairman of the Meeting is appointed as your proxy by default, and you do not provide any voting directions on your proxy form, by completing and returning the proxy form you will be expressly authorising the Chairman of the Meeting to cast your vote as he sees fit. If you intend to appoint a member of the KMP (other than the Chairman) or any of their closely related parties as your proxy on Resolution 1, please ensure that you direct them how to vote on Resolution 1.

Proxies must be:

- (a) lodged at the Company's share registry, Boardroom Pty Limited (by hand or by post); or
- (b) faxed to the fax number specified below,

no later than 5:00pm (AEST) on 19 February 2023.

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

The proxy form has been enclosed. Please read all instructions carefully before completing the proxy form.

### *Online Voting*

Please visit <https://boardroomlimited.com.au/agm/smx2023> to submit your voting intentions prior to 5:00pm 19 February 2023.

### *Entitlement to vote*

In accordance with section 1074E(2)(g)(i) of the Corporations Act and regulation 7.11.37 of the *Corporations Regulations 2001* (Cth), the Company has determined that for the purposes of the meeting shares will be taken to be held by the persons who held them as registered Shareholders at 7.00 pm (AEST) on 19 February 2023. Accordingly, share transfers registered after that time will be disregarded in determining entitlements to attend and vote at the meeting.

*Voting Intentions*

Subject to any voting restrictions and exclusions, the Chairman intends to vote in favour of all resolutions on the agenda.

In respect of all available undirected proxies, subject to any voting restrictions and exclusions, the Chairman intends to vote in favour of all resolutions on the agenda.

*Questions and comments by shareholders at the meeting*

In order to allow for an efficient virtual meeting, we ask that any questions are provided to the Company Secretary by no later than 24 hours prior to the Meeting (details below).

In accordance with the Corporations Act, a reasonable opportunity will be given to Shareholders - as a whole - to ask questions or make comments on the management of the Company at the General Meeting.

Please submit any questions in advance of the Meeting by one of the following:

The Company Secretary, lodged at the Company's share registry, Boardroom Pty Limited (by hand or by post), or faxed to the fax number specified below:

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

By order of the Board



Mark Licciardo  
Company Secretary 16 February 2023