



ABN 46 139 461 733

24 January 2020

WRITEOFF OF DEFERRED TAX ASSET AND ASTIVITA NEW ZEALAND BRAND NAME

Deferred Tax Asset and AstiVita New Zealand Brand Name

AstiVita Limited (“AIR” or the “Company”) has a Deferred Tax Asset (“DTA”) of \$4.2M. The Board is confident the Company will be able to apply these past tax losses against future taxable profits of the Company.

AIR has capitalised the AstiVita New Zealand brand name (“New Zealand Brand”) in the amount of \$449,000.

The three directors of AIR are also directors of Advance Nanotek Limited (ASX - ANO). After a prolonged period of losses, the current ANO Board has restored ANO to profitability and delivered strong profit growth over the past four years. For the six months ended 31 December 2019 ANO reported an unaudited net profit before tax of \$4.9M. Over this period, ANO has written-back unused tax losses of approximately \$6.8M.

ASIC Letter dated 22 January 2020

On 22 January 2020, AIR received a letter from ASIC (“ASIC Letter”) in which ASIC instructed AIR to derecognise the DTA and the New Zealand Brand. The ASIC Letter follows earlier correspondence between AIR and ASIC dated 14 November 2019 and 12 December 2019.

The AIR Board strongly disagrees with the ASIC Letter regarding derecognition of the DTA and the New Zealand Brand. The AIR Board notes that:

- The Accounting Standards impose an obligation on directors to form a view on DTA and the New Zealand Brand pursuant to the “estimates and judgements” provisions.
- The Auditors have reviewed the DTA and New Zealand Brand as part of their annual audit and half-year review process and have agreed with the AIR Board that the DTA and New Zealand Brand should continue to be recognised.

While the ASIC Letter acknowledges that the AIR Board “comprises highly experienced businesspeople who have a proven history of growing shareholder value”, the ASIC Letter, nevertheless, states “the \$4.2 million DTA should be derecognised” and the “\$449 thousand New Zealand brand name,,,,, should be derecognised”.

Response of AIR Board to the ASIC Letter

The AIR Board sees little benefit in engaging in a protracted campaign with ASIC regarding the DTA and the New Zealand Brand. The AIR Board believes this would be a waste of directors’ time and shareholder’s money. Both which could be applied more productively towards growing the AIR business.

Accordingly, the AIR Board will comply with the requirements of the ASIC Letter and intends to fully write-off the DTA and the New Zealand Brand. The write-off of the \$4.2 million DTA and the \$449,000 New Zealand Brand will be reflected in the half-year accounts ended 31 December 2019.

Implications of the requirements of the ASIC Letter

The AIR Board notes the following:

- The requirement by ASIC Letter to derecognise the DTA and the New Zealand Brand will result in AIR reporting a significant loss for the half -year ended 31 December 2019.
- The AIR half-year review by the Auditors will commence in early February and will address the DTA and New Zealand Brand derecognition at that time.
- The decision by ASIC to, in effect, reverse a decision of the AIR Board which is supported by the Auditors, represents, in the opinion of the AIR Board, a dangerous precedent for how public company directors are expected to exercise their “estimates and judgements” pursuant to the requirements of the Accounting Standards.
- Should the derecognition of the DTA and the New Zealand Brand result in shareholder losses, particularly, if the DTA and/or the New Zealand Brand is later reversed as the Company is restored to profitability, the AIR Board will be encouraging shareholders to seek appropriate recourse and compensation from ASIC.
- The AIR Board notes that AIR has no bank borrowings and continues to have the full financial support of the major shareholder.

Rade Dudurovic
Chairman of Audit Committee