

JOHNSON | WINTER | SLATTERY

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8 December 2022

The Manager
ASX Market Announcements Office
ASX Limited
Exchange Centre
20 Bridge Street
SYDNEY NSW 2000
FOR LODGEMENT ONLINE

Dear Sir/Madam

Takeover bid for Nitro Software Limited (ACN 079 215 419) (ASX:NTO) – extension of Offer Period, increase in Offer Price and Second Supplementary Bidder's Statement

We act for Potentia Capital Management Pty Ltd (ACN 630 264 210) (**Potentia**).

We refer to Potentia's off-market takeover bid through Technology Growth Capital LLC (**Bidder**) to acquire ordinary shares in Nitro Software Limited (ACN 079 215 419) (ASX:NTO) (**Nitro**), on the terms set out in the offer contained in the Bidder's Statement dated 28 October 2022 (**Offer**).

We enclose, in accordance with sections 647(3)(b) and 650D of the *Corporations Act 2001* (Cth) (**Corporations Act**):

- a copy of the Bidder's Second Supplementary Bidder's Statement dated 8 December 2022 in relation to the Offer; and
- a formal notice of variation to the Offer (**Notice**) to:
 - increase the share offer consideration from \$1.80 cash per Nitro share to \$2.00 cash per Nitro share;
 - extend the period during which the existing Offer will remain open for acceptance until **7.00pm (Sydney, Australia time) on 8 January 2023** (unless withdrawn or further extended) pursuant to section 650D of the Corporations Act; and
 - confirm the new date for giving notice of the status of the Offer conditions as a result of the extension of the Offer period pursuant to section 630(2)(b) of the Corporations Act.

The Second Supplementary Bidder's Statement and Notice have been lodged today with the Australian Securities and Investments Commission and sent to Nitro.

Yours faithfully,



Johnson Winter Slattery

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SECOND SUPPLEMENTARY BIDDER'S STATEMENT

ACCEPT

THE OFFER TO ACQUIRE YOUR SHARES IN

NITRO SOFTWARE LIMITED

ACN 079 215 419

BY

Potentia Capital Management Pty Ltd

ACN 630 264 210

potentia

THROUGH

Technology Growth Capital LLC

The Offer is dated 11 November 2022 and expires at 7:00pm (Sydney, Australia time) on 8 January 2023, unless extended or withdrawn

**THIS IS AN IMPORTANT DOCUMENT AND REQUIRES
YOUR IMMEDIATE ATTENTION**

Please call 1300 101 297 (for calls made within Australia) or +61 2 9068 1929 (for calls made from outside Australia) from Monday to Friday between 9:00am and 5:00pm (Sydney, Australia time) if you require assistance with your acceptance.

You should read this document in its entirety. If you are in doubt as to how to deal with this document, please consult your financial, legal or other professional adviser

Legal Adviser

Financial Adviser

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 **JARDEN**

8 December 2022

Potentia Capital's takeover offer for Nitro Software Limited: increase in cash offer price to \$2.00 per Nitro Share, scrip alternative and extension of Offer Period

Key highlights

- Potentia Capital is increasing the cash Offer Price in its Offer to \$2.00 per Nitro Share and declaring that price final (subject to the exceptions stated below)
- Potentia Capital will also add a new scrip alternative in its Offer for Nitro Shareholders who wish to retain their ownership in the Nitro business
- Potentia Capital believes that access to due diligence will provide the possibility for a further increase in the cash Offer Price beyond \$2.00 per Nitro share
- Potentia Capital expects to be immediately granted access to due diligence materials in accordance with the Board's fiduciary duties (as permitted under clause 13.5 of the Scheme Implementation Deed with Alludo)
- This revised proposal is superior to the Alludo Proposal, as it is subject to fewer conditions (including that it does not contain a minimum acceptance condition like the Alludo 50.1% minimum acceptance condition) and currently open for acceptance, meaning Shareholders could receive their consideration under the Offer this calendar year, which Potentia Capital believes is worth an extra 10c per Nitro Share to Nitro Shareholders
- Potentia Capital expects that the Nitro board will now immediately recommend this revised Offer to Shareholders, on the basis of its superiority
- If Potentia Capital ends up having relevant interests in less than 75% of Nitro Shares it will maintain Nitro's listing on ASX
- Potentia Capital confirms its intention to vote all the Nitro Shares it controls against any competing scheme of arrangement and to not accept any competing takeover bid
- Potentia Capital controls 19.31% of the Nitro Shares and consequently the competing Alludo scheme proposal, which will be voted on in February 2023, is unlikely to succeed.

Dear Nitro Shareholder,

New Offer Price

Potentia Capital announces today that it has increased the cash price offered in its takeover bid for Nitro (**Offer**) through Technology Growth Capital LLC (**Bidder**) to \$2.00 per Nitro Share (**New Offer Price**).

Potentia Capital has now matched Alludo's competing bid price of \$2.00 per Nitro Share and the Offer is now superior to the Alludo proposal due to its low conditionality (including that it does not contain a minimum acceptance condition like the Alludo 50.1% minimum acceptance condition), increased certainty and its potential to provide consideration under the Offer to Nitro Shareholders this year. The New Offer Price is now final and Potentia Capital will not consider increasing this price unless:

- a superior proposal for Nitro emerges; or
- Potentia Capital is granted access to information required to undertake full customary legal, financial, technical and tax due diligence on the business and assets of Nitro.

Scrip Alternative

Potentia Capital will add a scrip alternative form of consideration (**Scrip Alternative**).

The Scrip Alternative is intended to facilitate existing Nitro Shareholders' rollover into Potentia Capital's acquisition vehicle, including members of the Nitro management team and broader employee group. As specialist investors in the Australian technology sector with a strong track record of growing successful software businesses, Potentia Capital believes that it can help Nitro successfully deliver on its global growth plans as a standalone enterprise software leader and would welcome the participation of current Nitro Shareholders on that journey.

Potentia Capital will send Nitro Shareholders all required information concerning the Scrip Alternative as soon as possible.

In addition to offering the Scrip Alternative, if Potentia Capital ends up having relevant interests in less than 75% of the Nitro Shares at the end of the Offer Period, it has now also decided to maintain Nitro's listing on ASX.

Extension of Offer Period

Potentia has also varied its Offer by extending the Offer Period, and the Offer is now scheduled to close at **7.00 pm (Sydney time) on 8 January 2023**, unless extended or withdrawn.

Competing Scheme Proposal

Potentia Capital confirms its previous statements that it will vote all the Nitro Shares that it controls, at the relevant time, against any Competing Scheme Proposal, and that it will not accept any of those Nitro Shares into any Competing Takeover Proposal.

Given that Potentia Capital currently controls 19.31% of Nitro Shares, and that any Competing Scheme Proposal requires 75% of the votes cast by eligible Nitro Shareholders to be in support of the scheme, this will require at least 93% of all Nitro Shares not controlled by Potentia Capital to be voted in favour of the scheme for the scheme to succeed, assuming 100% voter turnout, and on the basis that Potentia Capital does receive any further acceptances of its Offer prior to the vote.

As a result, Potentia Capital is of the view that the Alludo Competing Scheme Proposal is unlikely to succeed.

Benefits of Potentia Capital's Offer compared to Alludo's proposal

Potentia Capital's Offer is a superior proposal to Alludo's proposal because it provides a number of key benefits relative to the competing Alludo proposal. In particular, the Offer:

- matches the \$2.00 per Nitro Share cash value under the Alludo proposal, but will also have the Scrip Alternative for Nitro Shareholders who wish to retain their ownership in the Nitro business;
- has fewer conditions than the Alludo proposal and in particular, no minimum acceptance condition (as compared to the Alludo proposal which has a 50.1% minimum acceptance condition);
- is already open for acceptance by Nitro Shareholders;
- offers a clean and certain exit for Nitro Shareholders electing to receive cash;

- would deliver consideration under the Offer to Nitro Shareholders on an accelerated timetable if the Offer conditions are satisfied, with the result that the cash proceeds could be received this calendar year, with no brokerage fees, which Potentia Capital believes is worth an extra 10c per Nitro Share¹; and
- does not require any Nitro Shareholder vote to proceed.

For these reasons, Potentia Capital expects that the Nitro board will now immediately recommend Potentia Capital's revised Offer to all Nitro Shareholders.

In addition, Potentia Capital also expects to be immediately granted access to due diligence materials in accordance with the Nitro board's fiduciary duties. Potentia Capital believes that access to due diligence materials will provide the possibility for a further increase in the cash Offer Price beyond \$2.00 per Nitro Share, which is in the best interests of all Nitro Shareholders.

Next steps

We encourage you to read this supplementary bidder's statement with the original bidder's statement and the first supplementary bidder's statement in full for further details about the Offer.

If you have any questions in relation to this document, the Offer or how to accept the Offer, please call the Offer Information Line on **1300 101 297** (for calls made within Australia) or **+61 2 9068 1929** (for calls made from outside Australia) Monday to Friday between 9:00am and 5:00pm (Sydney, Australia time).

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

Yours sincerely,



Andrew Gray
Managing Director
Potentia Capital



Michael McNamara
Partner
Potentia Capital

¹ Based on a rate of return of 20-25% per annum (which is the rate of return typically sought in an investment of this nature), a price of \$2.00 per Nitro Share and three month delay in payment between the Potentia Offer and the Alludo offer. This implies a \$0.10 value per share at the midpoint of this range.

1 Introduction

This document is the second supplementary bidder's statement (**Second Supplementary Bidder's Statement**) given by Technology Growth Capital LLC (**Bidder**) in connection with its takeover offer for all shares in Nitro Software Limited (ACN 079 215 419) (**Nitro**).

A copy of this Second Supplementary Bidder's Statement was lodged with the Australian Securities and Investments Commission (**ASIC**) on 8 December 2022. Neither ASIC nor its officers take any responsibility for the contents of this Second Supplementary Bidder's Statement.

This Second Supplementary Bidder's Statement supplements, and must be read together with, the Bidder's original bidder's statement dated 28 October 2022 (**Original Bidder's Statement**) as supplemented by the first supplementary bidder's statement lodged with ASIC on 11 November 2022 (**First Supplementary Bidder's Statement**).

Unless the context otherwise requires, capitalised terms used in this Second Supplementary Bidder's Statement have the same meaning as given to them in the Original Bidder's Statement. This Second Supplementary Bidder's Statement will prevail to the extent of any inconsistency with the Original Bidder's Statement and First Supplementary Bidder's Statement.

2 Variation to the Offer

As explained in the letter from Potentia Capital set out on page 2 of this Second Supplementary Bidder's Statement (**Potentia Capital Letter**), the Bidder has varied its Offer by:

- (a) increasing the cash price offered per Nitro Share to \$2.00;
- (b) extending the Offer Period so that it will now close at **7.00 pm (Sydney time) on 8 January 2023**, as detailed further in section 5.

The formal notice of variation relating to these changes as required by the Corporations Act is attached in the Annexure to this Second Supplementary Bidder's Statement.

In addition, the Bidder is proposing to vary its Offer further by making available a scrip alternative, so that Nitro Shareholders can elect to receive scrip consideration (**Scrip Consideration**) in an Australian incorporated holding company, or a mixture of cash and Scrip Consideration for their Nitro Shares, instead of cash only.

The option to receive the all cash consideration will remain available to all Nitro Shareholders and is now \$2.00 per Nitro Share.

3 Sources of consideration for the Increased Offer Amount

As a result of the increase in the Offer Price from \$1.80 to \$2.00 per Nitro Share, the Offer Amount has increased from \$382.9 million to \$441.5 million (plus costs associated with the Offer) (**Increased Offer Amount**), calculated on the same basis as set out in the Original Bidder's Statement.²

The funds required by the Bidder to pay the Increased Offer Amount will be made available to the Bidder by Potentia Capital out of funds managed by Potentia Capital, as described in the Original Bidder's Statement and First Supplementary Bidder's Statement.

² Based on 245,066,360 ordinary shares (less 48,586,139 ordinary shares held by Potentia Capital) and 18,003,348 options, restricted shares awards and performance rights per latest disclosure from Nitro's Notification Regarding Unquoted Securities available on 16 November 2022, in addition to 6,283,923 unquoted and unallocated treasury shares as disclosed in the Nitro Target's Statement on 23 November 2022.

4 Further information about Scrip Consideration to be provided

The Bidder will provide Nitro Shareholders with further information regarding the Scrip Consideration as soon as possible by means of a formal variation to the Offer and a further supplementary bidder's statement.

This further information will include, among other things, information about:

- (a) the amount of Scrip Consideration to be offered per Nitro Share;
- (b) the value of the Scrip Consideration;
- (c) the entity that will issue the Scrip Consideration;
- (d) details of the rights attaching to the Scrip Consideration;
- (e) the benefits of accepting the Scrip Consideration;
- (f) the risks of accepting the Scrip Consideration; and
- (g) how to accept the Scrip Consideration.

5 Extension of Offer Period

As mentioned above, in accordance with section 650D of the Corporations Act, the Bidder has varied its Offer by extending the Offer Period so the Offer is now scheduled to close at **7.00 pm (Sydney time) on 8 January 2023** (unless extended or withdrawn in accordance with the Corporations Act).

The date for giving notice of the status of the Conditions as required by section 630(1) of the Corporations Act is consequently extended to **30 December 2022**. This is subject to any further variation in accordance with section 630(2)(b) of the Corporations Act in the event that the Offer Period is further extended.

The formal notice of variation of the Offer as required under sections 650D and 630(2)(b) of the Corporations Act is attached in the Annexure to this Second Supplementary Bidder's Statement.

6 Conclusion

The Bidder encourages you to consider all information that has been sent to you in connection with the Offer and to **ACCEPT** the Offer.

If you have any questions in relation to this document, the Original Bidder's Statement, the First Supplementary Bidder's Statement, the Offer or how to accept the Offer, please call the Offer Information Line on 1300 101 297 (for calls made within Australia) or +61 2 9068 1929 (for calls made from outside Australia) from Monday to Friday between 9:00am and 5:00pm (Sydney, Australia time).

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

7 Approval of the Second Supplementary Bidder's Statement

This Second Supplementary Bidder's Statement has been approved by a resolution of the directors of the Bidder.

Dated 8 December 2022

Signed for and on behalf of the Bidder by:



Andrew Gray
President
Technology Growth Capital LLC

ANNEXURE

NOTICE UNDER SECTIONS 650D AND 630(2)(B) OF THE CORPORATIONS ACT

See attached.

**NOTICE OF VARIATION OF OFFER – EXTENSION OF OFFER PERIOD
SECTIONS 650D AND 630(2)(b) OF THE CORPORATIONS ACT 2001 (CTH)**

OFF-MARKET TAKEOVER OFFER BY TECHNOLOGY GROWTH CAPITAL LLC

To: Australian Securities and Investments Commission (ASIC)

ASX Limited

Nitro Software Limited (ACN 079 215 419) (Nitro)

Each person to whom offers were made under the takeover offer in accordance with section 650D(1)(c)(ii) of the Corporations Act 2001 (Cth) (Corporations Act)

This notice is given by Technology Growth Capital LLC (**Bidder**) in relation to its off-market bid for ordinary shares in Nitro Software Limited (ACN 079 215 419) (ASX:NTO) (**Nitro**), on the terms of the offer (**Offer**) set out in the bidder's statement dated 28 October 2022 (**Bidder's Statement**). Capitalised terms in this notice have the same meaning as given in the Bidder's Statement, unless the context requires otherwise.

1 Increase of Offer Price

The Bidder gives notice under section 650B of the Corporations Act that:

- (a) the Offer is varied by increasing the Offer Price from A\$1.80 cash per Nitro Share to A\$2.00 cash per Nitro Share; and
- (b) all references in the Bidder's Statement and the Acceptance Form to 'A\$1.80', or where 'A\$1.80' is deemed to appear, are replaced with 'A\$2.00' as the Offer Price.

The increased Offer Price will apply to all Nitro Shareholders who accept the Bidder's Offer, including those Nitro Shareholders who have already accepted the Offer and to Nitro Shares that are issued during the Offer Period due to the conversion of any Nitro Options that exist at the Register Date which are accepted into the Offer.

2 Extension of Offer Period

The Bidder gives notice under section 650D(1) of the Corporations Act that, pursuant to section 650C(1) of the Corporations Act:

- (a) the Offer is varied by extending the period during which the Offer will remain open for acceptance until **7.00pm (Sydney, Australia time) on 8 January 2023**, unless withdrawn or further extended in accordance with the Corporations Act; and
- (b) all references in the Bidder's Statement and Acceptance Form to '11 December 2022', or where '11 December 2022' is deemed to appear, are replaced with '8 January 2023' as the last day of the Offer Period.

3 New date for giving notice as to the status of conditions under the Offer

As a result of the extension of the Offer Period, the Bidder gives notice under section 630(2)(b) of the Corporations Act that:

- (a) the new date for giving notice as to the status of the Conditions of the Offer set out in section 10.3 of the Bidder's Statement, as required by section 630(3) of the Corporations Act, is 30 December 2022 (subject to variations in accordance with the Corporations Act). Accordingly, the reference to '2 December 2022' in the Bidder's Statement as the date for giving the notice on the status of the Conditions is replaced with '30 December 2022'; and

(b) as at the date of this notice:

- (i) the Offer and each contract resulting from acceptance of the Offer have not been freed from the Conditions set out in section 10.3 of the Bidder's Statement; and
- (ii) so far as the Bidder is aware, the Conditions set out in section 10.3 of the Bidder's Statement are not fulfilled at the time of giving this notice.

5 Date of lodgement with ASIC

A copy of this notice was lodged with ASIC on 8 December 2022. ASIC takes no responsibility for the contents of this notice.

Dated: 8 December 2022

Signed for and on behalf of **Technology Growth Capital LLC** pursuant to a resolution of the directors.



Andrew Gray
President
Technology Growth Capital LLC