

2019年2月1日

ホワイト&ケース法律事務所

米英における Conflict of interest のある M&A の情報開示事例

1. 米国

1.1 上場会社の買収における SEC の開示ルール（概要）

以下に述べる Regulation、Schedule、Rule は、別途の言及がない限り Securities Exchange Act of 1934 に基づくものである。

(a) One-step merger の場合

対象会社は、株主に対し株主総会における Merger agreement の承認を勧誘するにあたり、Regulation 14A 及び **Schedule 14A** に従った proxy statement を SEC に届出、開示しなければならない。Regulation S-K、Regulation M-A 等を引用して下記の Schedule TO と重複する開示事項も多い。

(b) Two-step merger の場合（公開買付実施）

買付者は、公開買付について Schedule TO を SEC に届出、開示しなければならない。買付者は、Schedule TO において、Regulation M-A の引用により要求される多岐にわたる事項を開示する。

対象会社は、公開買付後 10 営業日以内に、Schedule 14D-9 を SEC に届出、開示し、株主に対し、オファーに応募し若しくは拒否することを推奨するか、又はオファーについて意見を述べないことを公表しなければならない。

(c) 非公開化取引における追加的な開示ルール

One-step merger であるか Two-step merger であるかにかかわらず、非公開化を目的とする取引の場合、対象会社及びその取引に関与する（"engaged in"）関連当事者（affiliate）は、Rule 13e-3 に従った Schedule 13E-3 を SEC に届出し、開示しなければならない。

1.2 Rule 13e-3 による開示事項

Schedule 13E-3 により要求される開示事項は、その多くが Schedule 14A（One-step merger による非公開化取引の際に、Schedule 13E-3 と共に届出）及び Schedule TO（公開買付による非公開化取引の際に届出）における開示事項と重複している。そのため、ほとんどの取引では、Rule 13e-3 により要求される開示事項は One-step merger の場合は proxy statement（Schedule 14A に含まれる）において、公開買付の場合は Offer to Purchase（Schedule TO に含まれる）又は対象会社による Schedule 14D-9 において開示され、それらと同時に届け出られる Schedule 13E-3 では、Schedule 14A 又は Schedule TO/対象会社による Schedule 14D-9 において Schedule 13E-3 の開示事項が述べられている該当箇所を示し、それを参照するという形式がとられる。

Schedule 13E-3 により追加的に要求される開示事項として重要な項目は、Schedule 13E-3 の Item 7, 8, 及び 9 である。これらの Item は Regulation M-A の Items 1013, 1014, 及び 1015 により要求される開示項目であり、proxy statement 又は Offer to Purchase の初めに明示的に "Special Factors" とのセクションを設けて開示しなければならない。かかる Special Factors として開示が求められる事項の概要は以下のとおり。

(a) 本取引の目的 (Purposes of the Transaction)

非公開化取引（本取引）の対象会社及びその関連当事者は、本取引の目的を開示しなければならない。かかる開示事項には、以下の事項を含む。

- 検討した他の代替的な手法、及びそれらを採用しなかった理由
- 本取引のストラクチャーを選択した理由及び本取引を実施する理由
- 対象会社、その関連当事者、及び独立株主(unaffiliated stockholders)に対し、本取引によりどのような影響が生じるか（本取引による、それぞれに対する税務上の影響を含む）。かかる影響についての記述は、本取引によるメリット・デメリットについて、合理的な程度に詳細に記載しなければならない。また、かかる影響は、定性的なものだけでなく、可能な限り定量的な側面も述べなければならない（対象会社の帳簿価格及び純利益に対する金額、及び割合での影響）

(b) 本取引の公正性 (Fairness of the Transaction)

届出者は、本取引の内容及び手続における公正性について情報を提供しなければならない。かかる開示事項には、以下の事項を含む。

- 届出者が、本取引が独立株主に対して fair であると信じるか否か
- どのような主要な事項に基づき、上記の結論に至ったか、また主要事項のうち、どの事項についてより重きをおいたか
- 本取引が独立株主の過半数以上による承認を前提条件とするか（MOM条件を付けるか）、及びマネジメントではない取締役の過半数が本取引を承認したか
- 取締役会において、本取引に反対票を投じた、又は投票しなかった取締役がいるか、いる場合はその理由
- マネジメントではない取締役の過半数が、独立株主に代わり本取引について交渉するため、独立した代理人を雇ったか

(c) レポート、意見、評価及び交渉 (Reports, Opinions, Appraisals and Negotiations)

本取引に「著しく関連する」(materially related) 外部の者からの全てのレポート（口頭によるものを含む）、意見及び評価は開示されなければならない。これらには、本取引の価格や Fairness に関するレポート、意見又は評価を含む（ファイナンシャルアドバイザーのフェアネスオピニオン等）。これらのレポート、意見及び評価のコピーは、Schedule 13E-3 の別紙として開示される。

それぞれのドキュメントでは、以下の情報が開示されなければならない。

- 当該レポート等の外部者の特定、当該外部者と対象会社及びその関連当事者との間で重要な関係性が存在するか
- 当該外部者が買収価格を推奨したか、又は対象会社が買収価格を決定したか

- 各ドキュメントのサマリー（取られた手続き、発見事項及び推奨事項、当該発見事項及び推奨事項の根拠及びそれに至った方法、対象会社及びその関連当事者からの指示、対象会社及びその関連当事者により課された、当該外部者による分析のスコープにおける限界を含む）を記載

SECは、本項目に基づく開示は、書面であるか口頭であるか、提案された本取引に関連して作成されたものであるか否かにかかわらず、バリュエーションに関する全ての評価又はレポートが開示対象となるとしている。したがって、取引に関与するアドバイザーは、プレゼンテーション、取締役会の議事録等について、それが初期的なものであれ最終的なものであれ、SECにより開示が要求され得ることに留意するように説明し、すべての資料が開示される前提で丁寧に準備するように心がける。

(d) 将来の財務予測（Financial projections）

将来の財務予測も、一般的に Schedule 13E-3 において開示することが求められる事項である。

1.3 開示事例（Oracle Corporation による Netsuite Inc.の買収）

2016年7月28日、Oracle Corporation(NYSE: ORCL)は、クラウドサービスの会社である NetSuite (NYSE: N)を一株当たり USD109.00 による現金対価により全株式を買収する旨の Merger agreement を締結したと公表¹し、公開買付による two-step merger を実施した。対象会社である NetSuite は Oracle の Chief Technology Officer 兼 Chairman of the Board of the Directors であり（当時）、Oracle の大株主であるエリソン氏により設立された会社であった。NetSuite が 2007 年に上場する際に、エリソン氏が保有する株式はエリソン氏のトラストが保有する NRH というエンティティに移され、NRH はオファーの時点において、NetSuite の第 1 位の大株主であった。したがって、本取引は、支配株主による、非公開化を目指す上場会社の買収事例といえる。

Oracle による NetSuite に対する公開買付によるオファーに関し、主要な開示書類は以下のとおりである。

- **Offer to Purchase**²: 2016年8月18日付の Napa Acquisition Corporation（Purchaser、買収エンティティ。Oracle Corporation の子会社である OC Acquisition LLC の子会社）による NetSuite に対する買付オファー
- **Schedule TO**³: 2016年8月18日付の NetSuite Inc.（Issuer）に対する Napa Acquisition Corporation（Offeror）による Tender Offer Statement
- **Agreement and Plan of Merger**: 2016年7月28日付の NetSuite Inc.、Oracle Corporation, OC Acquisition LLC and Napa Acquisition Corporation による合併契約（Schedule TO の Exhibit(d)(1)、適時開示で開示済みのため当該 8-K の Exhibit 99.1 より引用している。⁴）

¹ <https://www.oracle.com/corporate/pressrelease/oracle-buys-netsuite-072816.html>

² Offer to Purchase, dated August 18, 2016 (incorporated by reference to Exhibit (a)(1)(A) to the Tender Offer Statement on Schedule TO filed with the Securities Exchange Commission (the "SEC") by Oracle Corporation, OC Acquisition LLC and Napa Acquisition Corporation on August 18, 2016 (the "Schedule TO")). <https://www.sec.gov/Archives/edgar/data/1117106/000119312516684804/d340996dex99a1a.htm> (Schedule 14D-9 の Exhibit (a)(1)(A))

³ <https://www.sec.gov/Archives/edgar/data/1117106/000119312516684804/d340996dsctot.htm>

⁴ <https://www.sec.gov/Archives/edgar/data/1341439/000119312516666792/d180474dex991.htm>

- **Schedule 14D-9⁵** : 2016年8月18日付の、NetSuite Inc.によるオファーに対する意見
- **Schedule 13E-3⁶**: 2016年8月18日付の、NetSuite Inc.による、非公開化取引であることから要求される追加的な開示事項

上記のとおり、Schedule 13E-3における開示は、Schedule 14D-9を参照する形式をとっている（下記に一部を貼り付け）。したがって、非公開化取引に特有の開示事項の紹介としては、Schedule 13E-3で参照されているSchedule 14D-9のうちの参照部分の一部を抜粋し別紙1にて紹介する。

Item 7. Purposes, Alternatives, Reasons and Effects.

(a) *Purposes.* The information in the Schedule 14D-9 under the caption "Item 4. The Solicitation or Recommendation—Background of the Transaction; Reasons for the Recommendation of the NetSuite Board," and in the Offer to Purchase under the captions "Introduction," "Summary Term Sheet," "Special Factors—Section 1—Background of the Offer; Past Contacts or Negotiations with NetSuite," "Special Factors—Section 2—Purpose of the Offer; Plans for the Company," "Special Factors—Section 5—Certain Effects of the Offer," "Special Factors—Section 6—The Merger Agreement; Other Agreements," and "Schedule I" is incorporated herein by reference.

(b) *Alternatives.* The information in the Schedule 14D-9 under the caption "Item 4. The Solicitation or Recommendation—Background of the Transaction; Reasons for the Recommendation of the NetSuite Board," and in the Offer to Purchase under the captions "Introduction," "Summary Term Sheet" and "Special Factors—Section 1 Background of the Offer; Past Contacts or Negotiations with NetSuite," is incorporated herein by reference.

(c) *Reasons.* The information in the Schedule 14D-9 under the caption "Item 4. The Solicitation or Recommendation—Background of the Transaction; Reasons for the Recommendation of the NetSuite Board," and in the Offer to Purchase under the captions "Introduction," "Summary Term Sheet," "Special Factors—Section 1—Background of the Offer; Past Contacts or Negotiations with NetSuite," "Special Factors—Section 2—Purpose of the Offer; Plans for the Company," "Special Factors—Section 5—Certain Effects of the Offer," "Special Factors—Section 6—The Merger Agreement; Other Agreements" and "Schedule I," is incorporated herein by reference.

(d) *Effects.* The information in the Schedule 14D-9 under the captions "Item 3. Past Contacts, Transactions, Negotiations and Agreements" and "Item 4. The Solicitation or Recommendation—Background of the Transaction; Reasons for the Recommendation of the NetSuite Board," and in the Offer to Purchase under the captions "Introduction," "Summary Term Sheet," "Special Factors—Section 1—Background of the Offer; Past Contacts or Negotiations with NetSuite," "Special Factors—Section 2—Purpose of the Offer; Plans for the Company," "Special Factors—Section 5—Certain Effects of the Offer," "Special Factors—Section 6—The Merger Agreement; Other Agreements," "The Tender

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Offer—Section 5—Certain U.S. Federal Income Tax Consequences of the Offer" and "Schedule I," is incorporated herein by reference.

⁵https://www.sec.gov/Archives/edgar/data/1117106/000104746916015045/a2229460zsc14d9.htm#do10404_item_9_exhibits

⁶<https://www.sec.gov/Archives/edgar/data/1117106/000104746916015744/a2229816zsc13e3.htm>

2. 英国

2.1 開示文書

友好的買収 (Recommended Offer) の場合、買付者は Takeover による買収の場合は Offer document、スキームオブアレンジメントによる買収の場合は Scheme document を公表する。対象者の取締役による、応募推奨についても、同一のドキュメントの中に含まれる。

2.2 開示事例 (Boomerang Plus Plc における MBO 目的の Takeover)

Boom Pictures Limited (LDC (Managers) Limited、経営陣チーム及び Lorraine Heggessey 氏が共同で設立) による Boomerang Plus Plc の現金での買収提案

Boomerang Plus Plc は、買収当時及び現在もウェールズ籍のテレビ番組制作会社である。

買付者のコンソーシアムが設立した買収用のビークルである Boom Pictures (「買付者」) は、Boomerang の発行済株式の全部を一株当たり 77 ポンド、総額 710 万ポンドで買収すること (「本買付」) を提案した。本買付は 2012 年 6 月 4 日に公表され、2012 年 7 月 26 日に完了した。買付会社は 1,100 万ポンドを拠出し、その内 LDC が 900 万ポンド、コンソーシアムの他のメンバーが残りの約 200 万ポンドを提供した。この資金の大部分は本買付のために充当され、残りは買収後の Boomerang に対する将来の投資のために留保された。

Lorraine Heggessey 氏は BBC1 の元責任者で、(英国の他のテレビ番組制作会社) Talkback Thames の最高経営責任者を 5 年間務めた。Heggessey 氏はメディア産業のこの分野において広範な経験を有しており、Boomerang 買収の立案者であった。Heggessey 氏は本買付後に Boomerang の常務会長に就任した。経営陣チームは、本買付前の Boomerang の経営陣であり買付者に対する持分を保有するため、本買付に直接の金銭的利害関係を有する。経営陣チームは、Huw Eurig Davies 氏 (Boomerang の CEO)、Mark Fenwick (Boomerang の財務責任者) 及び Gareth Rees 氏 (Boomerang の業務執行取締役) で構成された。

上記の通り買付資金の大部分を提供した LDC は英国の中堅企業を対象とする有力なプライベート・エクイティ投資会社であり、Lloyds TSB Bank plc の完全子会社である。

経営陣チームを構成する取締役らの本買付に関する利益相反のため、これらの取締役 (Davies 氏、Fenwick 氏及び Rees 氏) は本買付の評価にも経営管理契約の検討にも参加せず、Boomerang の株主に対する賛成意見の決定にも関与しなかった。代わりに、買付前の Boomerang の業務執行取締役ではない 3 名の取締役 (Huntingford 氏、Moore 氏及び James 氏) がこうした行為の全てを遂行した。本買付の賛成意見の表明はこれら 3 名の取締役のみが行い、適切に承認された。

別紙 2 において、本買付において買付者が提出した Offer document⁷ の表紙、目次、及び主要部分である Part 1 Letter of Recommendation from the Chairman of Boomerang (対象会社の独立取締役による推奨意見) 及び Part 2 Letter from Deloitte Corporate Finance (買付者の FA からの Offer に関する説明、意見) を抜粋している。なお抜粋していない部分は、Offer への応募方法や Offer が成立しなくなる場合等の手続き的な点に関する記載が主である。

⁷ 全文は、THOMSON REUTERS が運営する PRACTICAL LAW にて、契約者のみ閲覧可能

[https://uk.practicallaw.thomsonreuters.com/Link/Document/Blob/Ie00bd3b0464f11e598dc8b09b4f043e0.pdf?targetType=PLC-multimedia&originationContext=document&transitionType=DocumentImage&uniqueId=cac703d7-6358-458d-af1d-a3025a320bb0&contextData=\(sc.DocLink\)&comp=pluk&firstPage=true](https://uk.practicallaw.thomsonreuters.com/Link/Document/Blob/Ie00bd3b0464f11e598dc8b09b4f043e0.pdf?targetType=PLC-multimedia&originationContext=document&transitionType=DocumentImage&uniqueId=cac703d7-6358-458d-af1d-a3025a320bb0&contextData=(sc.DocLink)&comp=pluk&firstPage=true)

Part 1 と Part 2 では、米国のように対象会社の独立取締役における検討経緯の詳細は記載されていない。また、買付価格についても、公表前日終値及び過去 1 年間における終値平均に対するプレミアムが記載されているのみで、算出の経過や根拠となった数値等は記載されていない。この点については、日本の公開買付届出書よりも情報開示の程度が低いといえる。一方、買付者側に加わるマネジメントの保有株、Benefit 等については詳細な開示がなされている。

(注: ハイライトは著者にて付したものである。)

Item 4. The Solicitation or Recommendation

Recommendation of the NetSuite Board

After careful consideration, including a thorough review of the terms and conditions of the Offer in consultation with NetSuite management and its legal and financial advisors, on July 27, 2016, the NetSuite Board, among other things, unanimously (1) determined that the Merger Agreement and the Transactions are fair and in the best interests of NetSuite and its stockholders; (2) approved entry into and adoption of the Merger Agreement, and declared advisable the Merger Agreement and the Transactions, including the Offer and the Merger, in accordance with the requirements of Delaware law; (3) resolved to recommend that holders of Shares accept the Offer and tender their Shares to Purchaser pursuant to the Offer; and (4) elected that the Merger Agreement and the Transactions be expressly governed by Section 251(h) of the DGCL.

For the reasons described below, the NetSuite Board unanimously recommends that NetSuite's stockholders accept the Offer and tender their Shares to Purchaser in the Offer.

In reaching the conclusions and in making the recommendation described above, the NetSuite Board took into account a number of reasons, described under the caption "—Background of the Transactions; Reasons for the Recommendation of the NetSuite Board—Reasons for the Recommendation of the NetSuite Board."

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A copy of the press release issued by NetSuite, dated July 28, 2016, announcing the execution of the Merger Agreement is filed as Exhibit (a)(5)(A) and is incorporated herein by reference. A copy of a press release issued by Oracle, dated July 28, 2016, announcing the Merger Agreement is filed as Exhibit (a)(5)(B) and is incorporated herein by reference.

Background of the Transactions; Reasons for the Recommendation of the NetSuite Board

Background of the Transactions

The following chronology summarizes the key meetings and events that led to the signing of the Merger Agreement. This chronology does not purport to catalogue every conversation among the Transactions Committee, the NetSuite Board or the representatives of NetSuite and other parties.

The NetSuite Board, together with NetSuite management and with the assistance of NetSuite's advisors, periodically reviews and considers strategic and other opportunities available to NetSuite that may enhance stockholder value. This review took into consideration NetSuite's performance, competitive dynamics, macroeconomic developments and industry trends. This review has included, from time to time, discussion of whether the continued execution of NetSuite's strategy as a standalone company or the combination of NetSuite with a third party may offer the best avenue to enhance stockholder value, and the potential benefits and risks of any such course of action.

NetSuite と
Mr. Ellison
との関係

NetSuite was founded in 1998 by Evan Goldberg and Lawrence J. Ellison out of a desire to provide companies with business management software over the internet. Mr. Ellison is also the Chief Technology Officer and Chairman of the Board of Directors of Oracle, and Oracle's largest single stockholder. Entities wholly owned by Mr. Ellison were significant early investors in NetSuite. Shortly before NetSuite's initial public offering in late 2007, all of the Shares beneficially held by Mr. Ellison or his affiliates (other than Shares then held in trust for his adult children) were transferred into NRH, a limited liability company formed for the limited purpose of holding those Shares and funding charitable gifts as and when directed by Mr. Ellison. The sole member and 100%

beneficial owner of NRH is Mr. Ellison's revocable trust. Today, NRH remains NetSuite's largest stockholder. NRH beneficially owns 31,964,891 Shares, which represent approximately 40% of the outstanding Shares as of the date of this Schedule 14D-9. In addition to NetSuite's relationship with Mr. Ellison through NRH, NetSuite and Oracle have a significant commercial relationship, and Oracle is a provider of key technology to NetSuite.

Since NetSuite's initial public offering, the relationship between NRH and NetSuite has been primarily governed by NRH's operating agreement. Under the operating agreement, NRH is required, on most matters, to vote its Shares in the same proportion (for, against, withheld or abstain) as the votes that are collectively cast by all NetSuite stockholders other than (1) NRH; (2) Mr. Ellison's spouse, if any, and children and any trust for their benefit; and (3) any person or group filing a Schedule 13D with respect to NetSuite. However, this proportional voting commitment does not apply with respect to various "change of control" matters, including any merger, consolidation or reorganization in which more than 50% of the outstanding Shares are exchanged for cash or securities of another company.

Oracle からの買収の可能性の提案から契約締結までの交渉過程の詳細 (LA、FA、Oracle と NetSuite のそれぞれの委員会の関与含む)

On January 21, 2016, a senior representative of Oracle indicated to a senior representative of NetSuite that Oracle would be potentially interested in acquiring NetSuite. The senior representative of NetSuite responded that he would need to discuss with the NetSuite Board its willingness to consider an offer to acquire NetSuite.

On January 25, 2016, the NetSuite Board met. After discussing Oracle's interest in a potential acquisition of NetSuite, the NetSuite Board determined to retain Wilson Sonsini Goodrich & Rosati, Professional Corporation ("*Wilson Sonsini*") as legal counsel.

On January 27, 2016, the NetSuite Board met, with representatives of Wilson Sonsini in attendance. The representatives of Wilson Sonsini discussed with members of the NetSuite Board

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(1) their fiduciary duties; (2) the legal standards and process associated with the potential decision to engage in a change of control transaction, including the retention of a financial advisor; (3) considerations specifically related to a potential acquisition of NetSuite by Oracle, particularly given Mr. Ellison's beneficial ownership interests in NetSuite and Oracle and his position as a senior executive of Oracle; and (4) potentially applicable standards for judicial review of an acquisition transaction. The NetSuite Board determined that, although NetSuite was not for sale, the NetSuite Board would be prepared to listen to acquisition proposals from Oracle that appropriately valued NetSuite. In light of (1) the potentially significant workload involved in considering a potential acquisition by Oracle and other strategic alternatives; (2) the possibility that NetSuite management might need feedback and direction on relatively short notice; and (3) a desire to have independent directors oversee the process, the NetSuite Board created a transactions committee comprised of independent directors (the "*Transactions Committee*"). The Transactions Committee was authorized, among other things, to (1) review any financial analysis of NetSuite that may be performed, including with respect to NetSuite management's standalone plan; (2) advise and direct NetSuite management with respect to the exploration, consideration and negotiation of strategic alternative transactions; (3) facilitate negotiations with potential acquirers; (4) report to the NetSuite Board on a regular basis; and (5) retain advisors. The NetSuite Board (1) retained authority to approve any strategic alternative transaction; and (2) provided that it would not approve a strategic alternative transaction with Oracle or any other party that had not first been approved by the Transactions Committee. The NetSuite Board appointed Deborah Farrington, Steven Gomo and Edward Zander to the Transactions Committee, with Mr. Gomo appointed by the NetSuite Board as chairman. Following the meeting of the NetSuite Board, a senior representative of NetSuite contacted a senior representative of Oracle and indicated that, although NetSuite was not for sale, NetSuite would be open to considering an offer from Oracle to acquire NetSuite.

Later on January 27, 2016, the Transactions Committee met, with representatives of Wilson Sonsini in attendance. The Transactions Committee determined that Qatalyst Partners LP ("*Qatalyst Partners*") should be contacted about serving as financial advisor to the Transactions Committee and the NetSuite Board. The Transactions Committee selected Qatalyst Partners due to that firm's qualifications, expertise, reputation and knowledge of the industry in which NetSuite operates and Qatalyst Partners' experience in similar situations.

Later on January 27, 2016, in response to a desire expressed by Mr. Goldberg to speak to Mr. Ellison to understand Oracle's interest in a possible acquisition, Messrs. Goldberg and Ellison spoke. Mr. Ellison indicated his

understanding that Oracle would be potentially interested in acquiring NetSuite. He also indicated that he would not seek to influence NetSuite's decision with respect to an acquisition.

On January 29, 2016, the Transactions Committee met, with representatives of Wilson Sonsini in attendance. The members of the Transactions Committee discussed the proposed terms of Qatalyst Partners' engagement. The members of the Transactions Committee also discussed the terms of NRH's operating agreement, including (1) that Mr. Ellison retained the right to direct the vote of the Shares held through NRH in any manner with respect to any merger, consolidation or reorganization in which more than 50% of the outstanding Shares are exchanged for cash or securities of another company; and (2) whether Mr. Ellison's voting power in NetSuite would impact the level of interest from other companies in exploring a potential acquisition of NetSuite.

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On January 30, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The Transactions Committee approved the retention of Qatalyst Partners as financial advisor to the Transactions Committee and the NetSuite Board.

On February 1, 2016, the NetSuite Board met, with representatives of Wilson Sonsini in attendance. A representative of Goodwin Procter LLP ("*Goodwin Procter*"), NetSuite's regular outside corporate counsel, was also in attendance. The NetSuite Board approved the charter of the

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Transactions Committee, which reflected the authorizations and restrictions approved by the NetSuite Board on January 27, 2016.

On February 2, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. With the respective representatives of Wilson Sonsini and Qatalyst Partners, the members of the Transactions Committee discussed (1) strategies for engaging with Oracle in connection with a potential acquisition of NetSuite; and (2) other companies that might have an interest in a potential acquisition of NetSuite. The representatives of Wilson Sonsini discussed with the members of the Transactions Committee their fiduciary duties in the context of a potential acquisition of NetSuite. The members of the Transactions Committee considered that an aspect, among others, of any effort to explore whether other companies might have an interest in a potential acquisition of NetSuite would be whether Mr. Ellison, through NRH in its capacity as a significant stockholder of NetSuite, would be willing to support a sale of NetSuite to a buyer other than Oracle.

On February 5, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The members of the Transactions Committee received an update on the status of Oracle's consideration of a potential acquisition of NetSuite, including that the Board of Directors of Oracle was considering forming the Special Committee, comprised entirely of independent directors, to assess and evaluate a potential acquisition of NetSuite.

On February 9, 2016, the NetSuite Board met, with representatives of Wilson Sonsini in attendance. The members of the NetSuite Board received the same update on the status of Oracle's consideration of a potential acquisition of NetSuite as was received by the Transactions Committee on February 5, 2016.

On February 12, 2016, the Transactions Committee met, with representatives of Wilson Sonsini in attendance. The representatives of Wilson Sonsini discussed with the members of the Transactions Committee their fiduciary duties in the context of a potential acquisition of NetSuite. The Transactions Committee reviewed NetSuite management's long-term operating model and directed that it be shared with representatives of Qatalyst Partners.

On February 18, 2016, NetSuite entered into an engagement letter with Qatalyst Partners to act as financial advisor to the Transactions Committee and the NetSuite Board. Prior to entering into the engagement letter, Qatalyst Partners represented to NetSuite that, in its good faith reasonable judgment, Qatalyst Partners did not have any material conflict of interest in connection with its engagement.

On February 18, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance, and later on February 22, 2016, the NetSuite Board met, with representatives of Wilson Sonsini, Goodwin Procter and Qatalyst Partners in attendance. At each of these meetings, representatives of

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Qatalyst Partners discussed certain financial aspects of NetSuite management's long-term operating model. At their respective meetings, the members of the Transactions Committee and the NetSuite Board considered whether other companies would have the desire and capacity to pursue a potential acquisition of NetSuite. In light of the fact that NetSuite was not for sale, they also considered the risks of contacting other potential acquirers, including the possibility of an information leak that NetSuite was considering a sale and the potential negative impacts that a leak could have on NetSuite, its business and any potential discussions with Oracle.

There was no material contact between NetSuite and Oracle in March 2016 and April 2016 concerning a potential acquisition of NetSuite by Oracle.

On May 5, 2016, NetSuite and Oracle entered into a mutual confidentiality agreement. On the same day, at Oracle's request made a few days earlier, NetSuite management gave a management presentation to representatives of Oracle, including a member of the Special Committee, concerning NetSuite's business, operations and financial matters.

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On May 8, 2016, the Transactions Committee met, with NetSuite management and representatives of Wilson Sonsini and Qatalyst Partners in attendance. The Transactions Committee received an update from NetSuite management on the management presentation from the prior week.

At various points during the remainder of May 2016, representatives of Qatalyst Partners discussed the status of Oracle's consideration of a potential acquisition of NetSuite with Moelis & Company LLC ("*Moelis*"), financial advisor to the Special Committee.

On May 31, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The Transactions Committee discussed the status of Oracle's consideration of a potential acquisition of NetSuite.

On June 1, 2016, Moelis, on behalf of the Special Committee, submitted to NetSuite a written, non-binding indication of interest to acquire NetSuite for \$100.00 per Share in cash (the "*Initial Proposal*"). The Initial Proposal was accompanied by a request that NetSuite agree to negotiate exclusively with Oracle. The Initial Proposal described certain aspects of the process utilized by Oracle in considering a potential acquisition of NetSuite, including that Mr. Ellison had not been involved in such process. In addition, the Initial Proposal stated that (1) Oracle would not move forward with any transaction with NetSuite unless it was approved by an independent committee of the NetSuite Board that was fully empowered on behalf of NetSuite to evaluate and negotiate a transaction with Oracle; and (2) any transaction between Oracle and NetSuite must be subject to a non-waivable condition requiring approval of the transaction by the holders of a majority of the Shares not owned by Mr. Ellison, his children or any of their controlled entities or affiliates.

Later on June 1, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The members of the Transactions Committee discussed the terms of the Initial Proposal. With the representatives of Wilson Sonsini and Qatalyst Partners, the members of the Transactions Committee also considered the possibility of contacting other companies that might have an interest in a potential acquisition of NetSuite. In that regard, it was considered whether these companies would, in light of other strategic matters that they were pursuing or other circumstances, have any interest in pursuing a potential acquisition of NetSuite, have the ability to finance a potential acquisition of NetSuite or be willing to pay the potential premium required to acquire NetSuite. It was again noted that an aspect of the success of any effort to explore whether other companies might have an interest in a potential acquisition of NetSuite would be whether Mr. Ellison, through NRH in its capacity as a significant stockholder of NetSuite, would be willing to support a sale of NetSuite to a buyer other than Oracle. The members of the Transactions Committee considered the risks inherent in a wider sale process, including the possibility of an information leak that NetSuite was considering a sale. The Transactions Committee instructed Qatalyst Partners to (1) prepare additional analyses regarding certain financial aspects of the Initial Proposal; and (2) inform Moelis that the Transactions Committee was disappointed with the financial terms of the Initial Proposal, but would give it full consideration.

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On June 2, 2016, the NetSuite Board met, with representatives of Wilson Sonsini and Goodwin Procter in attendance. The NetSuite Board discussed the Initial Proposal.

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On June 4, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. Representatives of Qatalyst Partners discussed certain financial aspects of the Initial Proposal. The representatives of Wilson Sonsini discussed with the members of the Transactions Committee their fiduciary duties in the context of a potential acquisition of NetSuite. The representatives of Wilson Sonsini and Qatalyst Partners discussed with members of the Transactions Committee the matters that were previously discussed at the June 1, 2016, meeting of the Transactions Committee. The Transactions Committee considered the possibility of contacting Mr. Ellison to see whether he would be willing to commit to vote or tender his Shares in proportion with the votes or tenders of NetSuite's other stockholders in connection with a potential acquisition of NetSuite by a

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third party that was not matched by Oracle. This concept is referred to in this Schedule 14D-9 as "Vote Neutralization." The members of the Transactions Committee weighed contacting, at the present time, other companies that might have an interest in a potential acquisition of NetSuite against (1) the ability of the NetSuite Board to respond to unsolicited acquisition proposals that could be made after the announcement of an acquisition by Oracle; and (2) the possibility of Mr. Ellison committing to Vote Neutralization. The Transactions Committee determined to recommend to the NetSuite Board that it (1) authorize the submission to Oracle of a counterproposal of \$125.00 per Share in cash; (2) make an inquiry of Moelis as to whether Mr. Ellison would commit to Vote Neutralization; and (3) address Oracle's request for exclusivity later, if at all.

On June 6, 2016, the NetSuite Board met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The representatives of Qatalyst Partners discussed certain financial aspects of the Initial Proposal. The representatives of Wilson Sonsini discussed with the members of the NetSuite Board their fiduciary duties in the context of a potential acquisition of NetSuite. The representatives of Wilson Sonsini and Qatalyst Partners discussed with the members of the NetSuite Board the matters that were previously discussed at the June 4, 2016, meeting of the Transactions Committee. The NetSuite Board concurred with and approved the recommendations of the Transactions Committee.

Later on June 6, 2016, representatives of Qatalyst Partners informed representatives of Moelis of the Transaction Committee's decision that Oracle would need to increase the proposal to \$125.00 per Share in cash before the Transactions Committee would be willing to recommend to the NetSuite Board that it enter into exclusive negotiations with Oracle, and requested that representatives of Moelis speak with Mr. Ellison about Vote Neutralization.

On June 9, 2016, the Special Committee increased the offer price of its proposal to acquire NetSuite to \$106.00 per Share in cash (the "First Revised Proposal"). The Special Committee did not alter any of the other terms of the Initial Proposal, including that (1) Oracle would not move forward with any transaction with NetSuite unless it was approved by an independent committee of the NetSuite Board that was fully empowered on behalf of NetSuite to evaluate and negotiate a transaction with Oracle; and (2) any transaction between Oracle and NetSuite must be subject to a non-waivable condition requiring approval of the transaction by the holders of a majority of the Shares not owned by Mr. Ellison, his children or any of their controlled entities or affiliates. Representatives of Moelis informed representatives of Qatalyst Partners that the Transactions Committee should contact Mr. Ellison or his representatives directly regarding whether Mr. Ellison would commit to Vote Neutralization.

On June 10, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. Representatives of Qatalyst Partners discussed (1) certain financial aspects of the First Revised Proposal; and (2) the response from Moelis concerning contact with Mr. Ellison. With the representatives of Wilson Sonsini and Qatalyst Partners, the members of the Transactions Committee discussed (1) inquiring directly of Mr. Ellison or his representatives whether he would commit to Vote Neutralization; and (2) contacting other companies that might have an interest in a potential acquisition of NetSuite. In that regard, the members of the Transactions Committee further considered whether, even if Mr. Ellison were to commit to Vote Neutralization, other companies had the desire and capacity to pursue a potential acquisition of NetSuite. The members of the Transactions Committee also considered the risk to NetSuite from disclosure to third parties, including increased risk of information leaks and the potential negative impacts that they could have. The Transactions Committee decided to continue the discussion with the NetSuite Board.

Later on June 10, 2016, the NetSuite Board met, with representatives of Wilson Sonsini, Goodwin Procter and Qatalyst Partners in attendance. Representatives of Qatalyst Partners discussed (1) certain financial aspects of the First Revised Proposal; and (2) the response from Moelis concerning contact with Mr. Ellison. The representatives of Wilson Sonsini discussed with the members of the NetSuite Board their fiduciary duties in the context of a potential acquisition of NetSuite. The members of the

NetSuite Board discussed the matters that were previously discussed at the June 10, 2016, meeting of the Transactions Committee, including (1) whether, even if Mr. Ellison were to commit to Vote Neutralization, other companies had the desire and capacity to pursue a potential acquisition of NetSuite; and (2) the risk to NetSuite from disclosure to third parties, including increased risk of information leaks and the potential negative impacts that they could have. The NetSuite Board determined to (1) make a counterproposal to Oracle of \$120.00 per Share in cash; (2) inform Oracle that the NetSuite Board was prepared to terminate discussions regarding a potential acquisition if it was not able to secure a sufficient and appropriate per Share price; (3) defer until later any contact with Mr. Ellison; and (4) not at that time contact other companies that might have an interest in acquiring NetSuite.

On June 11, 2016, representatives of Qatalyst Partners informed representatives of Moelis of the NetSuite Board's decision with respect to price.

On June 14, 2016, representatives of Moelis informed representatives of Qatalyst Partners that the Special Committee had reviewed NetSuite's counterproposal of \$120.00 per Share in cash and that the Special Committee was unwilling to increase its offer above \$106.00 per Share in cash. The representatives of Moelis stated that Oracle would not make a counteroffer and that Oracle and NetSuite appeared to be at an impasse.

On June 15, 2016, the members of the Transactions Committee discussed informally the gap in per Share value represented by the difference between the prices proposed by Oracle and NetSuite. From time to time following the formation of the Transactions Committee, the members of the Transactions Committee met informally to review the status of discussions with Oracle and prepare for meetings of the Transactions Committee.

Later on June 15, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. With the representatives of Wilson Sonsini and Qatalyst Partners, the members of the Transactions Committee discussed the response of the Special Committee to NetSuite's counterproposal. The Transactions Committee instructed the representatives of Wilson Sonsini to contact a representative (unaffiliated with Oracle) of Mr. Ellison to inquire whether Mr. Ellison would (1) commit to Vote Neutralization in connection with a potential acquisition of NetSuite by a third party that was not matched by Oracle; (2) as a way to resolve the gap in value between NetSuite and Oracle, be willing to accept a lower per Share price for the Shares held by NRH in connection with an acquisition of NetSuite by Oracle so that NetSuite's other stockholders could receive a higher per Share price (this concept is referred to in this Schedule 14D-9 as "*Differential Consideration*"); or (3) both.

On June 16, 2016, the NetSuite Board met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The decisions of the Transaction Committee, and a potential acquisition of NetSuite by Oracle more generally, were discussed.

Later on June 16, 2016, representatives of Wilson Sonsini spoke with a representative (unaffiliated with Oracle) of Mr. Ellison regarding the Transactions Committee's inquiries. The representative of Mr. Ellison stated that he would relay the inquiries to Mr. Ellison.

On June 28, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The Transactions Committee instructed the representatives of Qatalyst Partners to contact representatives of Moelis regarding the status of Oracle's consideration of a potential acquisition of NetSuite.

Also on June 28, 2016, there was public speculation and market rumors that NetSuite was potentially the subject of an acquisition transaction involving Oracle. Following such speculation and rumors, no third parties contacted NetSuite to initiate discussions regarding a potential acquisition.

Later on June 28, 2016, representatives of Qatalyst Partners spoke with representatives of Moelis to re-engage in discussions with respect to a potential acquisition of NetSuite by Oracle.

On June 30, 2016, representatives of Moelis requested a discussion with NetSuite management concerning NetSuite's second quarter results.

On July 6, 2016, representatives of Oracle, including a member of the Special Committee, and representatives of Moelis received an update on NetSuite's second quarter results from members of NetSuite management, accompanied by representatives of Qatalyst Partners. In the days that followed, NetSuite management responded to numerous diligence requests from Oracle and engaged in additional discussions related to NetSuite's second quarter results.

On July 12, 2016, representatives of Moelis informed representatives of Qatalyst Partners that Oracle continued to be interested in acquiring NetSuite at \$106.00 per Share in cash under the terms outlined in the First Revised Proposal and following NetSuite's entry into a customary exclusivity agreement.

Later on July 12, 2016, the Transactions Committee met informally with representatives of Qatalyst Partners. The Transactions Committee discussed the latest acquisition proposal from Oracle and determined to make a counterproposal of \$111.00 per Share in cash.

Later on July 12, 2016, representatives of Qatalyst Partners informed representatives of Moelis of the Transactions Committee's counterproposal of \$111.00 per Share in cash.

On July 13, 2016, representatives of Moelis informed representatives of Qatalyst Partners that the Special Committee's "best and final" offer to acquire NetSuite was \$109.00 per Share in cash (the "*Final Proposal*") and requested a prompt response from NetSuite. In addition, representatives of Moelis said that NetSuite would need to enter into an exclusivity agreement in order for the Special Committee to move forward, and that the Final Proposal was also subject to completion of satisfactory due diligence and negotiation of a satisfactory definitive agreement. The Special Committee did not alter any of the other terms of the Initial Proposal, including that (1) Oracle would not move forward with any transaction with NetSuite unless it was approved by an independent committee of the NetSuite Board that was fully empowered on behalf of NetSuite to evaluate and negotiate a transaction with Oracle; and (2) any transaction between Oracle and NetSuite must be subject to a non-waivable condition requiring approval of the transaction by the holders of a majority of the Shares not owned by Mr. Ellison, his children or any of their controlled entities or affiliates.

Later on July 13, 2016, the NetSuite Board met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. Representatives of Qatalyst Partners discussed certain financial aspects of the Final Proposal. The representatives of Wilson Sonsini discussed with the members of the NetSuite Board their fiduciary duties in the context of a potential acquisition of NetSuite. The members of the Transactions Committee noted that a representative (unaffiliated with Oracle) of Mr. Ellison had not yet responded, after follow up, to the Transactions Committee's inquiry as to whether Mr. Ellison would (1) commit to Vote Neutralization in connection with a potential acquisition of NetSuite by a third party that was not matched by Oracle; or (2) agree to Differential Consideration. The members of the NetSuite Board considered whether companies other than Oracle would be interested in exploring a potential acquisition of NetSuite (1) without knowing whether Mr. Ellison would commit to Vote Neutralization; and (2) in light of the fact that no third parties had contacted NetSuite to initiate discussions regarding a potential acquisition following earlier public speculation and market rumors that NetSuite was potentially the subject of an acquisition transaction involving Oracle. The members of the Transactions Committee informed the members of the NetSuite Board that, in light of (1) the price being offered by the Special Committee; (2) the Special Committee's indication that the Final Proposal was its "best and final" offer; and (3) the Special Committee's request for a prompt response to the Final Proposal, they supported and recommended authorizing NetSuite's entry into an exclusivity agreement with Oracle for the purpose of completing due diligence and negotiating

the terms of definitive documentation. The NetSuite Board accepted the recommendation of the Transactions Committee and also determined that it would be advantageous to announce an acquisition of NetSuite by Oracle in connection with NetSuite's second quarter earnings announcement.

Later on July 13, 2016, a representative of Qatalyst Partners contacted a representative of Moelis and stated that the NetSuite Board had approved the entry into exclusive negotiations with Oracle pursuant to the terms outlined in the Final Proposal. The parties also discussed the timing and process for completing due diligence and negotiating a definitive agreement.

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On July 15, 2016, a representative (unaffiliated with Oracle) of Mr. Ellison informed representatives of Wilson Sonsini that Mr. Ellison was willing to commit to Vote Neutralization in conjunction with the entry into a definitive acquisition agreement between Oracle and NetSuite, but only with respect to an all-cash acquisition by a third party that was not matched by Oracle. The representative (unaffiliated with Oracle) of Mr. Ellison did not respond to the inquiry concerning whether Mr. Ellison would be willing to accept Differential Consideration.

Later on July 15, 2016, The Special Committee on behalf of Oracle, and the Transactions Committee on behalf of NetSuite, entered into the Exclusivity Agreement obligating NetSuite to negotiate exclusively with Oracle through July 28, 2016.

Starting on July 15, 2016, and continuing through July 28, 2016, NetSuite granted Oracle access to an electronic due diligence data room, and representatives of NetSuite and Oracle engaged in various due diligence discussions concerning NetSuite's business. Prior to opening the data room, NetSuite and Oracle amended and restated their confidentiality agreement.

On July 20, 2016, Oracle was provided with a portion of the NetSuite Projections (as defined below).

Between July 15, 2016, and July 28, 2016, representatives of Oracle, on the one hand, and representatives of NetSuite, on the other hand, negotiated the Merger Agreement and the Tender and Support Agreements.

Between July 21, 2016, and July 27, 2016, representatives of Wilson Sonsini had further conversations with the representative (unaffiliated with Oracle) of Mr. Ellison related to the status of discussions with Oracle and the Tender and Support Agreement requested from NRH. Representatives of Wilson Sonsini inquired whether Mr. Ellison would agree to Vote Neutralization with respect to any superior proposal by a third party that was not matched by Oracle, rather than just an all-cash transaction. Mr. Ellison ultimately agreed to this request but only so long as any such superior proposal was (1) approved by the Transactions Committee and (2) subject to a condition requiring approval of the transaction by the holders of a majority of the Shares not owned by the LJE Parties, the executive officers or directors of NetSuite, or by the third party sponsoring the superior proposal.

On July 25, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. The members of the Transactions Committee received an update on the status of the negotiations of the terms of the Merger Agreement.

On July 27, 2016, the Transactions Committee met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. Representatives of Wilson Sonsini reviewed with the members of the Transactions Committee their fiduciary duties and the process engaged in by the Transactions Committee and the NetSuite Board. The representatives of Wilson Sonsini also reviewed the terms of the Merger Agreement and the Tender and Support Agreements, including Mr. Ellison's commitment (through NRH) to Vote Neutralization. Representatives of Qatalyst Partners discussed its financial analysis of the \$109.00 per Share cash consideration and rendered an oral opinion, confirmed by delivery of a written opinion dated July 27, 2016, to the Transactions Committee and the NetSuite Board to the effect that, as of that date and based upon and subject to the various limitations, qualifications, assumptions and other matters set forth therein, the \$109.00 per Share cash

consideration to be received by holders of Shares, other than the LJE Parties, Oracle or any of their respective affiliates, pursuant to the Merger Agreement was fair, from a financial point of view, to such holders. The full text of the opinion of Qatalyst Partners, dated July 27, 2016, is attached as Annex A to this Schedule 14D-9 and is

incorporated by reference in its entirety in this Schedule 14D-9 (see also the section captioned "—Opinion of NetSuite's Financial Advisor"). The Transactions Committee determined to recommend that the NetSuite Board enter into the Merger Agreement.

Later on July 27, 2016, the NetSuite Board met, with representatives of Wilson Sonsini and Qatalyst Partners in attendance. Representatives of Wilson Sonsini reviewed with the members of the NetSuite Board their fiduciary duties and the process engaged in by the Transactions Committee and the NetSuite Board. The representatives of Wilson Sonsini also reviewed the terms of the Merger Agreement and the Tender and Support Agreements, including Mr. Ellison's commitment (through NRH) to Vote Neutralization. Representatives of Qatalyst Partners reviewed with the members of the NetSuite Board its financial analysis of the \$109.00 per Share cash consideration and rendered an oral opinion, confirmed by delivery of a written opinion dated July 27, 2016, to the Transactions Committee and the NetSuite Board to the effect that, as of that date and based upon and subject to the various limitations, qualifications, assumptions and other matters set forth therein, the \$109.00 per Share cash consideration to be received by holders of Shares, other than the LJE Parties, Oracle or any of their respective affiliates, pursuant to the Merger Agreement was fair, from a financial point of view, to such holders. The full text of the opinion of Qatalyst Partners, dated July 27, 2016, is attached as Annex A to this Schedule 14D-9 and is incorporated by reference in its entirety in this Schedule 14D-9 (see also the section captioned "—Opinion of NetSuite's Financial Advisor").

The members of the NetSuite Board discussed the advantages and potential risks of the Transactions that are described under the section captioned "—Reasons for the Recommendation of the NetSuite Board." The members of the Transactions Committee provided their recommendation that the NetSuite Board enter into the Merger Agreement. The NetSuite Board unanimously: (1) determined that the terms and conditions of the Merger Agreement and the transactions contemplated thereby, including the Offer and the Merger, are fair to, and in the best interests of, NetSuite's stockholders; (2) approved and adopted the Merger Agreement, declared the advisability of the Merger Agreement and approved the transactions contemplated thereby, including the Offer and the Merger, in accordance with the requirements of the DGCL; (3) resolved to recommend that the stockholders of NetSuite accept the Offer and tender their Shares to Purchaser pursuant to the Offer; (4) elected that the Merger Agreement and the transactions contemplated thereby be expressly governed by Section 251(h) of the DGCL; and (5) took such actions as were necessary to render Section 203 of the DGCL inapplicable to the transactions contemplated by the Merger Agreement and the Tender and Support Agreements.

Early in the morning of July 28, 2016, all signatories to the Tender and Support Agreements executed such agreements and the Merger Agreement was executed.

Later in the morning of July 28, 2016, before the stock market opened, NetSuite and Oracle announced the execution of the Merger Agreement.

Reasons for the Recommendation of the NetSuite Board

In evaluating the Merger Agreement and the Transactions, the NetSuite Board consulted with NetSuite management and its legal and financial advisors. In the course of reaching its determination that the terms of the Offer and the Merger are advisable and in the best interests of NetSuite and its stockholders and to recommend that holders of Shares accept the Offer and tender their Shares in the Offer, the NetSuite Board reviewed, evaluated and considered a significant amount of information and numerous factors and benefits of the Offer and the Merger, each of which the NetSuite Board believed

supported its unanimous determination and recommendation. As a result, for the reasons set forth below, the NetSuite Board recommends that NetSuite's stockholders tender their Shares in the Offer:

- *Offer Price.* The NetSuite Board considered:
 - the fact that the Offer Price represents a 62% premium to the trading price at which the Shares closed on June 27, 2016, the last trading day before public speculation and market rumors that NetSuite was potentially the subject of an acquisition transaction involving Oracle;

- the fact that the Offer Price represents a 38% premium to the price at which the Shares closed on June 15, 2016, 30 trading days before the execution by NetSuite and Oracle of the Merger Agreement; and
 - the NetSuite Board's belief that it had obtained Oracle's best and final offer, and that the Offer Price represented the highest per Share consideration reasonably obtainable.
- *NetSuite's Operating and Financial Condition; Prospects of NetSuite.* The NetSuite Board considered the current and historical financial condition, results of operations, business and prospects of NetSuite, as well as NetSuite's financial plan and prospects and risks if NetSuite were to remain an independent company and the potential impact of those factors on the trading price of the Shares (which was not feasible to quantify numerically).
 - *Cash Consideration; Certainty of Value.* The NetSuite Board considered the fact that the Offer Price will be paid in cash, providing certainty, immediate value and liquidity to holders of Shares.
 - *No Financing Condition.* The NetSuite Board considered the representation of Oracle and Purchaser that they would have sufficient cash resources to pay fully the amounts required to be paid under the Merger Agreement and that the Offer and the Merger are not subject to a financing condition.
 - *Opinion of NetSuite's Financial Advisor.* The NetSuite Board considered the oral opinion of Qatalyst Partners rendered to the Transactions Committee and the NetSuite Board, subsequently confirmed in writing, that as of July 27, 2016, based upon and subject to the various limitations, qualifications, assumptions and other matters set forth therein, the \$109.00 per share cash consideration to be received by holders of Shares, other than the LJE Parties, Oracle or any of their respective affiliates, pursuant to the Merger Agreement was fair, from a financial point of view, to such holders, as more fully described below under the caption "—Opinion of NetSuite's Financial Advisor."
 - *The Merger Agreement; Ability to Consider, Receive and Respond to Unsolicited Proposals.* The NetSuite Board considered the provisions of the Merger Agreement and determined that such provisions would not likely preclude competing acquisition proposals. In this regard, the NetSuite Board considered, among other things, (1) the ability of NetSuite under certain circumstances to entertain unsolicited proposals for an acquisition that would reasonably be expected to lead to an offer that is superior to the Offer and the Merger; (2) the ability of the NetSuite Board under certain circumstances to withdraw or modify its recommendation that the holders of Shares accept the Offer and tender their Shares, including in connection with a superior offer; (3) NetSuite's right to terminate the Merger Agreement under certain circumstances in order to accept a superior offer and enter into a definitive agreement with respect to such superior offer; and (4) the respective termination rights of NetSuite and Oracle and the \$300 million termination fee payable by NetSuite under certain circumstances (which the NetSuite Board believed was reasonable, including relative to termination fees in transactions of a similar size).

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- *Conditions to the Consummation of the Offer and the Merger; Likelihood of Closing the Merger.* The NetSuite Board considered that the consummation of the Offer is conditioned upon, among other things, stockholders tendering and not validly withdrawing a sufficient number of Shares such that Oracle will own at least a majority of the outstanding Shares immediately following the closing of the Offer. The NetSuite Board considered the likelihood of the consummation of the Merger contemplated by the Merger Agreement if the Shares tendered pursuant to the Offer are accepted for payment.
 - *Majority of the Minority Condition.* The NetSuite Board considered that the consummation of the Offer is conditioned upon, among other things, NetSuite stockholders tendering and not validly withdrawing a sufficient number of Shares to constitute a majority of Shares not owned by (1) the LJE Parties; (2) Oracle and its affiliates; or (3) any executive officers or directors of NetSuite and their affiliates.
 - *Tender Offer Structure; Timing of Completion.* The NetSuite Board considered the anticipated timing of the consummation of the Transactions, and the structure of the transaction as a cash tender offer for

all outstanding Shares effected pursuant to Section 251(h) of the DGCL. The NetSuite Board considered that the potential for closing in a relatively short timeframe could also reduce the amount of time in which NetSuite's business would be subject to the potential uncertainty of closing and related disruption.

- *Extension of Offer Period.* The NetSuite Board considered that, subject to the termination rights set forth in the Merger Agreement, Purchaser must extend the Offer for one or more periods until January 28, 2017, if at any scheduled expiration date of the Offer any condition to the Offer has not been satisfied or waived (to the extent so waivable by Oracle or Purchaser).
- *Appraisal Rights.* The NetSuite Board considered the availability of statutory appraisal rights to NetSuite's stockholders who do not tender their Shares in the Offer and otherwise comply with all required procedures under the DGCL.
- *Recommendation of Transactions Committee.* The NetSuite Board considered the unanimous recommendation of the Transactions Committee that the NetSuite Board enter into the Merger Agreement.
- *Tender and Support Agreement with NRH.* The NetSuite Board considered:
 - the fact that the Tender and Support Agreement with NRH terminates in the event that NetSuite terminates the Merger Agreement, which permits NRH to support a transaction involving a superior proposal following the termination of the Merger Agreement and payment to Oracle of a \$300 million termination fee;
 - the fact that the Tender and Support Agreement with NRH provides that if the NetSuite Board (upon the recommendation of the Transactions Committee) terminates the Merger Agreement to accept a Superior Transaction (or, if thereafter (in one or more iterations) the NetSuite Board terminates the definitive agreement for such Superior Transaction and accepts an alternative Superior Transaction), then NRH will support the then-applicable Superior Transaction if it is supported by the holders of a majority of the outstanding Shares not beneficially owned by (1) the executive officers or directors of NetSuite or their affiliates; (2) the LJE Parties; or (3) the ultimate parent entity of the purchaser in such Superior Transaction; and
 - the fact that NetSuite and any purchaser in a Superior Transaction are each express third party beneficiaries with express rights of enforcement of the Tender and Support Agreement with NRH.
- *Tender and Support Agreements with Executive Officers.* The NetSuite Board considered the fact that the Tender and Support Agreements with our executive officers terminate in the event that

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NetSuite terminates the Merger Agreement, which permits those persons to support a transaction involving a superior proposal following the termination of the Merger Agreement and payment to Oracle of a \$300 million termination fee.

- *Business Reputation of Oracle.* The NetSuite Board considered the business reputation and capabilities of Oracle and its management and the substantial financial resources of Oracle and, by extension, Parent and Purchaser, which the NetSuite Board believed supported the conclusion that a transaction with Parent and Purchaser could be completed relatively quickly and in an orderly manner.
- *Arm's-Length Negotiations.* The NetSuite Board considered the terms of the Merger Agreement, including the parties' representations, warranties and covenants, and the conditions to their respective obligations to consummate the Offer and the Merger, are the product of arm's-length negotiations between NetSuite, the Transactions Committee and the NetSuite Board, with the assistance of their respective advisors, on the one hand, and the Special Committee, with the assistance of its advisors, on the other hand.

In the course of its deliberations, the NetSuite Board also considered a variety of material risks and other countervailing factors related to entering into the Merger Agreement that previously had been identified and

discussed by NetSuite management, the Transactions Committee and the NetSuite Board, including, but not limited to, the following:

- the fact that NetSuite stockholders will not be entitled to participate in any potential future benefit from NetSuite's execution of NetSuite management's standalone strategic business plan;
- the fact that the Exclusivity Agreement, the execution of which Oracle made a condition to its willingness to negotiate a possible acquisition of NetSuite, restricted NetSuite's ability to solicit bids from other potential buyers during its period of exclusivity;
- the fact that the Merger Agreement precludes NetSuite from actively soliciting alternative transaction proposals and requires payment by NetSuite of a \$300 million termination fee to Oracle under certain circumstances, including in the event that the Merger Agreement is terminated by NetSuite to accept a superior offer;
- the fact that the consummation of the Offer is conditioned on there having been validly tendered into and not withdrawn from the Offer a number of Shares (excluding from such number Shares beneficially owned by (1) the LJE Parties; (ii) Oracle or its affiliates; and (iii) any executive officers or directors of NetSuite and their affiliates) that represents a majority of the Shares that are issued and outstanding immediately prior to the acceptance time of the Offer (excluding, from such issued and outstanding Shares, Shares beneficially owned by the foregoing persons);
- the possibility that the Offer and the Merger might not be consummated, and the fact that if they are not consummated, (1) NetSuite's directors, senior management and other employees will have expended extensive time and effort and will have experienced significant distractions from their work during the pendency of the transaction; (2) NetSuite will have incurred significant transaction costs; and (3) NetSuite's relationships with its customers, key partners, employees and other third parties may be adversely affected;
- the effect of the public announcement of the Merger Agreement, including effects on NetSuite's relationships with its development partners and other business relationships and NetSuite's ability to attract and retain key management and personnel;
- the risk that the parties may not receive the necessary regulatory approvals or clearance to complete the Offer and the Merger, or that governmental authorities could attempt to condition their approvals or clearances of the Offer and the Merger on one or more of the parties' compliance with certain burdensome terms or conditions that may cause one of the Offer conditions not to be satisfied;

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- the restrictions imposed by the Merger Agreement on the conduct of NetSuite's business prior to completion of the Offer, which could delay or prevent NetSuite from undertaking some business opportunities that may arise during that time;
 - the risk of litigation; and
 - the treatment of the consideration to be received by the holders of Shares in the Offer and the Merger as taxable to the holders of Shares for federal income tax purposes.

The foregoing discussion of the information and factors considered by the NetSuite Board in reaching its conclusions and recommendations is intended to be illustrative and not exhaustive. It includes the material reasons and factors considered by the NetSuite Board. In view of the wide variety of reasons and factors considered, the NetSuite Board did not find it practicable to, and did not, quantify, rank or otherwise assign any relative or specific weights to the various specific factors considered in reaching its determination and making its recommendation. In addition, the NetSuite Board did not reach any specific conclusion with respect to any of the factors or reasons considered. Instead, the NetSuite Board conducted an overall review of the factors and reasons described above and determined that, in the aggregate, the potential benefits considered outweighed the potential risks or possible negative consequences of the Transactions.

Executive Officer and Director Arrangements Following the Merger

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Although as of the date of this Schedule 14D-9 none of NetSuite's current directors or executive officers have entered into any agreements or arrangements with Oracle, NetSuite or their respective affiliates regarding continued service with Oracle, NetSuite or their respective affiliates after the Effective Time, it is possible that Oracle, NetSuite or their respective affiliates may enter into employment or other arrangements with NetSuite's management in the future.

Opinion of NetSuite's Financial Advisor

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NetSuite retained Qatalyst Partners to act as financial advisor to the Transactions Committee and NetSuite Board in connection with a potential transaction such as the Offer and the Merger and to evaluate whether the consideration to be received by the holders of Shares, other than the LJE Parties, Oracle or any of their respective affiliates, pursuant to the Merger Agreement was fair, from a financial point of view, to such holders. NetSuite selected Qatalyst Partners to act as its financial advisor based on Qatalyst Partners' qualifications, expertise, reputation and knowledge of the business and affairs of NetSuite and the industry in which it operates. Qatalyst Partners has provided its written consent to the reproduction of Qatalyst Partners' opinion in this Schedule 14D-9. At the meetings of the Transactions Committee and the NetSuite Board on July 27, 2016, Qatalyst Partners rendered its oral opinion, subsequently confirmed in writing, to the effect that, as of such date and based upon and subject to the various limitations, qualifications, assumptions and other matters set forth therein, **the consideration to be received by the holders of Shares, other than the LJE Parties, Oracle or any of their respective affiliates, pursuant to the Merger Agreement was fair, from a financial point of view, to such holders.** Qatalyst Partners delivered its written opinion, dated July 27, 2016, to the Transactions Committee and the NetSuite Board following those meetings.

The full text of Qatalyst Partners' written opinion to the Transactions Committee and the NetSuite Board, dated July 27, 2016, is attached as Annex A and is incorporated herein by reference. The opinion sets forth, among other things, the assumptions made, procedures followed, matters considered and limitations and qualifications of the review undertaken by Qatalyst Partners in rendering its opinion. You should read the opinion carefully in its entirety. Qatalyst Partners' opinion was provided to the Transactions Committee and the NetSuite Board and addresses only, as of the date of the opinion, the fairness, from a financial point of view, of the consideration to be received by the holders of Shares, other than the LJE Parties, Oracle or any of their respective affiliates, pursuant to the

Merger Agreement, and it does not address any other aspect of the Offer or the Merger. It does not constitute a recommendation as to whether any holder of Shares should tender Shares in connection with the Offer or any other matter, and does not in any manner address the price at which the Shares will trade at any time. This summary of Qatalyst Partners' opinion is qualified in its entirety by reference to the full text of the opinion.

In arriving at its opinion, Qatalyst Partners reviewed a draft, dated as of July 27, 2016, of the Merger Agreement (the "*Draft Merger Agreement*"), certain related documents and certain publicly available financial statements and other business and financial information of NetSuite. Qatalyst Partners also reviewed certain forward-looking information relating to NetSuite prepared by management of NetSuite, including financial projections and operating data of NetSuite (the "*NetSuite Projections*," which are described in more detail under the caption "*—Certain Prospective Financial Information about NetSuite*"). Additionally, Qatalyst Partners discussed the past and current operations and financial condition and the prospects of NetSuite with senior executives of NetSuite. Qatalyst Partners also reviewed the historical market prices and trading activity for the Shares and compared the financial performance of NetSuite and the prices and trading activity of the Shares with that of certain other selected publicly-traded companies and their securities. In addition, Qatalyst Partners reviewed the financial terms, to the extent publicly available, of selected acquisition transactions and performed such other analyses, reviewed such other information and considered such other factors as Qatalyst Partners deemed appropriate.

In arriving at its opinion, Qatalyst Partners assumed and relied upon, without independent verification, the accuracy and completeness of the information that was publicly available or supplied or otherwise made available to, or discussed with, Qatalyst Partners by NetSuite. With respect to the NetSuite Projections, Qatalyst Partners was advised by the management of NetSuite, and Qatalyst Partners assumed, that the NetSuite Projections had been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of NetSuite of the future financial performance of NetSuite and other matters covered thereby. Qatalyst Partners

assumed that the Offer and the Merger will be consummated in accordance with the terms set forth in the Draft Merger Agreement, without any modification, waiver or delay. Qatalyst Partners also assumed that the final executed Merger Agreement would not differ in any material respect from the Draft Merger Agreement reviewed by Qatalyst Partners. In addition, Qatalyst Partners assumed that in connection with the receipt of all the necessary approvals of the Offer and the Merger, no delays, limitations, conditions or restrictions will be imposed that could have an adverse effect on NetSuite or the contemplated benefits expected to be derived in the proposed Offer and Merger. Qatalyst Partners did not make any independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of NetSuite, nor was Qatalyst Partners furnished with any such evaluation or appraisal. In addition, Qatalyst Partners relied, without independent verification, upon the assessment of the management of NetSuite as to the existing and future technology and products of NetSuite and the risks associated with such technology and products. In arriving at its opinion, Qatalyst Partners was not authorized to solicit, and did not solicit, interest from any party (other than Oracle) with respect to an acquisition, business combination or other extraordinary transaction involving NetSuite. Qatalyst Partners' opinion was approved by Qatalyst Partners' opinion committee in accordance with its customary practice.

Qatalyst Partners' opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to it as of, July 27, 2016. Events occurring after such date may affect Qatalyst Partners' opinion and the assumptions used in preparing the opinion, and Qatalyst Partners does not assume any obligation to update, revise or reaffirm the opinion. Qatalyst Partners' opinion does not address the underlying business decision of NetSuite to engage in the Offer and the Merger, or the relative merits of the Offer and the Merger as compared to any strategic alternatives that may be available to NetSuite. Qatalyst Partners' opinion is limited to the fairness, from a financial point of view, of the consideration to be received by the holders of Shares, other than the

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LJE Parties, Oracle or any of their respective affiliates, pursuant to the Merger Agreement. Qatalyst Partners expresses no opinion with respect to the fairness of the amount or nature of the compensation to any of NetSuite's officers, directors or employees, or any class of such persons, relative to such consideration.

The following is a brief summary of the material analyses performed by Qatalyst Partners in connection with its opinion dated July 27, 2016. The analyses and factors described below must be considered as a whole; considering any portion of such analyses or factors, without considering all analyses and factors, could create a misleading or incomplete view of the process underlying Qatalyst Partners' opinion. For purposes of its analyses, Qatalyst Partners utilized both the consensus of third-party research analyst projections for NetSuite (the "*Analyst Projections*") as well as the NetSuite Projections. Some of the summaries of the financial analyses include information presented in tabular format. The tables are not intended to stand alone, and in order to more fully understand the financial analyses used by Qatalyst Partners, the tables must be read together with the full text of each summary. Considering the data set forth below without considering the full narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of Qatalyst Partners' financial analyses.

Illustrative Discounted Cash Flow Analysis

Qatalyst Partners performed an illustrative discounted cash flow analysis, which is designed to imply a potential, present value of per share values for the Shares as of June 30, 2016, by:

- adding:
 - (a) the implied net present value of the estimated future unlevered free cash flows of NetSuite, based on the NetSuite Projections, for the third and fourth quarters of calendar year 2016 and for calendar year 2017 through calendar year 2020 (which implied present value was calculated by using a range of discount rates of 10.0% to 14.0%, based on an estimated weighted average cost of capital for NetSuite);
 - (b) the implied net present value of a corresponding terminal value of NetSuite calculated by applying a range of multiples of 25.0x to 35.0x to the estimated unlevered free cash flows of NetSuite for calendar year 2021, based on the NetSuite Projections (assuming an effective tax rate

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of 28%, as provided by NetSuite management, and which tax rate excludes the effect of NetSuite's estimated remaining tax attributes, as such tax attributes were separately valued, which implied present value was calculated by using the same range of discount rates used in item (a) above);

- (c) the implied net present value of NetSuite's forecasted tax attributes outstanding at the end of calendar year 2020, based on the NetSuite Projections (which implied present value was calculated by using the same range of discount rates used in item (a) above); and
 - (d) NetSuite's cash net of the face value of outstanding convertible debt and other notes payable as of June 30, 2016, as provided by NetSuite management;
- applying a dilution factor of approximately 15%, as projected by NetSuite management, to reflect the dilution to current stockholders over the projection period due to the effect of future equity compensation grants; and
 - dividing the resulting amount by the number of fully-diluted Shares outstanding (calculated utilizing the treasury stock method), adjusted for restricted stock units, performance stock units and stock options outstanding as of July 26, 2016, as provided by NetSuite management and assuming net share settlement of convertible debt above the conversion price.

Based on the calculations set forth above, this analysis implied a range of per share values for the Shares of approximately \$77.23 to \$121.13.

Illustrative Selected Companies Analysis

Qatalyst Partners compared selected financial information and public market multiples for NetSuite with publicly available information and public market multiples for selected companies. The companies used in this comparison included those companies listed below and were selected by Qatalyst Partners in its professional judgment, including because they are publicly traded companies in NetSuite's industry and have a similar business model, margin profile and/or growth rate to NetSuite.

<u>Selected Companies</u>	<u>CY17E Revenue Multiples</u>
Cornerstone OnDemand, Inc.	4.8x
salesforce.com, inc.	5.8x
ServiceNow, Inc.	7.2x
The Ultimate Software Group, Inc.	7.2x
Workday, Inc.	8.0x

Based upon research analyst consensus estimates for calendar year 2017, and using the closing prices as of July 26, 2016, for shares of the selected companies, Qatalyst Partners calculated, among other things, the implied fully-diluted enterprise value divided by estimated consensus revenue for calendar year 2017 (the "*CY17E Revenue Multiples*") for each of the selected companies. The median value of the CY17E Revenue Multiples was 7.2x.

Based on an analysis of the CY17E Revenue Multiples for each of the selected companies, Qatalyst Partners selected a representative range of 5.0x to 7.0x and applied this range to estimates of NetSuite's revenue for calendar year 2017, based on each of the NetSuite Projections and the Analyst Projections. In addition, for the purpose of this analysis, Qatalyst Partners calculated NetSuite's net cash as of March 31, 2016, as reflected in NetSuite's quarterly report on Form 10-Q filed with the SEC on May 3, 2016 (the "*NetSuite 10-Q*"). Based on the calculations set forth above and the fully-diluted Shares outstanding (calculated utilizing the treasury stock method), adjusted for restricted stock units, performance stock units and stock options outstanding, as provided by NetSuite management as of July 26, 2016, and assuming net share settlement of convertible debt above the conversion price, this analysis implied a range of per share values for the Shares of approximately \$71.45 to \$99.48 based on the NetSuite Projections, and approximately \$71.99 to \$100.22 based on the Analyst Projections.

No company included in the selected companies analysis is identical to NetSuite. In evaluating the selected companies, Qatalyst Partners made judgments and assumptions with regard to industry performance, general business, economic, market and financial conditions and other matters. Many of these matters are beyond the control of NetSuite, such as the impact of competition on the business of NetSuite and the industry in general, industry growth and the absence of any material adverse change in the financial condition and prospects of NetSuite or the industry or in the financial markets in general. Mathematical analysis, such as determining the arithmetic mean, median, or the high or low, is not in itself a meaningful method of using selected company data.

Illustrative Selected Transactions Analysis

Qatalyst Partners compared 11 selected transactions involving companies in NetSuite's industry announced between October 2011 and June 2016. These transactions are:

Announcement Date	Target	Acquirer	LTM Revenue Multiple	NTM Revenue Multiple
June 1, 2016	Demandware, Inc.	salesforce.com, inc.	11.2x	8.9x
May 31, 2016	Marketo, Inc.	Vista Equity Partners	7.5x	5.9x
April 18, 2016	Cvent Inc.	Vista Equity Partners	8.0x	6.5x
September 18, 2014	Concur Technologies, Inc.	SAP SE	12.6x	10.2x
December 20, 2013	Responsys, Inc.	Oracle Corporation	8.1x	6.9x
June 4, 2013	ExactTarget, Inc.	salesforce.com, inc.	7.9x	6.5x
December 20, 2012	Eloqua, Inc.	Oracle Corporation	9.8x	8.2x
May 22, 2012	Ariba, Inc.	SAP AG	8.8x	7.8x
February 9, 2012	Taleo Corporation	Oracle Corporation	6.3x	5.3x
December 3, 2011	SuccessFactors, Inc.	SAP AG	10.2x	8.7x
October 24, 2011	RightNow Technologies, Inc.	Oracle Corporation	7.4x	6.2x

For each of the transactions listed above, Qatalyst Partners reviewed, among other things, the implied fully-diluted enterprise value of the target company as a multiple of last-twelve months revenue of the target company ("*LTM Revenue Multiple*") and the implied fully-diluted enterprise value of the target company as a multiple of analyst estimates of the next-12 months revenue of the target company ("*NTM Revenue Multiple*"), as reflected in certain publicly available financial statements, research analyst reports and press releases.

Based on an analysis of the LTM Revenue Multiples for each of the selected transactions, Qatalyst Partners applied an LTM Revenue Multiple range of 6.3x to 12.6x to NetSuite's last-12 months revenue measured at March 31, 2016. In addition, for the purpose of this analysis, Qatalyst Partners calculated NetSuite's net cash as of March 31, 2016, as reflected in the NetSuite 10-Q. Based on the calculations set forth above and the fully-diluted Shares outstanding (calculated utilizing the treasury stock method) adjusted for restricted stock units, performance stock units and stock options outstanding, as provided by NetSuite management as of July 26, 2016, and assuming cash settlement of convertible debt, this analysis implied a range of per share values for the Shares of approximately \$58.52 to \$115.61.

Based on an analysis of the NTM Revenue Multiples for each of the selected transactions, Qatalyst Partners applied an NTM Revenue Multiple range of 5.3x to 10.2x to NetSuite's estimated next-12 months revenue based on the Analyst Projections and measured at March 31, 2016. In addition, for the purpose of this analysis, Qatalyst Partners calculated NetSuite's net cash as of March 31, 2016, as reflected in the NetSuite 10-Q. Based on the calculations set forth above and the fully-diluted Shares outstanding (calculated utilizing the treasury stock method), adjusted for restricted stock units, performance stock units and stock options outstanding, as provided by NetSuite management as of July 26, 2016, and assuming cash settlement of convertible debt, this analysis implied a range of per share values for the Shares of approximately \$64.20 to \$121.37.

No company or transaction utilized in the selected transactions analysis is identical to NetSuite or the Offer and the Merger. In evaluating the selected transactions, Qatalyst Partners made judgments and assumptions with regard to general business, market and financial conditions and other matters, many of which are beyond the control of NetSuite, such as the impact of competition on the business of NetSuite or the industry generally, industry growth and the absence of any material adverse change in the financial condition of NetSuite or the industry or in

the financial markets in general, which could affect the public trading value of the companies and the aggregate value of the transactions to which

they are being compared. Because of the unique circumstances of each of these transactions and the Offer and the Merger, Qatalyst Partners cautioned against placing undue reliance on this information.

Miscellaneous

In connection with the review of the Offer and the Merger by the Transactions Committee and the NetSuite Board, Qatalyst Partners performed a variety of financial and comparative analyses for purposes of rendering its opinion. The preparation of a financial opinion is a complex process and is not necessarily amenable to a partial analysis or summary description. In arriving at its opinion, Qatalyst Partners considered the results of all of its analyses as a whole and did not attribute any particular weight to any analysis or factor it considered. Qatalyst Partners believes that selecting any portion of its analyses, without considering all analyses as a whole, could create a misleading or incomplete view of the process underlying its analyses and opinion. In addition, Qatalyst Partners may have given various analyses and factors more or less weight than other analyses and factors, and may have deemed various assumptions more or less probable than other assumptions. As a result, the ranges of valuations resulting from any particular analysis described above should not be taken to be Qatalyst Partners' view of the actual value of NetSuite. In performing its analyses, Qatalyst Partners made numerous assumptions with respect to industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of NetSuite. Any estimates contained in Qatalyst Partners' analyses are not necessarily indicative of future results or actual values, which may be significantly more or less favorable than those suggested by such estimates.

Qatalyst Partners conducted the analyses described above solely as part of its analysis of the fairness, from a financial point of view, of the consideration to be received by the holders of Shares, other than the LJE Parties, Oracle or any of their respective affiliates, pursuant to the Merger Agreement, and in connection with the delivery of its opinion to the Transactions Committee and the NetSuite Board. These analyses do not purport to be appraisals or to reflect the price at which the Shares might actually trade.

Qatalyst Partners' opinion and its presentations to the Transactions Committee and the NetSuite Board was one of many factors considered by the Transactions Committee and the NetSuite Board in deciding to approve the Merger Agreement. Consequently, the analyses as described above should not be viewed as determinative of the opinion of the Transactions Committee or the NetSuite Board with respect to the consideration to be received by the holders of Shares pursuant to the Merger Agreement or of whether the Transactions Committee would have been willing to recommend or the NetSuite Board would have been willing to agree to a different consideration. The Offer Price was determined through arm's-length negotiations between NetSuite and the Special Committee of Oracle and was approved by the Transactions Committee and the NetSuite Board. Qatalyst Partners provided advice to NetSuite during these negotiations. Qatalyst Partners did not, however, recommend any specific consideration to NetSuite or that any specific consideration constituted the only appropriate consideration for the Offer and the Merger.

Qatalyst Partners provides investment banking and other services to a wide range of entities and individuals, domestically and offshore, from which conflicting interests or duties may arise. In the ordinary course of these activities, affiliates of Qatalyst Partners may at any time hold long or short positions, and may trade or otherwise effect transactions in debt or equity securities or loans of NetSuite, Oracle or certain of their respective affiliates.

During the three year period prior to the date of Qatalyst Partners' opinion, no material relationship existed between Qatalyst Partners or any of its affiliates and NetSuite or Oracle pursuant to which compensation was received by Qatalyst Partners or its affiliates; however, Qatalyst Partners and/or its affiliates may in the future provide investment banking and other financial services to

NetSuite or Oracle and their respective affiliates for which Qatalyst Partners would expect to receive compensation.

Under the terms of its engagement letter, Qatalyst Partners provided NetSuite with financial advisory services in connection with a contemplated sale of NetSuite, which includes the proposed Offer and Merger, and for which it will be paid approximately \$59 million, \$5 million of which became payable upon delivery of its opinion (regardless of the conclusion reached in the opinion), and the remaining portion of which will be paid upon, and subject to, consummation of the Offer. NetSuite has also agreed to reimburse Qatalyst Partners for its expenses incurred in performing its services. NetSuite has also agreed to indemnify Qatalyst Partners and its affiliates, their respective members, directors, officers, partners, agents and employees and any person controlling Qatalyst Partners or any of its affiliates against certain liabilities, including liabilities under federal securities law, and certain expenses relating to or arising out of Qatalyst Partners' engagement.

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Certain Prospective Financial Information about NetSuite

NetSuite does not, as a matter of course, make public projections as to future performance or earnings beyond the current fiscal year and generally does not make public projections for extended periods due to, among other things, the inherent difficulty of predicting financial performance for future periods and the likelihood that the underlying assumptions and estimates may not be realized. In connection with its evaluation of potential strategic alternatives and specifically the Offer and the Merger, however, NetSuite management prepared the NetSuite Projections. The NetSuite Projections were developed under the assumption of continued standalone operation and the NetSuite Projections did not give effect to any changes or expenses as a result of the Offer, the Merger or any other effects of the Offer or the Merger. The NetSuite Projections were not prepared with a view toward public disclosure and, accordingly, do not necessarily comply with published guidelines of the SEC or established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial information or GAAP. NetSuite's independent registered public accounting firm has not compiled, examined, audited or performed any procedures with respect to the NetSuite Projections, and has not expressed any opinion or any other form of assurance on this information or its achievability.

The table below presents a summary of the NetSuite Projections for the calendar year 2016 through calendar year 2021 as prepared by NetSuite management and provided to the Transactions Committee and the NetSuite Board in their respective evaluations of the Offer and the Merger and to Qatalyst Partners for its use and reliance in connection with its financial analyses and opinion to the Transactions Committee and the NetSuite Board as described under the caption "—Opinion of NetSuite's Financial Advisor." NetSuite did not provide the NetSuite Projections to Oracle, except as otherwise set forth in this section. This summary of the NetSuite Projections is included solely to give NetSuite stockholders access to certain financial projections that were made available to the Transactions Committee, the NetSuite Board and Qatalyst Partners, and is not included in this Schedule 14D-9 to influence a NetSuite stockholder's decision whether to tender Shares in the Offer or for any other purpose.

The NetSuite Projections for the calendar year 2016 through calendar year 2021 were based on an operating model that NetSuite management prepared and provided to the Transactions Committee, the NetSuite Board and Qatalyst Partners. On July 20, 2016, NetSuite provided a portion of the NetSuite Projections to Oracle. The NetSuite Projections, while presented with numerical specificity, were based on numerous variables and assumptions that necessarily involve judgments with respect to, among other things, future economic, competitive and regulatory conditions and financial market conditions, all of which are difficult or impossible to predict and many of which are beyond NetSuite's control. The NetSuite Projections also reflect assumptions as to certain business decisions that are subject to change. The NetSuite Projections were prepared early in the process of consideration of strategic alternatives

and were not updated. Given that the NetSuite Projections cover multiple years, by their nature, they become subject to greater uncertainty with each successive year. Important factors that may affect actual results and the achievability of the NetSuite Projections include, but are not limited to, (1) the timing of client renewals, upgrades and expansions and introduction of new products; (2) market acceptance of new products; (3) impact of competitive products and pricing; (4) the effect of regulatory actions; (5) the effect of global economic conditions; (6) fluctuations in foreign currency exchange rates; (7) the cost and effect of changes in tax and other legislation; and (8) other risk factors described in NetSuite's annual report on Form 10-K for the fiscal year ended December 31, 2015, subsequent quarterly reports on Form 10-Q and current reports on Form 8-K. In addition, the

NetSuite Projections may be affected by NetSuite's ability to achieve strategic goals, objectives and targets over the applicable period.

The NetSuite Projections also reflect assumptions that are subject to change and are susceptible to multiple interpretations and periodic revisions based on (1) actual results; (2) revised prospects for NetSuite's business; (3) changes in general business or economic conditions; or (4) any other transaction or event that has occurred or that may occur and that was not anticipated when the NetSuite Projections were prepared. In addition, the NetSuite Projections do not take into account any circumstances, transactions or events occurring after the dates on which the NetSuite Projections were prepared. Accordingly, actual results will differ, and may differ materially, from those contained in the NetSuite Projections. There can be no assurance that the financial results in the NetSuite Projections will be realized, or that future actual financial results will not materially vary from those in the NetSuite Projections.

The inclusion of the NetSuite Projections should not be regarded as an indication that NetSuite or any of its affiliates, officers, directors, advisors or other representatives consider the NetSuite Projections to be predictive of actual future events, and the NetSuite Projections should not be relied upon as such. None of NetSuite or its affiliates, officers, directors, advisors or other representatives gives any NetSuite stockholder or any other person any assurance that actual results will not differ materially from the NetSuite Projections. Except as otherwise required by law, NetSuite and its affiliates, officers, directors, advisors or other representatives undertake no obligation to update or otherwise revise or reconcile the NetSuite Projections to reflect circumstances existing after the dates on which the NetSuite Projections were prepared or to reflect the occurrence of future events, even in the event that any or all of the assumptions and estimates underlying the NetSuite Projections are shown to be in error.

In light of the foregoing factors and the uncertainties inherent in the NetSuite Projections, NetSuite stockholders are cautioned not to place undue, if any, reliance on the NetSuite Projections.

	(in millions, except per share numbers)(1)					
	CY2016E (\$)	CY2017E (\$)	CY2018E (\$)	CY2019E (\$)	CY2020E (\$)	Terminal CY2021E (\$)
Revenue	960	1,218	1,533	1,929	2,425	3,023
Non-GAAP Gross Profit(2)	648	830	1,062	1,369	1,754	2,205
Non-GAAP Operating Income(3)	44	61	111	185	285	414
Non-GAAP Net Income(4)	39	52	99	170	267	391
Non-GAAP EPS(5)	0.47	0.62	1.15	1.92	2.93	4.18
Non-GAAP Unlevered Free Cash Flow(6)	107	115	182	279	409	480

(1) The projected financial data provided in this table has not been updated to reflect NetSuite's current views of its future financial performance, and should not be treated as guidance with respect to projected results for 2016 or any other period.

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(2) Non-GAAP Gross Profit, as used in the NetSuite Projections, excludes expenses related to stock-based compensation and amortization of intangible assets.

(3) Non-GAAP Operating Income, as used in the NetSuite Projections, excludes expenses related to stock-based compensation, amortization of intangible assets and transaction costs for business combinations.

(4) Non-GAAP Net Income, as used in the NetSuite Projections, excludes expenses related to stock-based compensation, amortization of intangible assets, transaction costs and employee termination costs related to business combinations, non-cash interest on convertible debt and income tax benefit associated with business combinations.

(5) Non-GAAP EPS, as used in the NetSuite Projections, excludes expenses related to stock-based compensation, amortization of intangible assets, transaction and employee termination costs related to business combinations, non-cash interest on convertible debt and income tax benefit associated with business combinations and includes dilutive shares where applicable.

(6) Non-GAAP Unlevered Free Cash Flow is a non-GAAP financial measure calculated by starting with non-GAAP Operating Income (as shown in the table above) and subtracting cash taxes, capital expenditures, investment in working capital and then adding back depreciation expense. Non-GAAP Unlevered Free Cash Flow in terminal year 2021 assumes an effective tax rate of 28%.

Intent to Tender

To the knowledge of NetSuite, each executive officer and director of NetSuite currently intends to tender all of his or her Shares into the Offer.

In addition, each of Messrs. Nelson, Goldberg, McGeever and Gill have entered into a Tender and Support Agreement pursuant to which each has agreed, in his capacity as a stockholder of NetSuite, to tender all of his Shares, as well as any additional Shares that he may acquire, to Purchaser in the Offer. See the section captioned "Item 3. Past Contacts, Transactions, Negotiations and Agreements—Arrangements between NetSuite, Parent, Purchaser and Oracle—Tender and Support Agreements."

ANNEX A



July 27, 2016

Transactions Committee of the Board of Directors
and the Board of Directors
NetSuite Inc.
2955 Campus Drive, Suite 100
San Mateo, California 94403-2511

Members of the Transactions Committee of the Board of Directors and the Board of Directors:

We understand that NetSuite Inc. (the "*Company*"), OC Acquisition LLC ("*Parent*"), Napa Acquisition Corporation, a wholly owned subsidiary of Parent ("*Merger Subsidiary*"), and, solely with respect to the performance of its obligations set forth in Section 3.06, Section 10.07, Section 10.08 and Section 10.15, Oracle Corporation ("*Ultimate Parent*"), propose to enter into an Agreement and Plan of Merger, substantially in the form of the draft dated July 27, 2016 (the "*Merger Agreement*"), pursuant to which, among other things, Merger Subsidiary will make a tender offer (the "*Offer*") to purchase any and all of the issued and outstanding shares of the common stock of the Company ("*Company Common Stock*") at a price per share of \$109.00 (the "*Offer Price*") in cash and, after acquiring shares of Company Common Stock pursuant to the Offer, will merge with and into the Company (the "*Merger*," and together with the Offer, the "*Transaction*"), with the Company surviving the Merger as a wholly owned subsidiary of Parent. At the effective time of the Merger (the "*Effective Time*"), each share of Company Common Stock outstanding immediately prior to the Effective Time, other than shares held by the Company as treasury stock or owned by Ultimate Parent, Parent, Merger Subsidiary or any subsidiary of the Company and shares as to which dissenters' rights have been perfected, will be converted into the right to receive the Offer Price in cash. The terms and conditions of the Transaction are more fully set forth in the Merger Agreement.

You have asked for our opinion as to whether the consideration to be received by the holders of Company Common Stock, other than the LJE Parties (as defined in the Merger Agreement), Ultimate Parent or any of their respective affiliates (the "*Holders*"), pursuant to the Merger Agreement is fair, from a financial point of view, to such Holders.

For purposes of the opinion set forth herein, we have reviewed a draft, dated as of July 27, 2016, of the Merger Agreement (the "*Draft Merger Agreement*"), certain related documents and certain publicly available financial statements and other business and financial information of the Company. We have also reviewed certain forward-looking information relating to the Company prepared by management of the Company, including financial projections and operating data of the Company (the "*Company Projections*"). Additionally, we discussed the past and current operations and financial condition and the prospects of the Company with senior executives of the Company. We also reviewed the historical market prices and trading activity for Company Common Stock and compared the financial performance of the Company and the prices and trading activity of Company Common Stock with that of certain other selected publicly-traded companies and their securities. In addition, we reviewed the financial terms, to the extent publicly available, of selected acquisition transactions and we performed such other analyses, reviewed such other information and considered such other factors as we have deemed appropriate.

意見を述べるために検討した事項

In arriving at our opinion, we have assumed and relied upon, without independent verification, the accuracy and completeness of the information that was publicly available or supplied or otherwise made

意見の前提

available to, or discussed with, us by the Company. With respect to the Company Projections, we have been advised by the management of the Company, and have assumed, that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of the Company of the future financial performance of the Company and other matters covered thereby. We have assumed that the Transaction will be consummated in accordance with the terms set forth in the Draft Merger Agreement, without any modification, waiver or delay. We also have assumed that the final executed Merger Agreement will not differ in any material respect from the Draft Merger Agreement reviewed by us. In addition, we have assumed that in connection with the receipt of all the necessary approvals of the proposed Transaction, no delays, limitations, conditions or restrictions will be imposed that could have an adverse effect on the Company or the contemplated benefits expected to be derived in the proposed Transaction. We have not made any independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of the Company, nor have we been furnished with any such evaluation or appraisal. In addition, we have relied, without independent verification, upon the assessment of the management of the Company as to the existing and future technology and products of the Company and the risks associated with such technology and products. In arriving at our opinion, we were not authorized to solicit, and did not solicit, interest from any party (other than Ultimate Parent) with respect to an acquisition, business combination or other extraordinary transaction involving the Company.

We have acted as financial advisor to the Board of Directors of the Company in connection with the Transaction and will receive a fee for our services payable upon rendering of this opinion. We will also receive an additional, larger fee if the Offer is consummated. In addition, the Company has agreed to reimburse our expenses and indemnify us for certain liabilities arising out of our engagement. During the two year period prior to the date hereof, no material relationship existed between Qatalyst or any of its affiliates and the Company or Ultimate Parent pursuant to which compensation was received by Qatalyst or its affiliates; however, Qatalyst and/or its affiliates may in the future provide investment banking and other financial services to the Company or Ultimate Parent and their respective affiliates for which we would expect to receive compensation.

Qatalyst provides investment banking and other services to a wide range of corporations and individuals, domestically and offshore, from which conflicting interests or duties may arise. In the ordinary course of these activities, affiliates of Qatalyst may at any time hold long or short positions, and may trade or otherwise effect transactions in debt or equity securities or loans of the Company, Ultimate Parent or certain of their respective affiliates.

This opinion has been approved by our opinion committee in accordance with our customary practice. This opinion is for the information of the Transactions Committee of the Board of Directors and the Board of Directors of the Company and may not be used for any other purpose without our prior written consent. This opinion does not constitute a recommendation as to whether any Holder should tender its shares of Company Common Stock pursuant to the Offer or any other matter and does not in any manner address the price at which Company Common Stock will trade at any time.

Our opinion is necessarily based on financial, economic, market and other conditions as in effect on, and the information made available to us as of, the date hereof. Events occurring after the date hereof may affect this opinion and the assumptions used in preparing it, and we do not assume any obligation to update, revise or reaffirm this opinion. Our opinion does not address the underlying business decision of the Company to engage in the Transaction, or the relative merits of the Transaction as compared to any strategic alternatives that may be available to the Company. Our opinion is limited to the fairness, from a financial point of view, of the consideration to be received by the Holders pursuant to the Merger Agreement and we express no opinion with respect to the fairness of the amount or nature of the compensation to any of the Company's officers, directors or employees, or any class of such persons, relative to such consideration.

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する意見

Based on and subject to the foregoing, we are of the opinion on the date hereof that the consideration to be received by the Holders pursuant to the Merger Agreement is fair, from a financial point of view, to such Holders.

Yours faithfully,

/s/ QATALYST PARTNERS LP

QATALYST PARTNERS LP

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(注 : ハイライトは著者にて付したものである。)

表紙

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. If you are in any doubt about this offer or as to the action you should take, you are recommended to seek your own independent financial advice from a stockbroker, solicitor, accountant or other independent financial adviser authorised under the Financial Services and Markets Act 2000 if you are resident in the UK. If you are outside the UK, you should immediately consult an appropriately authorised independent financial adviser.

If you have sold or otherwise transferred all of your Offer Shares, please send this document and the accompanying documents, but not the personalised Form of Acceptance or Form of Proxy, as soon as possible to the purchaser or transferee or to the stockbroker, bank or other agent through whom the sale or transfer was effected, for transmission to the purchaser or transferee. However, such documents should not be forwarded or transmitted in or into or from any Restricted Jurisdiction.

The release, publication or distribution of this document, the Form of Acceptance and the Form of Proxy in jurisdictions other than the United Kingdom may be restricted by law and therefore persons into whose possession this document comes should inform themselves about and observe such restrictions. Any failure to comply with these restrictions may constitute a violation of the securities laws of any such jurisdiction.

You should read the whole of this document carefully and (if you hold Offer Shares in certificated form) in conjunction with the accompanying Form of Acceptance and Form of Proxy, the terms of which are deemed to form part of the Offer.

Deloitte Corporate Finance is acting only for Lorraine Heggessey and Boom Pictures and no one else in connection with the Offer and will not regard any other person as its client nor be responsible to anyone other than those persons for providing the protections afforded to clients of Deloitte Corporate Finance nor for providing advice in relation to the Offer or any other matters referred to in this document and the accompanying documents. Deloitte Corporate Finance is a division of Deloitte LLP, which is authorised and regulated by the Financial Services Authority in respect of regulated activities.

finnCap Ltd, which is authorised and regulated in the United Kingdom by the Financial Services Authority, is acting only for Boomerang and no one else in connection with the Offer and will not be responsible to anyone other than Boomerang for providing the protections afforded to clients of finnCap Ltd or for providing advice in relation to the Offer or any other matters referred to in this document.

買付者の FA
(Deloitte)
及び対象者
の FA
(finnCap)

Recommended Cash Offer

By

Deloitte Corporate Finance

on behalf of

Boom Pictures Limited

(a company formed on behalf of LDC (Managers) Limited, the Management Team and Lorraine Heggessey)

to acquire the entire issued and to be issued ordinary share capital of

Boomerang Plus plc

(other than those Boomerang Shares contracted to be acquired by Boom Pictures under the terms of the Share Exchange Deed)

Your attention is drawn to the letter from the Chairman of Boomerang on behalf of the Independent Directors, which is set out on pages 7 to 12 of this document, recommending unanimously: (i) Boomerang Shareholders to accept the Offer; and (ii) Independent Shareholders to vote in favour of the Ordinary Resolution to be proposed at the General Meeting of Boomerang.

To accept the Offer in respect of Offer Shares held in certificated form (that is, not in CREST), the accompanying Form of Acceptance should be completed, signed, witnessed (in the case of an individual) and returned along with your share certificate(s) or other document(s) of title as soon as possible and in any event so as to be received by Capita Registrars, Corporate Actions, The Registry, 34 Beckenham Road, Beckenham, Kent BR3 4TU no later than 1.00 p.m. on 25 July 2012, by following the procedure set out in Part C of Appendix I to this document.

To accept the Offer in respect of Offer Shares held in uncertificated form (that is, in CREST) you must make your acceptance electronically through CREST so that the TTE Instruction settles no later than 1.00 p.m. on 25 July 2012,

by following the procedure set out in Part D of Appendix I to this document. If you are a CREST sponsored member, you must refer to your CREST sponsor before taking any action as only your CREST sponsor will be able to send the necessary TTE Instructions to Euroclear in relation to your Offer Shares.

Notice of the General Meeting of Boomerang, to be held at the offices of Osborne Clarke at One London Wall, London EC2Y 5EB, at 11.00 a.m. on 20 July 2012, to approve certain arrangements with the Management Team in relation to the Offer is set out at the end of this document. A Form of Proxy for use at the General Meeting accompanies this document. To be valid, the Form of Proxy for use in connection with the General Meeting should be completed and returned by post as soon as possible and, in any event, so as to reach the Registrars at Capita Registrars, PXS, 34 Beckenham Road, Beckenham, BR3 4TU by no later than 11.00 a.m. on 18 July 2012.

Completion and return of a Form of Proxy will not preclude Independent Shareholders from attending and voting at the General Meeting in person should they so wish.

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Part 1

Letter of Recommendation from the Chairman of Boomerang

(Incorporated in England & Wales with registered number 2936337)

Directors:

Richard Huntingford (*Non-Executive Chairman*)*
Road Huw Eurig Davies (*Chief Executive Officer*)**

Fenwick (*Finance Director*)**
8NN

Gareth Rees (*Executive Director*)**
Roger Moore (*Non-Executive Director*)* Linda James (*Non-Executive Director*)*

Registered office:

218 Penarth

Cardiff Mark
CF11

The directors marked with an asterisk (*) are Independent Directors

The directors marked with a double asterisk (**) are members of the Management Team

4 July 2012

To Boomerang Shareholders and, for information only, to participants in the Boomerang Share Option Schemes

Dear Boomerang Shareholder

Recommended Cash Offer by Deloitte Corporate Finance on behalf of Boom Pictures Limited for Boomerang Plus plc

1. Introduction

The Independent Directors and the Boom Pictures Directors today announced that they had reached agreement on the terms of a recommended cash offer to be made by Deloitte Corporate Finance on behalf of Boom Pictures for the entire issued and to be issued share capital of Boomerang, excluding the Roll-over Shares. The Offer values the entire issued and to be issued share capital of Boomerang at approximately £7.1 million and each Offer Share at 77 pence.

Boom Pictures, a company backed by LDC (acting as manager of LDC I and LDC Parallel I), Lorraine Heggessey and the Management Team, is a recently incorporated company established for the purpose of making the Offer. The board of directors of Boom Pictures comprises: i) Huw Eurig Davies and Mark Fenwick, who are both existing Boomerang Directors, ii) Lorraine Heggessey, and iii) Daniel Sasaki and Kunal Dasgupta of LDC. In view of the proposed arrangements between the Management Team and Boom Pictures (details of which are set out in paragraph 5 of this Part 1) it was agreed that a committee of the independent directors of Boomerang should be formed comprising Richard Huntingford, Roger Moore and Linda James for the purposes of evaluating the Offer and the Management Arrangements. Given their conflicts of interest with regard to the Offer and the Management Arrangements, Huw Eurig Davies (Chief Executive Officer), Mark Fenwick (Finance Director) and Gareth Rees (Executive Director) have not participated in the Independent Directors' decision to recommend that you accept the Offer or vote in favour of the Management Arrangements.

買付者側となる Management Team の conflict について説明

Accordingly, I am now writing to you, on behalf of the Independent Directors, to explain the background to the Offer and the reasons why the Independent Directors, having been so advised by finnCap, consider the terms of the Offer to be fair and reasonable so far as Independent Shareholders are

Offer が fair and reasonable であること

concerned and why they recommend unanimously that you accept the Offer and that Independent Shareholders should vote in favour of the Ordinary Resolution to be proposed at the General Meeting.

The Independent Directors have irrevocably undertaken to accept, or procure the acceptance of, the Offer in respect of a total of 13,111 Offer Shares, representing approximately in aggregate, 0.2 per cent. of the Offer Shares and to vote, or procure the vote, in favour of the Ordinary Resolution in respect of their entire beneficial holdings of 13,111 Eligible Voting Shares, representing approximately 0.3 per cent. of the Eligible Voting Shares.

2. Summary terms of the Offer

Under the terms of the Offer, Boomerang Shareholders are entitled to receive:

For each Offer Share 77 pence in cash

The Offer, which is wholly in cash, values Boomerang's entire issued and to be issued share capital at approximately £7.1 million and represents a premium of approximately:

- 51.0 per cent. to the Closing Price of 51.0 pence per Offer Share on 3 July 2012, being the last business day prior to the publication of this document; and
- 52.6 per cent. to the average Closing Price of 50.5 pence per Offer Share during the 12 months prior to 3 July 2012.

買付価格、
プレミアム

The formal Offer is set out in the letter from Deloitte Corporate Finance in Part 2 of this document. The conditions and further terms of the Offer are set out in Appendix I to this document and in the accompanying Form of Acceptance (applicable if you hold Boomerang Shares in certificated form).

The Offer extends to all Offer Shares unconditionally allotted or issued and fully paid on the date of the Offer and any Offer Shares which are unconditionally allotted or issued and fully paid before the date on which the Offer closes to acceptances or such earlier date as Boom Pictures may announce, subject to the Code and in accordance with the further conditions and terms of the Offer set out in Appendix I to this document.

The Offer Shares will be transferred to Boom Pictures fully paid with full title guarantee and free from all liens, charges, equitable interests, encumbrances, rights of pre-emption and other third party rights or interests and together with all rights attaching to such Offer Shares including, without limitation, the right to receive all dividends and other distributions (if any) announced, declared, made or paid after the Announcement Date.

3. Irrevocable undertakings

Boom Pictures has received irrevocable undertakings from the Independent Directors to accept, or procure the acceptance of, the Offer in respect of a total of 13,111 Offer Shares, representing approximately 0.2 per cent. of the Offer Shares and to vote in favour of the Ordinary Resolution in respect of a total of 13,111 Eligible Voting Shares, representing approximately 0.3 per cent. of the Eligible Voting Shares.

Certain other Independent Shareholders have also irrevocably undertaken to accept, or procure the acceptance of, the Offer and to vote in favour of the Ordinary Resolution in respect of a total of 3,155,662 Offer Shares, representing approximately 47.7 per cent. of the Offer Shares and approximately 73.9 per cent. of the Eligible Voting Shares.

In addition, the members of the Management Team have irrevocably undertaken to accept, or procure the acceptance of, the Offer in respect of all of the Management Offer Shares amounting to 2,182,704 Offer Shares and representing approximately 33.0 per cent. of the Offer Shares.

Accordingly, Boom Pictures has received, in aggregate, irrevocable undertakings in respect of a total of:

- (a) 5,351,477 Offer Shares to accept the Offer, representing a total of 80.9 per cent. of the Offer Shares in issue of the date of this document; and
- (b) 3,168,773 Eligible Voting Shares to vote in favour of the Ordinary Resolution, representing a total of 74.2 per cent. of the Eligible Voting Shares in issue of the date of this document.

Further details of the irrevocable undertakings are set out at paragraph 4 of Part 2 and paragraph 8 of Appendix IV to this document.

4. Background to and reasons for recommending the Offer

推奨の理由

Boomerang's strategy is to grow its business both organically and by acquisition. The Boomerang Group produced a good set of results for the year ended 31 May 2011, which showed further progress in diversifying the Boomerang Group's customer base.

The Boomerang Board's strategy has been to invest in businesses with international footprints and Boomerang's acquisitions include Indus Films (acquired in October 2009) with its range of internationally acclaimed programmes, and the trade and assets of Oxford Scientific Films ("OSF") (acquired in June 2011), with its strong track record in factual programming for UK and international broadcasters.

Despite the recent progress and the strong platform for future growth, the public markets continue to ascribe a low valuation to the Boomerang Group. Thus, whilst there are opportunities for further acquisitions in what remains a very fragmented independent television production sector, the low valuation of Boomerang makes such acquisitions disproportionately dilutive and current credit conditions make raising debt finance extremely challenging. The Boomerang Board does not believe that these conditions are likely to improve in the foreseeable future.

The Boomerang Group has a strong and ambitious management team and an infrastructure to support the further expansion of the business, whilst it also bears the significant cost of being a quoted company. As a result of the above issues, the Independent Directors have concluded that Boomerang would be better placed to execute its growth strategy in an off-market environment. The Independent Directors consider that the Offer represents a good opportunity to realise a fair and reasonable cash price for Boomerang Shares today.

5. Arrangements with the Management Team

The arrangements entered into between Boom Pictures and members of the Management Team are summarised in paragraph 6 of the letter from Deloitte Corporate Finance in Part 2 of this document and further details are set out in paragraph 7 of Appendix IV to this document.

As described in paragraph 6 below, the rules of the Code require that the arrangements between Boom Pictures and the Management Team be approved by way of a resolution of Independent Shareholders, to be taken on a poll at the General Meeting.

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finnCap has advised the Independent Directors that the terms of the Management Arrangements are fair and reasonable so far as Independent Shareholders are concerned. Accordingly, the Independent Directors recommend unanimously Independent Shareholders to vote in favour of the Ordinary Resolution.

The Independent Directors have irrevocably undertaken to vote, or procure the vote, in favour of the Ordinary Resolution in respect of their entire beneficial holdings of, in aggregate, 13,111 Eligible Voting Shares, representing approximately 0.3 per cent. of the Eligible Voting Shares.

6. General Meeting

In accordance with Rule 16.2 of the Code, as all members of the Management Team are (or in the case of Nia Thomas and Dylan Davies, will upon the exercise of their Boomerang Options, become) shareholders in Boomerang and, as a result of the Management Arrangements, will become shareholders in Boom Pictures on a basis that is not being made available to Independent Shareholders, such Management Arrangements must be approved at the General Meeting. The Management Arrangements are therefore subject to the Ordinary Resolution being approved on a poll by a majority of Independent Shareholders at the General Meeting. Notice of the General Meeting is set out at the end of this document.

The Offer is therefore conditional on, *inter alia*, the passing of the Ordinary Resolution by Independent Shareholders at the General Meeting to approve the Management Arrangements.

7. Current trading and prospects of Boomerang

On 28 February 2012, the Boomerang Group announced its interim results showing revenues were broadly flat at £16 million (first half of 2011: £16.3 million), with the reductions arising from S4C's reduced funding being largely offset by organic growth and the first full six month contribution by OSF acquired in June 2011.

Gross profit increased by 14.1 per cent. to £2.83 million (first half of 2011: £2.48 million) and the continued restructuring and relocation of the Boomerang Group's businesses, along with tight cost controls, enabled the Boomerang Group to increase adjusted operating profits by 8 per cent. to £0.95 million (first half of 2011: £0.88 million). Operating profits were adjusted for professional fees in relation to corporate transactions, reorganisation costs, and amortisation of intangible assets arising on business acquisitions.

Trading in the current financial year, and the Boomerang Group's pipeline of productions for 2012, remains in line with the Boomerang Board's expectations.

8. Information on Boom Pictures and LDC

Boom Pictures is a limited liability company incorporated in England and Wales for the purposes of making the Offer and is backed by LDC (acting as manager of LDC I and LDC Parallel I), Lorraine Heggessey and the Management Team. Boom Pictures has not traded since its incorporation and the only obligations that it has entered into are in connection with implementing the Offer.

Further information on Boom Pictures and LDC is set out in paragraphs 8 and 9 respectively of Part 2 of this document, and in Appendices II and IV to this document.

9. Management, employees, location and changes to the Boomerang Board

Your attention is drawn to the statement of Boom Pictures' plans for Boomerang if the Offer becomes or is declared unconditional in all respects, as set out in paragraph 7 of the letter from Deloitte Corporate Finance in Part 2 of this document.

The Independent Directors are pleased to note the statements made in Part 2 of this document that, following the Offer becoming or being declared unconditional in all respects, the existing employment rights, including pension rights, of all management and employees of the Boomerang Group will be fully safeguarded in accordance with contractual and statutory requirements.

The Independent Directors also welcome Boom Pictures' confirmation that Boom Pictures does not intend to change the location of the Boomerang Group's places of business or to redeploy any of the Boomerang Group's fixed assets or effect a material change in any conditions of employment (save for the Management Team's new service contracts, which are to be entered into with Boom Pictures and which are broadly on the same terms as their current service contracts with the Boomerang Group apart from increases in salaries for certain of the Management Team, the details of which are set out in paragraph 7.5 of Appendix IV to this document).

The Management Team will remain in place to operate Boomerang once the Offer has become unconditional in all respects, on the terms set out in their new service contracts. Upon the Offer becoming unconditional in all respects, Richard Huntingford, Roger Moore and Linda James will each resign from the Boomerang Board.

10. Cancellation of trading on AIM, re-registration as a private company and compulsory acquisition

Your attention is drawn to paragraph 14 of the letter from Deloitte Corporate Finance set out in Part 2 of this document in relation to Boom Pictures' intentions regarding the cancellation of admission to trading on AIM of Boomerang Shares and the re-registration of Boomerang as a private company following the Offer becoming or being declared unconditional in all respects (the earliest date for such cancellation would be 22 August 2012).

Boomerang Shareholders should be aware that the cancellation of trading on AIM of the Boomerang Shares will reduce significantly the liquidity and marketability of any Offer Shares in respect of which the Offer has not been accepted.

11. Boomerang Share Option Schemes

The Offer extends to any Offer Shares which are unconditionally allotted or issued fully paid (or credited as fully paid) prior to the date on which the Offer closes (or such earlier date as Boom Pictures May, subject to the Code and/or with consent of the Panel, determine) as a result of the exercise of options granted under the Boomerang Share Option Schemes. Participants in the Boomerang Share Option Schemes are being contacted and appropriate proposals will be made to such participants. At the date of this document, options over a maximum of 231,321 Boomerang Shares with an exercise price of less than the Offer Price are outstanding under the Boomerang Share Option Schemes.

12. United Kingdom Taxation

Your attention is drawn to paragraph 15 of the letter from Deloitte Corporate Finance set out in Part 2 of this document. If you are in any doubt as to your tax position, or you are subject to taxation in any jurisdiction other than the United Kingdom, you should immediately consult an appropriate independent professional adviser.

13. Overseas Boomerang Shareholders

The attention of Overseas Shareholders is drawn to paragraph 16 of the letter from Deloitte Corporate Finance set out in Part 2 of this document.

14. Action to be taken

(a) *To accept the Offer:*

If your Offer Shares are in certificated form (that is, not in CREST), the Form of Acceptance must be completed, signed and returned as soon as possible, (together with your share certificate(s) and/or other document(s) of title) and in any event so as to be received by Capita Registrars, Corporate Actions, The Registry, 34 Beckenham Road, Beckenham, Kent BR3 4TU no later than 1.00 p.m. (London time) on 25 July 2012. A reply paid envelope accompanies this document for your convenience for use in the UK only.

If your Offer Shares are in uncertificated form (that is, in CREST), you should NOT return the Form of Acceptance but instead ensure that an Electronic Acceptance is made by you or on your behalf and that settlement is no later than 1.00 p.m. (London time) on 25 July 2012.

Further details on the action to be taken to accept the Offer are set out in paragraph 17 of the letter from Deloitte Corporate Finance set out in Part 2 of this document.

If you have any questions relating to this document, please telephone Capita Registrars on 0871 664 0321 from within the UK or on +44 20 8639 3399 if calling from outside the UK. Calls to the 0871 664 0321 number cost 10 pence per minute from a BT landline. Other network providers' costs may vary. Lines are open 9.00 a.m. to 5.30 p.m. (London time) Monday to Friday. Calls to the helpline from outside the UK will be charged at the applicable international rate. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. The helpline cannot provide advice on the merits of the Offer nor give any financial, legal or tax advice.

(b) *To vote in favour at the General Meeting:*

A reply paid Form of Proxy accompanies this document for the use by the Independent Shareholders in connection with the General Meeting. Independent Shareholders are requested to complete the Form of Proxy in accordance with the instructions printed thereon and to return it to Capita Registrars, PXS, 34 Beckenham Road, Beckenham, BR3 4TU, as soon as possible and in any event so that it is received no later than 11.00 a.m. on 18 July 2012. The completion and return of the Form of Proxy will not preclude you from attending

the General Meeting and voting in person should you wish to do so.

If you are in any doubt about the Offer and/or the action you should take, you should consult an independent financial adviser authorised under the Financial Services and Markets Act 2000 if you are in the United Kingdom or another appropriately authorised independent professional adviser if you are taking advice in a territory outside the United Kingdom.

15. Recommendation

The Independent Directors, who have been so advised by finnCap, consider the terms of the Offer to be fair and reasonable. In providing advice to the Independent Directors in relation to the Offer, finnCap has taken into account the commercial assessments of the Independent Directors.

Accordingly, the Independent Directors recommend unanimously that Boomerang Shareholders accept the Offer as they have irrevocably undertaken to do so in respect of a total of 13,111 Offer Shares, representing approximately 0.2 per cent. of the Offer Shares and that Independent Shareholders should vote in favour of the Ordinary Resolution to be proposed at the General Meeting as they have irrevocably undertaken to do so in respect of in aggregate, 13,111 Eligible Voting Shares, representing approximately 0.3 per cent. of the Eligible Voting Shares.

Yours faithfully

Richard Huntingford

Chairman

Boomerang Plus Plc

PART 2

Letter from Deloitte Corporate Finance

Deloitte.

2 New Street Square,
London EC4A 3BZ

4 July 2012

To Boomerang Shareholders and, for information only, to participants in the Boomerang Share Option Schemes

Dear Boomerang Shareholder

Recommended Cash Offer by Deloitte Corporate Finance on behalf of Boom Pictures Limited for Boomerang Plus plc

1. Introduction

The Independent Directors and the board of directors of Boom Pictures, a company backed by LDC, (acting as a manager of LDC I and LDC Parallel I) the Management Team and Lorraine Heggessey today announced that they had reached agreement on the terms of a recommended cash offer to be made by Deloitte Corporate Finance on behalf of Boom Pictures for the entire issued and to be issued share capital of Boomerang, excluding the Roll-over Shares. The Offer values the entire issued and to be issued share capital of Boomerang at approximately £7.1 million and each Offer Share at 77 pence.

This letter, Appendix I to this document and the Form of Acceptance (in relation to Offer Shares held in certificated form (that is, those not held in CREST)) together contain the formal conditions and further terms of the Offer.

Your attention is drawn to the letter from the Chairman of Boomerang, on behalf of the Independent Directors, set out in Part 1 of this document, which explains the background to the Offer and the reasons why the Independent Directors, who have been so advised by finnCap, consider the terms of the Offer to be fair and reasonable and why the Independent Directors, accordingly, recommend unanimously Boomerang Shareholders to accept the Offer and Independent Shareholders to vote in favour of the Ordinary Resolution to be proposed at the General Meeting.

Your attention is also drawn to information contained in other parts of this document including Appendix I (*Conditions and Further Terms of the Offer*), Appendix II (*Information relating to Boom Pictures, LDC and Lloyds Banking Group*), Appendix III (*Financial Information relating to the Boomerang Group*) and Appendix IV (*Additional Information*).

2. The Offer

Under the Offer, which is made on and subject to the conditions and further terms set out in this document and, in the case of Offer Shares held in certificated form, the Form of Acceptance, Boomerang Shareholders will receive:

For each Offer Share 77 pence in cash

The Offer, which is wholly in cash, values Boomerang's entire issued and to be issued share capital at approximately £7.1 million and represents a premium of approximately:

- 51.0 per cent. to the Closing Price of 51.0 pence per Offer Share on 3 July 2012, being the last

business day prior to the date of publication of this document; and

- 52.6 per cent. to the average Closing Price of 50.5 pence per Offer Share during the 12 months prior to 3 July 2012.

The Offer extends to all Offer Shares unconditionally allotted or issued and fully paid on the date of the Offer and any Offer Shares which are unconditionally allotted or issued and fully paid before the date on which the Offer closes to acceptances or such earlier date as Boom Pictures may announce, subject to the Code and in accordance with the further conditions and terms of the Offer set out in Appendix I to this document.

The Offer Shares will be transferred to Boom Pictures fully paid with full title guarantee and free from all liens, charges, equitable interests, encumbrances, rights of pre-emption and other third party rights or interests and together with all rights attaching to such Offer Shares including, without limitation, the right to receive all dividends and other distributions (if any) announced, declared, made or paid after the Announcement Date.

The Offer is subject to the further conditions and terms set out and referred to in Appendix I to this document and, in the case of Offer Shares held in certificated form, in the accompanying Form of Acceptance.

The procedure for acceptance of the Offer is set out in paragraph 17 of this letter.

For summary information on certain limited aspects of UK taxation and the consequences of accepting the Offer for certain Independent Shareholders resident in the UK for tax purposes, please refer to paragraph 15 of this letter.

3. Recommendation

In view of their proposed involvement with Boom Pictures, Huw Eurig Davies, Mark Fenwick and Gareth Rees, being the members of the Management Team who are Boomerang Directors, have not participated in the consideration of the Offer or the formulation of the advice given to Independent Shareholders by the Independent Directors who in turn were advised by finnCap. Further details with regard to the background to and reasons for recommending the Offer and the Independent Directors' recommendation are set out in paragraph 4 of Part 1 of this document.

4. Irrevocable undertakings

Boom Pictures has received irrevocable undertakings from the Independent Directors to accept, or procure the acceptance of, the Offer in respect of a total of 13,111 Offer Shares, representing approximately 0.2 per cent. of the Offer Shares, and to vote in favour of the Ordinary Resolution in respect of a total of 13,111 Eligible Voting Shares, representing approximately 0.3 per cent. of the Eligible Voting Shares. The undertakings provided by the Independent Directors will continue to be binding, even in the event of a higher offer for Boomerang by a competing third party, and cannot be withdrawn unless the Offer lapses or is withdrawn.

In addition, the following Independent Shareholders have entered into irrevocable undertakings to accept, or procure the acceptance of, the Offer in respect of the following Offer Shares and to vote in favour of the Ordinary Resolution in respect of the following Eligible Voting Shares:

<i>Name</i>	<i>Total number of Boomerang Shares</i>	<i>Percentage of Offer Shares</i>	<i>Percentage of Eligible Voting Shares</i>
Dafydd Richards	408,000	6.2	9.6
Huw Jenkins	359,851	5.4	8.4
Ronw Protheroe	609,319	9.2	14.3
Barnard Nominees Limited	633,494	9.6	14.8
Rathbone Nominees Limited	785,064	11.9	18.4
Downing LLP	359,934	5.4	8.4
Totals	3,155,662	47.7	73.9

The irrevocable undertakings provided by Downing LLP, Barnard Nominees Limited and Rathbone Nominees Limited will remain binding in the event of a higher offer for Boomerang by a competing third party, unless the value of the competing offer represents an improvement of ten per cent. or more of the value

of the consideration being made available under the Offer.

Each member of the Management Team has irrevocably undertaken to accept the Offer (or procure that the registered holder accepts the Offer) in respect of the Management Offer Shares, which amount to 2,182,704 Offer Shares, representing 33.0 per cent. of the Offer Shares. The undertakings provided by the Management Team will continue to be binding, even in the event of a higher offer for Boomerang by a competing third party, and cannot be withdrawn unless the Offer lapses or is withdrawn.

Accordingly, Boom Pictures has received, in aggregate, irrevocable undertakings in respect of a total of:

- (a) 5,351,477 Offer Shares, to accept the Offer representing approximately 80.9 per cent. of the Offer Shares in issue at the date of this document; and
- (b) 3,168,773 Eligible Voting Shares to vote in favour of the Ordinary Resolution, representing approximately 74.2 per cent. of the Eligible Voting Shares in issue at the date of this document.

Further details relating to these undertakings are set out in paragraph 8 of Appendix IV to this document.

5. Background to and reasons for the Offer

LDC and Lorraine Heggeseey believe that Boomerang represents an attractive investment opportunity based on four key factors: (i) Lorraine Heggeseey's reputation and her contacts in the TV broadcasting and production sector; (ii) Boomerang's position as a well respected independent platform from which to develop a larger business both organically and through acquisition; (iii) the ability of Boomerang to prioritise its growth potential without meeting the demands required of a publicly traded company; and (iv) the ability of LDC to add value to the operations of Boomerang.

(c) *Lorraine Heggeseey*

Lorraine Heggeseey is a leading executive in the UK TV industry. She has had a long and successful career working for the BBC and in the independent production sector. She held several executive roles at the BBC and was the first female controller of BBC One, holding the post for five years. She subsequently spent five years as the Chief Executive Officer of one of the UK's largest independent TV producers, Talkback Thames. Since leaving that role, she has been searching for an opportunity to invest in an independent TV production business to serve as a platform to build a significant, new creative group focused on the production and ownership of intellectual property.

(d) *Boomerang*

Boomerang is ideally positioned to be the platform asset as a strong management team, led by Chief Executive Huw Eurig Davies, has built up a diversified business with solid revenues and a proven track record of acquiring and integrating a number of businesses. Boomerang is currently admitted to trading on AIM but appears to lack the access to capital and relationships with key broadcasters necessary if it is to grow significantly as a producer of network programmes and a consolidator of other independent television production businesses.

(e) *The vision*

The vision for the new group is to produce high quality content with the aim of building excellent relationships with broadcasters, advertisers and talent, operating across multiple geographies. The new group's ambition is to capitalise on the latest developments for multi-media content across TV and digital platforms and to become an attractive partner for creative talent and small independent TV companies who would benefit from additional resources and the expertise of senior industry executives to help them achieve their full potential.

(f) *The ability of LDC to add value*

As one of the pre-eminent UK mid-market private equity firms, LDC has significant experience and a track record of investing in the UK media sector. LDC is a long established private equity investor with extensive experience managing growth businesses and LDC believes that existing and new customers can draw confidence from the reputation of LDC and from LDC's commitment to Boomerang's portfolio businesses.

LDC believes that Boomerang's ability to grow in the future will be enhanced under LDC's ownership as

Boomerang executes its longer term strategy. LDC intends to support Boomerang by providing resources to continue to invest in production, IP development and, should valid opportunities arise, strategic acquisitions.

6. Arrangements with the Management Team

Boom Pictures believes that the ongoing participation in and leadership of the business of Boomerang by the Management Team is fundamental to its continued growth, due to their knowledge of Boomerang's programmes, services, customers and the markets in which Boomerang operates. As a consequence, the Management Arrangements, which are described in more detail in paragraph 7 of Appendix IV to this document, have been agreed between Boom Pictures and the Management Team.

The Management Team will accept, or procure the acceptance of, the Offer in respect of their Management Offer Shares in accordance with the irrevocable undertakings given by the Management Team as described in paragraph 4 of this Part 2 and paragraph 8 of Appendix IV to this document. Boom Pictures will acquire the Roll-over Shares from certain members of the Management Team in exchange for Boom Pictures Loan Notes and Boom Pictures Shares, pursuant to the terms of the Share Exchange Deed, at the date that the Offer becomes, or is declared, unconditional in all respects. In addition, on the date that the Offer becomes, or is declared, unconditional in all respects, certain members of the Management Team and Lorraine Heggessey will subscribe for Boom Pictures Shares and Lorraine Heggessey will subscribe for Boom Pictures Shares and Boom Pictures Loan Notes. Accordingly, the Boom Pictures Management Team will hold Boom Pictures Shares and Boom Pictures Loan Notes as set out in the tables below.

<i>Name</i>	<i>Boom Pictures B Ordinary Shares</i>	<i>Boom Pictures C Ordinary Shares</i>	<i>Boom Pictures D Ordinary Shares</i>	<i>Total Boom Pictures Shares £</i>	<i>% of issued share capital of Boom Pictures* £</i>
Huw Eurig Davies	51,788	17,600	–	69,388	8.81%
Gareth Rees	20,365	8,800	3,875	33,040	4.20%
Mark Fenwick	7,920	22,400	2,750	33,070	4.20%
Gruffydd Davies	20,365	–	12,675	33,040	4.20%
Nia Thomas	–	6,800	–	6,800	0.86%
Richard Moss	2,914	4,000	–	6,914	0.88%
Dylan Davies	–	6,800	–	6,800	0.86%
Lorraine Heggessey	8,000	101,600	–	109,600	13.92%
Totals	111,352	168,000	19,300	298,652	37.93%

* Figure is based on the paid up amounts for all Boom Pictures A Ordinary Shares, Boom Pictures B Ordinary Shares, Boom Pictures C Ordinary Shares and Boom Pictures D Ordinary Shares.

<i>Name</i>	<i>Boom Pictures C Loan Notes £</i>	<i>Boom Pictures D Loan Notes £</i>	<i>Boom Pictures E Loan Notes £</i>	<i>Total Boom Pictures Loan Notes £</i>
Huw Eurig Davies	423,494	423,494	–	846,988
Gareth Rees	164,595	164,595	–	329,190
Mark Fenwick	63,388	63,387	115,045	241,820
Gruffydd Davies	160,195	160,195	–	320,390
Nia Thomas	–	–	–	–
Richard Moss	23,833	23,833	–	47,666
Dylan Davies	–	–	–	–
Lorraine Heggessey	65,420	65,419	–	130,839
Totals	900,925	900,923	115,045	1,916,893

As at the date that the Offer becomes, or is declared, unconditional in all respects, the Boom Pictures

Management Team will hold in aggregate approximately 37.9 per cent. of the issued share capital of Boom Pictures and the remaining approximately 62.1 per cent. will be beneficially owned by LDC I and LDC Parallel I. The voting rights of LDC I and LDC Parallel I under their class of shares in Boom Pictures will be restricted to 49.9 per cent. of the total voting rights, with the net effect being that the balance is split proportionately between the Management Team.

3.9 per cent. of Boom Pictures C Ordinary Shares (on a fully diluted basis) have been authorised to be issued and are intended for future allocation to employees or directors of the Boom Pictures Group (subject to remuneration committee approval).

The members of the Management Team have agreed pursuant to the Subscription and Shareholders' Agreement to enter into new service contracts with Boom Pictures upon the Offer being declared unconditional in all respects, which are broadly on the same terms as their current service contracts with the Boomerang Group (apart from increases in salary for certain of the Management Team, the details of which are set out in paragraph 7.5 of Appendix IV to this document).

In relation to the Management Arrangements, the Panel has agreed, subject to the requisite Ordinary Resolution being passed on a poll of Independent Shareholders at the General Meeting to be held on 20 July 2012, to allow the Management Arrangements to be made on the terms and subject to the conditions of the Share Exchange Deed and the Subscription and Shareholders' Agreement notwithstanding the fact that the opportunity to participate in such arrangements is not being extended to all Boomerang Shareholders.

Accordingly, set out at the end of this document is a notice convening the General Meeting for 11.00 a.m. on 20 July 2012 at which the Ordinary Resolution to approve the Management Arrangements, pursuant to the Code, will be proposed. In accordance with the requirements of the Code, only Independent Shareholders will be permitted to vote on the Ordinary Resolution, which will be taken on a poll. The Offer is conditional, *inter alia*, upon the passing of the Ordinary Resolution.

As stated in the letter of recommendation from the Independent Directors in Part I of this document, finnCap has advised the Independent Directors that the terms of the Management Arrangements are fair and reasonable so far as Independent Shareholders are concerned.

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7. Management, employees and locations and changes to the Boomerang Board

Boom Pictures values the skills, knowledge and expertise of Boomerang's existing management and employees and expects them to play an important role in the further development and continuing growth of the Boomerang business.

Boom Pictures has indicated that, with the exception of Richard Huntingford, Roger Moore and Linda James who will each resign from the Boomerang Board upon the Offer becoming, or being declared, unconditional in all respects, the Offer will not have any adverse repercussions on the Boomerang Group's employees or management and will provide continuity of employment for staff.

Furthermore, Boom Pictures does not intend to change the location of the Boomerang Group's places of business or to redeploy any of the Boomerang Group's fixed assets or effect a material change in any conditions of employment (save for the Management Team's new service contracts, which are to be entered into with Boom Pictures and which are broadly on the same terms as their current service contracts with the Boomerang Group apart from increases in salaries for certain of the Management Team, the details of which are set out in paragraph 7.5 of Appendix IV to this document).

Boom Pictures has also confirmed to the Independent Directors that the existing employment rights, including pension rights, of all Boomerang Group's employees will be fully safeguarded upon the Offer becoming, or being declared, unconditional in all respects.

8. Information on Boom Pictures

Boom Pictures is a limited liability company incorporated in England and Wales for the purposes of making the Offer and is backed by LDC (acting as a manager of LDC I and LDC Parallel I), the Management Team

and Lorraine Heggessey). Boom Pictures has not traded since its incorporation and the only obligations that it has entered into are in connection with implementing the Offer. Following the acquisition of Boomerang, Boom Pictures will employ key personnel and actively manage its investment. It will recharge the costs of key personnel and other costs as appropriate to the Boomerang Group under a management services agreement.

Further information on Boom Pictures is set out in Appendices II and IV to this document.

9. Information on LDC

LDC is one of the UK's leading mid-market private equity firms with over 30 years' history supporting ambitious management teams. LDC is a wholly owned subsidiary of Lloyds TSB Bank plc which itself is a wholly owned subsidiary of Lloyds Banking Group plc. LDC has been investing with funds provided by its parent throughout the economic cycle.

LDC has a portfolio of over 70 businesses valued in excess of £1.3 billion, an extensive network of 10 offices across the UK and a presence in Hong Kong. LDC assists the businesses it invests in by providing access to new market opportunities and potential synergies, both from its portfolio and within the Lloyds Banking Group.

Further information on LDC is set out in Appendices II and IV to this document.

10. Information on Lloyds Banking Group

Lloyds Banking Group is a UK based financial services group providing a wide range of banking and financial services, primarily in the UK, to personal and corporate customers. Its main business activities include retail, commercial and corporate banking, general insurance, and life, pensions and investment provision. During its last financial year to 31 December 2011, Lloyds Banking Group and its affiliates worldwide earned consolidated revenues of approximately £26.8 billion.

Further information on Lloyds Banking Group is set out in Appendices II and IV to this document.

11. Financing of the Offer and cash confirmation

Boom Pictures is being financed by approximately £2,215,545 of equity and loan notes to be subscribed and/or acquired in consideration of the Roll-over Shares by members of the Management Team and Lorraine Heggessey and approximately £8,780,436 of equity and loan notes to be subscribed by LDC I and LDC Parallel I. The LDC I and LDC Parallel I funding is provided from Lloyds Banking Group's cash resources. There is no requirement for any funding from third party providers of debt finance to Boom Pictures.

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confirmation

Deloitte Corporate Finance, financial adviser to Boom Pictures, has confirmed that it is satisfied that sufficient resources are available to Boom Pictures to satisfy in full the cash consideration payable to Boomerang Shareholders under the terms of the Offer and participants in the Boomerang Share Option Schemes under the proposals to be made to such participants.

Further details of the equity financing structure are set out in paragraph 9 of Appendix IV to this document.

12. Information on Boomerang

Boomerang is a public limited company incorporated in England and Wales with company number 2936337 and registered office at 218 Penarth Road, Cardiff, Wales CF11 8NN.

Boomerang creates entertainment, factual, sport, music, drama and children's programmes for television, radio and the web. Boomerang operates in a variety of sectors, including, *inter alia*, programme production, television facilities and talent management. Boomerang has investments in a number of media businesses, including production companies, Alfresco, Apollo, Boomerang, Bulb, Fflic, Indus and OSF; facilities companies Gorilla and Zoom; multi-media publisher Boom Extreme Publishing; talent companies Harlequin and Boom Talent; event company Big Freeze Limited, and Education and corporate production business Media4.

Highlights of the consolidated financial statements for the financial years ended 31 May 2011 and 31 May 2010 are as follows:

	<i>2011</i>	<i>2010</i>
	<i>£'000</i>	<i>£'000</i>
Revenue	26,933	21,409
Profit from operations	1,134	608
Profit before tax	1,020	535
Basic earnings (pence per share)	6.18	3.56
Diluted earnings (pence per share)	6.10	3.50

Further information on Boomerang is set out in Appendices III and IV to this document.

13. Boomerang Share Option Schemes

The Offer extends to any Offer Shares which are unconditionally allotted or issued fully paid (or credited as fully paid) prior to the date on which the Offer closes (or such earlier date as Boom Pictures may, subject to the Code and/or with the consent of the Panel, determine) as a result of the exercise of options granted under the Boomerang Share Option Schemes. Participants in the Boomerang Share Option Schemes are being contacted and appropriate proposals will be made to such participants. At the date of this document, options over a maximum of 231,321 Boomerang Shares with an exercise price of less than the Offer Price are outstanding under the Boomerang Share Option Schemes.

14. Boomerang cancellation of trading on AIM, re-registration as a private company and intention to compulsorily purchase Offer Shares

If Boom Pictures receives acceptances under the Offer in respect of, or otherwise acquires, 90 per cent. or more of the Boomerang Shares to which the Offer relates, Boom Pictures will exercise its rights pursuant to sections 974 to 991 of the Companies Act 2006 to acquire compulsorily the remaining Offer Shares in respect of which the Offer has not been accepted following the Offer becoming or being declared unconditional in all respects.

It is also intended that, following the Offer becoming or being declared unconditional in all respects and subject to any applicable regulatory requirements, Boom Pictures will procure that Boomerang applies to the London Stock Exchange for the cancellation of trading in Boomerang's Shares on AIM. Such cancellation would significantly reduce the liquidity and marketability of any Offer Shares not acquired by Boom Pictures.

Boom Pictures will also seek to procure the re-registration of Boomerang as a private company.

15. United Kingdom Taxation

The following paragraphs, which are intended as a general guide only and not a substitute for detailed tax advice, are based on current UK legislation and HMRC published practice as at the last practicable date prior to the issue of this document, which may change. They summarise certain limited aspects of the UK taxation treatment of acceptance of the Offer. They relate only to the position of Boomerang Shareholders who are resident and, in the case of individuals, ordinarily resident in the UK for taxation purposes at all relevant times and who hold their Offer Shares beneficially as an investment (other than under a personal equity plan or an individual savings account) and who have not (and are not deemed to have) acquired their Offer Shares by reason of an offer of employment. The comments below apply only to certain categories of person and, in particular, may not apply to such persons as market makers, brokers, dealers, intermediaries and persons connected with depositary arrangements or clearance services, to whom special rules may apply.

If you are in any doubt as to your taxation position or if you may be subject to taxation in any jurisdiction other than the United Kingdom, you should consult an appropriately qualified independent professional adviser immediately.

(g) *UK taxation of chargeable gains*

A Boomerang Shareholder's liability to UK taxation of chargeable gains in respect of the disposal of Offer Shares pursuant to the Offer will depend on that Boomerang Shareholder's individual circumstances.

The sale of Offer Shares by a Boomerang Shareholder pursuant to the Offer will constitute a disposal, or part disposal, of his shareholding. Such a disposal or part disposal may give rise to a liability to UK taxation of chargeable gains depending on that Boomerang Shareholder's individual circumstances (including the availability of exemptions, reliefs and allowable losses) and, in particular, the Boomerang Shareholder's base cost in his holding of Offer Shares.

For Boomerang Shareholders within the charge to UK corporation tax (but which do not qualify for the substantial shareholdings exemption in respect of their Offer Shares) indexation allowance may be available in respect of the full period of ownership of the Offer Shares to reduce any chargeable gain arising (but not to create or increase an allowable loss) on the disposal of Offer Shares.

(h) *Boomerang Share Option Schemes*

Special tax provisions may apply to Boomerang Shareholders who have acquired or acquire their Offer Shares by exercising options under the Boomerang Share Option Schemes, including provisions imposing a charge to UK income tax when such an option is exercised. Such Boomerang Shareholders are advised to seek independent professional advice.

(i) *Stamp Duty and Stamp Duty Reserve Tax ("SDRT")*

No UK stamp duty or SDRT should be payable by Boomerang Shareholders as a result of accepting the Offer.

16. Overseas Shareholders

The availability of the Offer to Boomerang Shareholders who are not resident in the UK may be affected by the laws of their relevant jurisdiction. Such persons should inform themselves about and observe any applicable legal or regulatory requirements of their jurisdiction and should carefully read paragraph 6 of Part B of Appendix I to this document. If you remain in any doubt, you should consult your professional adviser in the relevant jurisdiction without delay.

The attention of Independent Shareholders who are citizens or residents of jurisdictions outside the UK or who are holding shares for such citizens or residents and any person (including, without limitation, nominees, trustees and custodians) who would, or otherwise intend to, or may have an obligation to, forward this document and/or the Form of Acceptance and/or any related document in connection with the Offer outside the UK is drawn to paragraph 6 of Part B of Appendix I to this document and to the relevant provisions of the Form of Acceptance (in the case of Boomerang Shares held in certificated form), which they should carefully read before taking any action.

The Offer is not being made, directly or indirectly, in or into and is not capable of acceptance from or within any Restricted Jurisdiction. Accordingly, acceptors who are unable to give the warranties set out in paragraph 3 of Part C of Appendix I to this document or paragraph 3 of Part D of Appendix I to this document in respect of Electronic Acceptances, may be deemed not to have validly accepted the Offer.

17. Procedure for acceptance of the Offer

Boomerang Shareholders who hold their Offer Shares in certificated form (that is, not in CREST) should carefully read paragraph 17.1 in conjunction with the Form of Acceptance and Parts B and C of Appendix I to this document. The instructions on the Form of Acceptance are deemed to be incorporated in and form part of the terms of the Offer. Boomerang Shareholders who hold their Offer Shares in uncertificated form (that is, in CREST) should carefully read paragraph 17.2 in conjunction with Parts B and D of Appendix I to this document.

17.1 *To accept the Offer in relation to Offer Shares held in certificated form (i.e. not in CREST)*

(a) *Completion of the Form of Acceptance*

To accept the Offer in respect of Offer Shares held in certificated form, you must complete the Form of Acceptance in accordance with the instructions set out below and on the Form of Acceptance. You should complete separate Forms of Acceptance for Offer Shares held in certificated form but under different designations. If you have any queries as to how to complete the Form of Acceptance, please telephone Capita Registrars on 0871 664 0321 from within the UK or on + 44 20 8639 3399 if calling from outside the UK. Calls to the 0871 664 0321 number cost 10 pence per minute from a BT landline. Other network providers' costs may vary. Lines are open 9.00 a.m. to 5.30 p.m. (London time) Monday to Friday. Calls to the helpline from outside the UK will be charged at the applicable international rate. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. The helpline cannot provide advice on the merits of the Offer nor give any financial, legal or tax advice. Additional Forms of Acceptance are available from the Receiving Agent upon request.

To accept the Offer in respect of all of your Offer Shares held in certificated form, you must complete Box 3 of the accompanying Form of Acceptance. If appropriate, you should also complete Boxes 5 and/or 6. In all cases, you must sign Box 4 of the Form of Acceptance in accordance with the instructions printed on the Form of Acceptance. If no number is inserted in Box 3 (or if a number is inserted in Box 3 which is greater than the number of Offer Shares which you hold) and you have signed Box 4, your acceptance will be deemed to be in respect of all Offer Shares in certificated form held by you.

You must sign either Box 4A or 4B (as appropriate) on the relevant Form of Acceptance including, if you are an individual, in the presence of a witness who should also sign in accordance with the instructions printed on it. Any Boomerang Shareholder which is a company should execute the relevant Form of Acceptance in accordance with the instructions printed on it. The Form of Acceptance is issued only to the addressee(s) and is specific to the class of security and the unique designated account printed on it. The Form of Acceptance is a personalised form and is not transferable between accounts or uniquely designated accounts. Boom Pictures and the Receiving Agent accept no liability for any instructions which do not comply with the terms set out in this document, the Form of Acceptance or accompanying materials.

(b) *Return of the Form of Acceptance*

To accept the Offer in respect of Offer Shares held in certificated form, the duly completed, signed and witnessed Form of Acceptance should be returned by post or by hand (during normal business hours) to Capita Registrars, Corporate Actions, The Registry, 34 Beckenham Road, Beckenham, Kent BR3 4TU together (subject to paragraph (c) below) with the relevant share certificate(s) and/or other document(s) of title, as soon as possible, and, in any event, so as to be received not later than 1.00 p.m. (London time) on 25 July 2012. A reply-paid envelope for use in the UK only accompanies this document for your convenience. No acknowledgement of receipt of documents will be given by or on behalf of Boom Pictures.

Any Form of Acceptance received in an envelope postmarked in a Restricted Jurisdiction or otherwise appearing to Boom Pictures or its agents to have been sent from any Restricted Jurisdiction may be rejected as an invalid acceptance of the Offer. For further information on Overseas Shareholders, see paragraph 16 of this Part 2 above and paragraph 6 of Part B of Appendix I to this document and the relevant provisions of the Form of Acceptance.

(c) *Document(s) of title*

If your Offer Shares are in certificated form, a completed, signed and witnessed Form of Acceptance should be accompanied by the relevant share certificate(s) and/or other

document(s) of title. If for any reason the relevant share certificate(s) and/or other document(s) of title is/are not readily available or is/are lost, you should nevertheless complete, sign and lodge the Form of Acceptance as stated above so as to be received by the Receiving Agent, Capita Registrars, at the address referred to in paragraph (b) above **not later than 1.00 p.m. (London time) on 25 July 2012**. You should send with the Form of Acceptance, any share certificates(s) and/or other document(s) of title which you may have available, accompanied by a letter stating that the remaining documents will follow as soon as possible or that you have lost one or more of your share certificate(s) and/or other document(s) of title. You should then arrange for the relevant outstanding share certificate(s) and/or other document(s) of title to be forwarded as soon as possible. If you have lost your share certificate(s) and/or other document(s) of title, you should contact the Registrars as soon as possible to request a letter of indemnity on 0871 664 0321 from within the UK or on + 44 20 8639 3399 if calling from outside the UK. Calls to the 0871 664 0321 number cost 10 pence per minute from a BT landline. Other network providers' costs may vary. Lines are open 9.00 a.m. to 5.30 p.m. (London time) Monday to Friday. Calls to the helpline from outside the UK will be charged at the applicable international rate. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. The helpline cannot provide advice on the merits of the Offer nor give any financial, legal or tax advice. If you have requested a letter of indemnity for the lost share certificate(s) and/or other document(s) of title by calling the above telephone number, you should complete the letter of indemnity that will be sent to you in accordance with the instructions given, and return it by post or by hand (during normal business hours only) to the Registrars, Capita Registrars, at the address given in sub-paragraph (b) above.

(d) *Validity of acceptances in respect of Offer Shares in certificated form*

Without prejudice to Parts A and B of Appendix I to this document and subject to the provisions of the Code, Boom Pictures reserves the right to treat as valid, in whole or in part, any acceptance of the Offer in relation to Offer Shares in certificated form which is not entirely in order or which is not accompanied by the relevant share certificate(s) and/or other document(s) of title. In that event, no payment of cash under the Offer will be made until after the relevant share certificate(s) and/or other document(s) of title or indemnities satisfactory to Boom Pictures have been received.

172 *To accept the Offer in relation to Offer Shares held in uncertificated form (i.e. in CREST)*

(a) *General*

If your Offer Shares are in uncertificated form, to accept the Offer you should take (or procure the taking of) the action set out below to transfer Offer Shares in respect of which you wish to accept the Offer to the appropriate escrow balance(s) (that is, send a TTE Instruction), specifying Capita Registrars (in its capacity as a CREST participant under the Escrow Agent's relevant participant ID referred to below) as the Escrow Agent, **as soon as possible and in any event so that the TTE Instruction settles by no later than 1.00 p.m. (London time) on 25 July 2012. Please note that settlement cannot take place on weekends or bank holidays (or other times at which the CREST system is non-operational). You should, therefore, ensure that you time the input of any TTE Instructions accordingly.**

The input and settlement of a TTE Instruction in accordance with this sub-paragraph (a) will (subject to satisfying the requirements set out in Parts A and C of Appendix I to this document) constitute an acceptance of the Offer in respect of the number of Offer Shares so transferred to escrow.

If you are a CREST sponsored member, you should refer to your CREST sponsor before taking any action. Your CREST sponsor will be able to confirm details of your participant ID and the member account ID under which your Offer Shares are held. In addition, only your

CREST sponsor will be able to send the TTE Instruction(s) to Euroclear in relation to your Offer Shares.

After settlement of a TTE Instruction, you will not be able to access Offer Shares held in CREST for any transaction or charging purposes. If the Offer becomes unconditional in all respects, the Escrow Agent will transfer the Offer Shares concerned to itself in accordance with paragraph 5 of Part D of Appendix I to this document.

You are recommended to refer to the CREST Manual published by Euroclear for further information on the CREST procedures outlined below.

You should note that Euroclear does not make available special procedures, in CREST, for any particular corporate action. Normal system timings and limitations will therefore apply in connection with a TTE Instruction and its settlement. You should therefore ensure that all necessary action is taken by you (or by your CREST sponsor) to enable a TTE Instruction relating to your Offer Shares to settle prior to 1.00 p.m. (London time) on 25 July 2012. In this regard, you are referred in particular to those sections of the CREST Manual concerning practical limitations of the CREST system and timings.

(b) *To accept the Offer in respect of Offer Shares held in uncertificated form*

To accept the Offer in respect of Offer Shares held in uncertificated form, you should send (or, if you are a CREST sponsored member, procure that your CREST sponsor sends) to Euroclear a TTE Instruction in relation to such shares. A TTE Instruction to Euroclear must be properly authenticated in accordance with Euroclear's specifications for transfers to escrow and must contain the following details:

- the ISIN number of the Offer Shares. This is GB00B23VYZ68;
- the number of Offer Shares in respect of which you wish to accept the Offer (i.e. the number of Offer Shares in uncertificated form to be transferred to escrow);
- your participant ID;
- your member account ID;
- the participant ID of the Escrow Agent. This is RA10;
- the member account ID of the Escrow Agent for the Offer. This is BPLBOO01 for the Offer;
- the intended settlement date. This should be as soon as possible and, in any event, not later than 1.00 p.m. (London time) on 25 July 2012;
- the corporate action number of the Offer which is allocated by Euroclear and can be found by viewing the relevant corporate action details in CREST;
- input with a standard delivery instruction priority of 80;
- your name and contact telephone number in the shared note field.

(c) *Validity of acceptances in respect of Offer Shares held in uncertificated form*

Holders of Offer Shares in uncertificated form who wish to accept the Offer should note that a TTE Instruction will only be a valid acceptance of that Offer as at the relevant closing date if it has settled on or before 1.00 p.m. (London time) on that date. A Form of Acceptance which is received in respect of Offer Shares held in uncertificated form will not constitute a valid acceptance and will be disregarded.

(d) *General*

Boom Pictures will make an appropriate announcement if any of the details contained in subparagraphs 17(a) or 17(b) above alter for any reason.

Normal CREST procedures (including timings) apply in relation to any Offer Shares that are, or are to be, converted from uncertificated to certificated form, or from certificated to uncertificated form, during the course of the Offer (whether any such conversion arises as a result of a transfer of Offer Shares or otherwise). Boomerang Shareholders who are proposing to convert any such Offer Shares are recommended to ensure that the conversion procedures are implemented in sufficient time to enable the person holding or acquiring the Offer Shares as a result of the conversion to take all necessary steps in connection with an acceptance of the Offer (in particular, as regards delivery of share certificate(s) or other document(s) of title or transfers to an escrow balance in the manner described above) **prior to 1.00 p.m. (London time) on 25 July 2012.**

If you are in any doubt as to the procedure for acceptance of the Offer, please contact Capita Registrars on 0871 664 0321 from within the UK or on + 44 20 8639 3399 if calling from outside the UK. Calls to the 0871 664 0321 number cost 10 pence per minute from a BT landline. Other network providers' costs may vary. Lines are open 9.00 a.m. to 5.30 p.m. (London time) Monday to Friday. Calls to the helpline from outside the UK will be charged at the applicable international rate. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. The helpline cannot provide advice on the merits of the Offer nor give any financial, legal or tax advice, or at the address referred to in sub-paragraph 17.1(b) above. You are reminded that, if you are a CREST sponsored member, you should contact your CREST sponsor before taking any action.

18. Settlement

Subject to the Offer becoming or being declared unconditional in all respects and provided that the TTE Instructions, Form of Acceptance, share certificate(s) and/or other document(s) of title are in order, settlement of the consideration to which any Boomerang Shareholder (or the first named shareholder in the case of joint holders) is entitled under the Offer will be effected by the despatch of cheques or the crediting of CREST accounts: (i) in the case of acceptances received, valid and complete in all respects, by the First Closing Date, within 14 days of such date; and (ii) in the case of acceptances received, valid and complete in all respects, after such date but while the Offer remains open for acceptance, within 14 days of such receipt, and in either case in the manner described in sub-paragraphs (a), (b) and (c) below.

(a) *Offer Shares in certificated form (i.e. not in CREST)*

Where an acceptance relates to Offer Shares held in certificated form, settlement of the cash consideration to which the accepting Boomerang Shareholder is entitled will be despatched by first class post (or by such other method as may be approved by the Panel) to the accepting Boomerang Shareholder or its appointed agents (but not into any Restricted Jurisdiction). All such cash payments will be made in pounds sterling by cheque drawn on a branch of a UK clearing bank.

(b) *Offer Shares in uncertificated form (i.e. in CREST)*

Where an acceptance relates to Offer Shares in uncertificated form, settlement of the cash consideration to which the accepting Boomerang Shareholder is entitled will be paid by means of a CREST payment in favour of the accepting Boomerang Shareholder's payment bank in respect of the cash consideration due, in accordance with CREST payment arrangements. Boom Pictures reserves the right to settle all or any part of the consideration referred to in this sub-paragraph (b), for all or any accepting Boomerang Shareholder(s), in the manner referred to in sub-paragraph (a) above, if, for any reason, it wishes to do so.

(c) *General*

If the Offer does not become or is not declared unconditional in all respects:

- (i) in the case of Offer Shares held in certificated form, the relevant Form of Acceptance, share certificate and/or other document(s) of title will be returned by post (or by such other method

as may be approved by the Panel) within 14 days of the Offer lapsing to the person or agent whose name and address is set out in Box 1 or, if appropriate, Box 6 of the relevant Form of Acceptance or, if none is set out to the first-named holder at his/her registered address (provided that no such documents will be sent to an address in any Restricted Jurisdiction); and

- (ii) in the case of Offer Shares held in uncertificated form, the Escrow Agent will immediately after the Offer lapsing (or within such longer period as may be approved by the Panel, not exceeding 14 days of the Offer lapsing), give TFE Instructions to Euroclear to transfer all Offer Shares held in escrow balances and in relation to which it is the Escrow Agent for the purposes of the Offer to the original available balances to the Independent Shareholders concerned.

All remittances, communications, notices, certificates and document(s) of title sent by, to or from Boomerang Shareholders or their appointed agents will be sent at their own risk.

Except with the consent of the Panel, settlement of the consideration to which any Boomerang Shareholder is entitled under the Offer will be settled in full in accordance with the terms of the Offer without regard to any lien, right of set-off, counterclaim or other analogous right to which Boom Pictures may otherwise be, or claim to be, entitled as against such Boomerang Shareholder.

19. Further information

Your attention is drawn to the further information contained in the Appendices which form part of this document and (if you hold your Offer Shares in certificated form) the accompanying Form of Acceptance.

20. Action to be taken to accept the Offer

To accept the Offer:

- if you hold your Offer Shares, or any of them, in certificated form (that is, not in CREST), to accept the Offer in respect of those Offer Shares you should complete, sign and return the Form of Acceptance (together with your share certificate(s) and any other document(s) of title) **as soon as possible and, in any event, so as to be received by the Receiving Agent not later than 1.00 p.m. on 25 July 2012.** Further details on the procedures for acceptance of the Offer if you hold any of your Offer Shares in certificated form are set out in paragraph 17.1 of this letter, Parts B and C of Appendix I to this document and in the accompanying Form of Acceptance. A reply-paid envelope (for use in the UK only) accompanies this document for your convenience; or
- if you hold your Offer Shares, or any of them, in uncertificated form (that is, in CREST), to accept the Offer in respect of those Offer Shares you should follow the procedure for Electronic Acceptance through CREST so that the TTE Instruction settles **as soon as possible and, in any event, not later than 1.00 p.m., on 25 July 2012.** Further details on the procedures for electronic acceptance of the Offer if you hold any of your Offer Shares in uncertificated form are set out in paragraph 17.2 of this letter and Parts B and D of Appendix I to this document. If you hold your Offer Shares as a CREST sponsored member you should refer to your CREST sponsor, as only your CREST sponsor will be able to send the necessary TTE Instruction(s) to CREST.

To vote in favour of the Ordinary Resolution:

- Independent Shareholders should also complete the accompanying Form of Proxy for use at the General Meeting to be held at 11.00 a.m. on 20 July 2012 at the offices of Osborne Clarke at One London Wall, London EC2Y 5EB. The Offer is conditional, *inter alia*, on the Ordinary Resolution being duly passed. The Form of Proxy should be completed by Independent Shareholders only in accordance with the instructions printed thereon, and lodged with the Registrars as soon as possible and in any event no later than 11.00 a.m. on 18 July 2012. Only Independent Shareholders are permitted to vote on the Ordinary Resolution.

- Independent Shareholders should complete and return the Form of Proxy whether or not they intend to attend the General Meeting. Completion and return of the Form of Proxy will not preclude Independent Shareholders from attending the General Meeting and voting in person.

If you are in any doubt as to the procedure for acceptance, please telephone Capita Registrars by telephone on 0871 664 0321 from within the UK or on + 44 20 8639 3399 if calling from outside the UK. Calls to the 0871 664 0321 number cost 10 pence per minute from a BT landline. Other network providers' costs may vary. Lines are open 9.00 a.m. to 5.30 p.m. (London time) Monday to Friday. Calls to the helpline from outside the UK will be charged at the applicable international rate. Different charges may apply to calls from mobile telephones and calls may be recorded and randomly monitored for security and training purposes. The helpline cannot provide advice on the merits of the Offer nor give any financial, legal or tax advice.

Your decision as to whether to accept the Offer will depend on your individual circumstances. If you are in any doubt as to the action you should take, you are recommended to seek your own personal financial advice from an independent financial adviser authorised under the Financial Services and Markets Act 2000 (as amended) if you are in the UK or, if you are outside the UK, from an appropriately authorised independent financial adviser, without delay.

Yours faithfully

Deloitte Corporate

Finance Jonathan

Hinton

Partner, Deloitte Corporate Finance

For and on behalf of **Boom Pictures Limited**
