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# **Whistleblower Protection Policy USA**

Nitro Software Limited (ACN 079 215 419)

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## 1 Policy summary

### 1.1 Purpose and application of this policy

Nitro Software Limited (ACN 079 215 419) (**Nitro**) is committed to the protection of individuals who disclose information concerning misconduct or an improper state of affairs or circumstances within our Group. This policy has been adopted to provide a safe and confidential environment where such concerns can be raised by Whistleblowers without fear of reprisal or detrimental treatment.

This policy sets out:

- (a) who is entitled to protection as a Whistleblower under this policy?
- (b) the protections Whistleblowers are entitled to; and
- (c) how disclosures made by Whistleblowers will be handled by our Group.

This policy is made available to Group officers and employees on the corporate section of Nitro's website. All Group officers, employees and contractors must comply with this policy.

Capitalised terms are defined in the glossary.

### 1.2 How does this policy interact with Statutory Whistleblower Regimes?

This policy complies with section 1317AI of the Corporations Act. By making a disclosure in accordance with this policy, you may be afforded protection under the Statutory Whistleblower Regimes.

This policy principally deals with internal disclosures of information. The Statutory Whistleblower Regimes also protect some types of disclosure made to external parties (such as to legal representatives, the Australian Securities, and Investments Commission (ASIC), to the Commissioner of Taxation, members of parliament (MPs) or journalists). For more information about these regimes, see ASIC information sheet (INFO 52). US state and federal laws protect some types of Whistleblower disclosures made internally and externally. Nothing in this policy is intended to limit or interfere with US state and federal Whistleblower protections.

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## 2 Who is eligible for Whistleblower Protection under this policy?

To be treated as a Whistleblower under this policy you must:

- (a) be one of the individuals set out in section 2.1;
- (b) disclose information regarding the type of matters set out in section 2.2; and
- (c) disclose that information to one of the persons set out in section 2.3.

This policy also protects those who are entitled to Whistleblower protection under the Statutory Whistleblower Regimes, such as those who make disclosures to legal



representatives, relevant regulators, MPs, or journalists in the circumstances permitted by that legislation.

## **2.1 Who may make a disclosure?**

Disclosures can be made by a current or former:

- (a) Officer or employee of our Group.
- (b) contractor or supplier of goods and services to our Group, or their current and former employees.
- (c) Associate of our Group; or
- (d) Family Member of an individual mentioned in 2.1(a) to 2.1(c) above.

You may choose to disclose information anonymously if you wish.

## **2.2 What types of matters can be disclosed?**

Disclosures must concern Misconduct or an Improper State of Affairs or Circumstances in relation to our Group, including by an Officer or employee of ours. But your disclosure cannot solely be about a Personal Work-related Grievance.

You must have reasonable grounds for suspecting that the information you are disclosing concerns Misconduct or an Improper State of Affairs or Circumstances in relation to our Group.

Examples of disclosable matters may include:

- Misconduct or an Improper State of Affairs or Circumstances in relation to the Group, including in relation to:
  - corporate governance
  - accounting or audit matters
  - Tax Affairs, or the Tax Affairs of an Associate of the Group
- illegal conduct at the Group or by an Officer or employee of the Group, such as fraud, theft, corruption, bribery, drug supply or use, violence and intimidation, criminal damage to property or breaches of work health and safety laws
- improper, unethical, or dishonest conduct at the Group or by an Officer or employee of the Group, such as:
  - breaches of our policies (including our Code of Conduct or this policy)
  - a misuse of company assets, conflicts of interest or abuses of authority
- an activity that poses a substantial risk to people, property, operations, or the environment



- an activity that constitutes a danger to the public or financial system, or
- conduct that is damaging to the Group's financial position or reputation.

### **2.3 Who should I disclose to?**

We encourage you to make your disclosure in writing to our Whistleblower Protection Officer:

- Katie Banks, Senior Director, People & Workplace, by phone (IRE) +353 87 7949542 or email [katie.banks@gonitro.com](mailto:katie.banks@gonitro.com)

Alternatively, disclosures can be made to any one of the following:

- (a) an Officer or Senior Manager within our Group.
- (b) an auditor or member of an audit team conducting an audit on our Group.
- (c) anonymously by email [confidentialreport@gonitro.com](mailto:confidentialreport@gonitro.com); or
- (d) if the disclosure concerns our tax affairs or the tax affairs of an Associate of the Group: our registered tax agent or BAS agent, or an employee or Officer within our Group who has functions or duties relating to our tax affairs and who you consider may be assisted in their role by knowing that information.

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## **3 Confidentiality**

### **3.1 Whistleblower identity must be kept confidential**

Subject to section 3.2, the identity of a Whistleblower (or information that is likely to lead to their identity becoming known) must be kept confidential unless the Whistleblower has consented to the disclosure.

### **3.2 Permitted exceptions**

The identity of a Whistleblower (or information that is likely to lead to their identity becoming known) may be disclosed without the Whistleblower's consent if the disclosure is made to:

- (a) a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the Statutory Whistleblower Regimes.
- (b) the Commissioner of Taxation if the disclosure concerns the Group's tax affairs or the tax affairs of an Associate of our Group,

or equivalent criminal or regulatory enforcement bodies in any jurisdiction in which you are located.

### **3.3 Provision of Whistleblower information to a court or tribunal**

You must not disclose or produce to a court or tribunal any information or documents which discloses the identity of a Whistleblower (or information likely to lead their identity becoming known) without seeking the advice of our nominated legal counsel from time to time. Nothing in this policy is intended to prevent self-identification.

## 4 Prohibition against victimisation

### 4.1 No victimisation based on Whistleblower status

You must not cause or threaten any Detriment to any person for a reason which includes that they or any other person:

- (a) is or proposes to be a Whistleblower; or
- (b) is suspected or believed to be, or could be, a Whistleblower.

### 4.2 Whistleblower immunity

You must not:

- (a) subject a Whistleblower to any liability or disciplinary action; or
- (b) enforce a remedy or exercise a right against a Whistleblower, for making a disclosure.

However, a Whistleblower may be held liable for any personal misconduct revealed by their disclosure or an investigation following a disclosure.

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## 5 Investigations of information disclosed under this policy

When a disclosure is made which may fall under this policy, the following steps must be followed except where, in the opinion of the applicable Whistleblower Protection Officer, it would be inappropriate or unreasonable in the circumstances to do so:

- (a) the person listed in section 2.3 who received the information must provide the information to one of the Whistleblower Protection Officers as soon as practicable, removing any information which identifies or may identify the discloser of the information (the potential Whistleblower) prior to doing so (unless the potential Whistleblower has provided their consent to that disclosure);
- (b) as soon as practicable, the applicable Whistleblower Protection Officer must determine whether the disclosure falls within the scope of this policy and, if so, appoint an investigator with no personal interest in the matter to conduct an investigation into the matters disclosed, if they determine it to be necessary or appropriate;
- (c) the investigator must conduct any investigation in an objective and fair manner, ensuring to provide any employee who has been adversely mentioned in information provided by a Whistleblower an opportunity to respond to the allegations made in respect of them prior to any adverse findings being made;
- (d) the outcome of the investigation must be reported to the Board and may be reported to the Whistleblower and any persons affected as the applicable Whistleblower Protection Officer considers appropriate.
- (e) subject to the exceptions allowed under section 3.2 of this policy or otherwise by law, the identity of a Whistleblower (or information that is likely to lead to their identity becoming known) must be kept confidential at all times during and after the



investigation (including in any reporting to the Board or to any persons affected). All persons responsible for or involved in an investigation must take all reasonable steps to reduce the risk that a Whistleblower will be identified; and

- (f) a Whistleblower may raise any concerns or complaints regarding this policy or their treatment with either of the Whistleblower Protection Officers.

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## 6 Board Reporting

Subject to the confidentiality obligations in section 3, the Whistleblower Protection Officers must provide the Board at least quarterly reports on all active Whistleblower matters, including information on:

- (a) the number and nature of disclosures made in the last quarter.
- (b) the status of any investigations underway; and
- (c) the outcomes of any investigations completed, and actions taken as a result of those investigations.

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## 7 Training

All Group Officers and employees must attend compulsory training organised by the Group regarding the Group's Whistleblower program.

All the persons listed in section 2.3 of this policy must attend compulsory training organised by the Group on responding appropriately to disclosures made by Whistleblowers or potential Whistleblowers.

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## 8 Policy review

This policy must be reviewed by the Board with the assistance of the Whistleblower Protection Officers at least annually to ensure it is operating effectively. Any recommended changes must be approved by the Board or its delegated committee.

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## 9 Consequences for non-compliance with policy

Any breach of sections 3, 4 by an Officer, employee or contractor will be taken seriously by the Group, and may be the subject of a separate investigation and/or disciplinary action.

A breach of this policy may also amount to a civil or criminal contravention under the Statutory Whistleblower Regimes, giving rise to significant penalties.

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## 10 Glossary

Unless the context requires, italicised terms in this policy have the following meaning:

**Associate** means any individual who is:



- (a) an associate within the meaning of the Corporations Act; or
- (b) if the disclosure relates to our tax affairs, an associate within the meaning of section 318 of the *Income Tax Assessment Act 1936* (Cth).

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Detriment** includes (without limitation) dismissal, injury of an employee in their employment, alteration of an employee's position or duties to their disadvantage, discrimination, harassment or intimidation, harm or injury including psychological harm, damage to property, and reputational, financial or any other damage to a person.

**Family Member** means a:

1. Spouse, parent, child, sibling or other Relative of an individual; or
2. dependent of the individual or their Spouse.

**Group** means Nitro Software Limited (ACN 079 215 419) and its related bodies corporate.

**Misconduct or an Improper State of Affairs or Circumstances** includes (without limitation):

1. information regarding a criminal offence or contravention of the Corporations Act or *Australian Securities and Investments Commission Act 2001* (Cth) suspected to have been committed by our Group, or an officer or employee of ours.
- (c) information regarding a Commonwealth criminal offence punishable by more than 12 months imprisonment suspected to have been committed by our Group, or an officer or employee of ours.
  - (d) information regarding a danger to the public or the financial system posed by our Group, or an officer or employee of ours.
  - (e) information concerning Misconduct or an Improper State of Affairs or Circumstances in relation to our tax affairs, or the tax affairs of an associate of our Group.

**Officer** has the same meaning as in the Corporations Act (which includes but is not limited to directors and company secretaries).

**Personal Work-related Grievance** means a grievance about any matter in relation to an individual's employment or former employment which has, or tends to have, implications only for the individual personally, and where the information does not:

1. have significant implications to the entity to which it relates, or any other entity, that does not relate to the individual.
- (f) concern the examples set out in items (a)-(d) of the definition of Misconduct or an Improper State of Affairs or Circumstances; or
  - (g) concern Whistleblower victimisation (see section 4 of this policy).

**Relative** has the same meaning as in the Corporations Act.





**Senior manager** has the same meaning as in the Corporations Act.

**Spouse** means the married, de facto, or registered partner of the individual.

**Statutory Whistleblower Regimes** means either or both of regimes contained in Part 9.4AAA of the Corporations Act and Part IVD of the *Taxation Administration Act 1953* (Cth).

**Tax Affairs** means affairs relating to any tax imposed by or under, or assessed or collected under, a law administered by the Commissioner of Taxation.

**Whistleblower** means a person who is eligible for protection as a Whistleblower under this policy or under the Statutory Whistleblower Regimes.

**Whistleblower Protection Officer** means the person identified in section 2.3 of this policy.