

Edgar Filing: OPEN TEXT CORP - Form CB

OPEN TEXT CORP  
Form CB  
December 04, 2003

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM CB

TENDER OFFER/RIGHTS OFFERING NOTIFICATION FORM

Please place an X in the box(es) to designate the appropriate rule provision(s) relied upon to file this Form:

Securities Act Rule 801 (Rights Offering)	[ ]
Securities Act Rule 802 (Exchange Offer)	[x]
Exchange Act Rule 13e-4(h)(8) (Issuer Tender Offer)	[ ]
Exchange Act Rule 14d-1(c) (Third Party Tender Offer)	[x]
Exchange Act Rule 14e-2(d) (Subject Company Response)	[ ]

Filed or submitted in paper if permitted by Regulation S-T Rule 101(b)(8) [ ]

Note: Regulation S-T Rule 101(b)(8) only permits the filing or submission of a Form CB in paper by a party that is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act.

IXOS SOFTWARE AG

-----  
(Name of Subject Company)

-----  
(Translation of Subject Company's Name into English (if applicable))

Germany

-----  
(Jurisdiction of Subject Company's Incorporation or Organization)

OPEN TEXT CORPORATION

-----  
(Name of Person(s) Furnishing Form)

Bearer Ordinary Shares

-----  
(Title of Class of Subject Securities)

46600V108

-----  
(CUSIP Number of Class of Securities (if applicable))

Robert Hoog  
Chief Executive Officer  
IXOS SOFTWARE AG  
Bretonischer Ring 12  
D-85630 Grasbrunn/Munich  
Federal Republic of Germany  
+49.(0)89.4629.2400

-----  
(Name, Address (including zip code) and Telephone Number (including area code) of Person(s) authorized to Receive Notices and Communications on Behalf of Subject Company)

Edgar Filing: OPEN TEXT CORP - Form CB

December 1, 2003

-----  
(Date Tender Offer/Rights Offering Commenced)

PART I - INFORMATION SENT TO SECURITY HOLDERS

ITEM 1. HOME JURISDICTION DOCUMENTS

The following documents are attached as exhibits to this Form:

Exhibit Number	Description
-----	-----
1.	Mandatory Internet Access Page to be Accepted By US holders Prior to Viewing the Public Takeover Bid
2.	Public Takeover Bid, dated December 1, 2003, made by 2016091 Ontario, Inc. to the shareholders of IXOS Software AG

ITEM 2. INFORMATIONAL LEGENDS

Pursuant to German law, the materials are being disseminated to shareholders solely through a Web portal. The required legends have been included in the access page attached as Exhibit No. 1 that must be viewed and accepted by US holders prior to accessing the portal and viewing the materials.

PART II - INFORMATION NOT REQUIRED TO BE SENT TO SECURITY HOLDERS

- (1) Not applicable
- (2) Not applicable.
- (3) Not applicable.

PART III - CONSENT TO SERVICE OF PROCESS

A written irrevocable consent and power of attorney on Form F-X is being filed by the company concurrently with the furnishing of this Form.

PART IV - SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

OPEN TEXT CORPORATION

By: /s/ Sheldon Polansky  
-----  
Sheldon Polansky  
Secretary

Date: December 4, 2003

## Edgar Filing: OPEN TEXT CORP - Form CB

Public Takeover Bid made by 2016091 Ontario Inc. to the shareholders of IXOS Software AG

The following document is an offer document (the Offer Document) prepared in connection with a public tender offer (the Offer) by 2016091 Ontario Inc., a wholly-owned subsidiary of Open Text Corporation, to acquire the shares of IXOS Software Aktiengesellschaft. The Offer is being made in accordance with German law, in particular the German Law on Securities Acquisition and Takeovers (the WpUG). The publication of the Offer Document on this website is in compliance with the publication obligations under the WpUG.

Legal note

The following information is for shareholders of IXOS Software Aktiengesellschaft (IXOS) resident in the United States or Canada.

This exchange offer is made for the securities of a foreign company. The offer is subject to disclosure requirements of a foreign country that are different from those of the United States. Financial statements included in the document, if any, have been prepared in accordance with foreign accounting standards that may not be comparable to the financial statements of United States companies.

It may be difficult for you to enforce your rights and any claim you may have arising under the federal securities laws, since the issuer is located in a foreign country, and some or all of its officers and directors may be residents of a foreign country. You may not be able to sue a foreign company or its officers or directors in a foreign court for violations of the U.S. securities laws. It may be difficult to compel a foreign company and its affiliates to subject themselves to a U.S. court's judgment.

You should be aware that the issuer may purchase securities otherwise than under the exchange offers, such as in open market or privately negotiated purchases.

This voluntary takeover bid by 2016091 Ontario Inc. (the Bidder), a wholly-owned subsidiary of Open Text Corporation, is a public tender offer to acquire shares under the WpUG. Exemptive relief from the Canadian takeover bid requirements has been granted in connection with this Offer being made to IXOS shareholders resident in the Canadian Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Newfoundland, New Brunswick and Prince Edward Island.

The English version of the Offer Document is an English convenience translation of the German language Offer Document, which is being made available to all the shareholders of IXOS and is subject to German law, in particular the WpUG. There is no intention to make a public tender offer under another jurisdiction. No announcements, registrations, authorizations or permits have been applied for or arranged under the Offer Document and/or the Offer outside the Federal Republic of Germany. IXOS shareholders will not, therefore, be able to invoke investor protection legislation of jurisdictions outside Germany.

The Bidder has published this Offer Document in compliance with ss. 14 para. 3 WpUG through an announcement on the Internet at [www.2016091ontario.de](http://www.2016091ontario.de). The Offer Document is also available to IXOS shareholders, free of charge, at Commerzbank Aktiengesellschaft, ZGS-CMAD, DLZ 2, Mainzer Landstrasse 153, 60327 Frankfurt am Main, Fax 069 136-44598. The notice will be published in the Financial Times Deutschland.

## Edgar Filing: OPEN TEXT CORP - Form CB

Publication of the Offer Document on the Internet, the notice in the Financial Times Deutschland and the availability of the Offer Document at Commerzbank AG, Frankfurt am Main, are intended to ensure compliance with the WpUG. They are not intended to constitute publication of an offer under non-German law or to constitute public advertising for the takeover bid. The publication, dispatch, dissemination or disclosure of the Offer Document may be subject to restrictions outside Germany. Shareholders of IXOS who are resident, domiciled or have their normal abode outside the Federal

2

Republic of Germany should therefore note the information contained under the heading "Important Information for Shareholders of IXOS" of the Offer Document.

Persons who obtain possession of this Offer Document outside the Federal Republic of Germany or who wish to accept the Offer and are subject to the securities laws of jurisdictions other than the Federal Republic of Germany must inform themselves of, and comply with, such securities laws. The Bidder cannot guarantee that the dispatch, distribution or dissemination of the Offer Document or acceptance of the Offer outside the Federal Republic of Germany will comply with the securities laws of jurisdictions other than the Federal Republic of Germany.

The information contained in the specified publications is based on the level of knowledge at the time of the respective publication. Attention is drawn to the fact that not all the information provided on this Internet page is continuously updated.

The reader hereby confirms that they have read the notice above.

I agree to the notice [ ]

[OBJECT OMITTED]

---

Publication pursuant to sec. 14 (3) of German Securities Acquisition  
and Takeover Act (WpUG)

---

Shareholders of IXOS Software Aktiengesellschaft resident  
outside the Federal Republic of Germany should  
observe the information contained in the chapter  
"Important information for shareholders of IXOS" on page 5 f.  
of the Offer Document.

Edgar Filing: OPEN TEXT CORP - Form CB

2016091 Ontario Inc.

OFFER DOCUMENT

PUBLIC TAKEOVER BID

by

2016091 Ontario Inc.  
185 Columbia Street West  
Waterloo, Ontario N2L 5Z5, Canada

to the shareholders of Ixos Software Aktiengesellschaft  
for the acquisition of their shares  
in

IXOS Software Aktiengesellschaft  
Technopark 1  
Bretonischer Ring 42  
D-85630 Grasbrunn

for a payment of a cash consideration of EUR 9.00 per IXOS Share  
or  
alternatively, at the election of the IXOS Shareholder, 0.5220 of an Open Text  
Share for each IXOS Share and 0.1484 of a warrant, each whole warrant  
exercisable to purchase one Open Text Share for up to one year after the Closing  
Day of the Offer at a strike price of US \$20.75 (= EUR 18.19, calculated on the  
basis of the Exchange Rate) per share

IXOS Shareholders may elect in respect of all or part of their  
IXOS Shares to receive either Cash Consideration or  
Alternative Share and Warrant Consideration.

---

Each IXOS Shareholder should carefully consider the investment considerations  
and risks of this Alternative Share and Warrant Consideration set forth in  
Appendix 1, paragraph VII, and the risk factors respecting the  
Offered Open Text Warrants under Section 7.2.4.3.

---

Acceptance Period: 01. December 2003 to 16. January 2004, 12:00 h (local time  
Frankfurt/Main)

---

IXOS Shares:  
International Securities Identification No. (ISIN) DE0005061501  
(Securities Code No. [WKN] 506 150)

Tendered IXOS Shares (Cash Consideration):  
International Securities Identification No. (ISIN) DE0001359396  
(Securities Code No. [WKN] 135 939)

---

-----  
Tendered IXOS Shares (Alternative Share and Warrant Consideration):  
International Securities Identification No. (ISIN) DE0001359388  
(Securities Code No. [WKN] 135 938)

Offered Open Text Shares:  
International Securities Identification No. (ISIN) CA6837151068  
(Securities Code No. [WKN] 899 027)

Offered Open Text Warrants:  
International Securities Identification No. (ISIN) CA 6837151142  
-----

TABLE OF CONTENTS

1. Summary of the Offer.....

2. Takeover Bid.....

2.1. Subject.....

2.1.1. Cash offer.....

2.1.2. Alternative offer.....

2.1.3. General.....

2.2. Period for Acceptance.....

2.3 Extensions of the Acceptance Period.....

2.4 Additional Acceptance Period.....

3. Bidder .....

3.1. Corporate and Financial Data of the Bidder and the Open Text Group.....

3.2. Open Text Group.....

3.3. Business Activities of the Bidder and the Open Text Group.....

4. Description of IXOS Software AG.....

4.1. Corporate and Financial Data of IXOS Software AG.....

4.2. Business Activities of IXOS.....

5. Background to the Takeover Bid.....

5.1. Economic Reasons for the Takeover Bid.....

5.2. Current Shareholding of 2016091 Ontario in IXOS.....

5.3. Business Combination Agreements with IXOS.....

5.4. Treatment of Stock Options of IXOS.....

5.5. Support of the Business Combination by Shareholders.....

6. Intentions of 2016091 Ontario in Relation to the Future Business Activities of IXOS.....

7. Consideration.....

7.1. Cash Consideration.....

7.1.1. Extent of the Cash Consideration.....

7.1.2. Adequacy of the Cash Consideration.....

7.2. Alternative Share and Warrant Consideration.....

7.2.1. Summary of the Alternative Share and Warrant Consideration.....

7.2.2. Important remarks on the Alternative Share and Warrant Consideration.....

Edgar Filing: OPEN TEXT CORP - Form CB

- 7.2.3. Adequacy of the Alternative Share and Warrant Consideration.....
- 7.2.4. Content of the Alternative Share and Warrant Consideration.....
  - 7.2.4.1 Offered Open Text-Shares.....
  - 7.4.2.2 Offered Open Text Warrants.....
  - 7.2.4.3. Risk factors associated with Offered Open Text Warrants.....
  - 7.2.4.4. Limitations on trading in Offered Open Text Shares, Offered Open Text W  
Open Text Shares issued on the basis of the Offered Open Text Warrants.
- 7.3. Information on payments or other monetary in-kind benefits for members of the board or t  
supervisory board of IXOS, and on agreements with members of the institution.....
- 7.4. Prior Acquisitions and Possible Parallel Acquisitions.....
- 8. Execution of the Offer.....
  - 8.1. Cash Offer.....
    - 8.1.1 Acceptance of the Cash Offer.....
    - 8.1.2 Settlement of the Offer.....
  - 8.2. Alternative Share and Warrant Offer.....
    - 8.2.1 Acceptance of the Alternative Share and Warrant Offer.....
    - 8.2.2 Settlement of the Alternative Share and Warrant Consideration.....
  - 8.3 Costs of the Acceptance.....
    - 8.3.1. Cash offer.....
    - 8.3.2. Alternative Share and Warrant Consideration.....
  - 8.4 Central Settlement Agent.....
  - 8.5 Trading with Tendered IXOS Shares (Cash Consideration / Alternative Share and Warrant Co
  - 8.6 Reprocessing in the Case of Non-fulfillment of Condition Precedents and Occurrence of Co  
Subsequent.....
- 8.7 Execution of the Offer in the Case of Acceptance during the Extended/Additional Acceptan
- 8.8 Situation of the IXOS Shareholders who do not accept the Takeover Bid.....
- 9. Offer Terms.....
- 10. Financing.....
  - 10.1. Financing Measures for Cash Consideration.....
  - 10.2. Availability of Share and Warrant Consideration.....
  - 10.3. Loan Agreement.....
  - 10.4. Financing Confirmation.....
- 11. Effects on the Assets, Financial and Earnings Situation of 2016091 Ontario.....
  - 11.1. 2016091 Ontario.....
    - 11.1.1. Effects in the case of exclusive acceptance of the cash offer.....
    - 11.1.2. Effects in case of exclusive acceptance of the Alternative Offer.....
  - 11.2. Open Text Group.....
    - 11.2.1. Exclusive acceptance of the Cash Offer.....
    - 11.2.2. Exclusive acceptance of the Alternative Offer.....
- 12. Right of Withdrawal.....
  - 12.1. Right of Withdrawal in the Event of Change in the Takeover Bid.....
  - 12.2. Right of Withdrawal in the Event of Competing Bids.....
- 13. Publication of the Offer Document / Notifications.....
- 14. Official Proceedings (Behordliche Verfahren).....
- 15. Accompanying Bank.....
- 16. Information according to sec. 2 no. 2 WpUG Offer Ordinance (WpUG-Angebotsverordnung) in conj  
with sec. 7 Sales Prospectus Act (Verkaufsprospektgesetz) and Sales Prospectus Ordinance  
(Verkaufsprospekt-VO).....

## Edgar Filing: OPEN TEXT CORP - Form CB

- 17. Applicable Law.....
- 18. Tax Law Information.....
- 19. Declaration of the Acceptance of Responsibility.....

Appendix 1	Information according to sec. 2 no. 2 WpUG Offer Ordinance (WpUG-Angebotsverordnung) in connection with sec. 7 Sales Prospectus Act (Verkaufsprospektgesetz) and Sales Prospectus Ordinance (Verkaufsprospekt-VO)
Appendix 2	Warrant Indenture
Appendix 3	Stock prices and trading volumes of Open Text Shares
Appendix 4	Structure Chart Open Text Group
Appendix 5	Cash Confirmation Letter

All Appendices form a part of this Offer Document and must be read in connection with this Offer Document.

-----

Unless otherwise indicated, all amounts included in this Offer Document are expressed in Euro. Unless otherwise indicated, all amounts included in Appendix 1 are expressed in US-Dollars.

-----

5

### Important Information for Shareholders of IXOS

#### Execution of the Takeover Bid; publication of the Offer Document

This voluntary public Takeover Bid (Takeover Bid) by 2016091 Ontario Inc. (2016091 Ontario or the Bidder) is a public bid to acquire shares of IXOS Software Aktiengesellschaft (IXOS) under the rules of the German Securities Acquisition and Takeover Act ("WpUG") and German Securities and Takeover Ordinance (WpUG-Angebotsverordnung).

Appendix 1 (Information according to sec. 2 no. 2 WpUG Offer Ordinance (WpUG-Angebotsverordnung) in connection with sec. 7 Sales Prospectus Act (Verkaufsprospektgesetz) and Sales Prospectus Ordinance (Verkaufsprospekt-VO) and Appendix 2 (Warrant Indenture), Appendix 3 (stock prices and trading volumes of Open Text-Shares) and Appendix 4 (structure chart Open Text Group) and Appendix 5 (Cash Confirmation Letter) form a part of this Offer Document and must be read in connection with this Offer Document. No further documents exist, which form part of this Offer Document. 2016091 Ontario will publish a convenience translation of the German Offer Document which is non-binding and not approved by the German financial services authorities (Bundesanstalt für



## Edgar Filing: OPEN TEXT CORP - Form CB

Finanzdienstleistungsaufsicht-BaFin); the German Offer Document remains the authoritative and binding document under which this Offer is made.

The offer is directed at all shareholders of the IXOS Software Aktiengesellschaft (IXOS) and will be executed only pursuant to German law, in particular pursuant to the WpUG and the WpUG Angebotsverordnung. In the United States of America (USA) the Bidder is relying on exemptions from the tender offer and registration provisions of U.S. federal securities legislation. An exemption order has been obtained from Canadian provincial securities regulators exempting the Bidder from the provisions of Canadian provincial securities legislation regulating takeovers. For information on the restrictions on the trading of Offered Open Text Shares and Offered Open Text Warrants acquired under this Offer by persons in the USA and Canada see Section 7.2.3.

No further publications, registrations, admissions and approvals of this Offer Document and/or this Offer outside of Germany have been applied for or initiated. IXOS-Shareholders may be unable to rely on the application of foreign laws respecting shareholder protection.

The Bidder has published this offer document and the non-binding English translation in accordance with sec. 14 para. (3) WpUG through an official announcement on the Internet under [www.2016091ontario.de](http://www.2016091ontario.de). The Offer Document is also available for all shareholders of IXOS free of charge from Commerzbank Aktiengesellschaft, ZGS-CMAD, DLZ 2, Mainzer Landstra(βe) 153, 60327 Frankfurt am Main, Telefax-Nr. 069 136-44598 (Commerzbank AG). Notification of the information is given in the Financial Times Deutschland.

The by-laws of Open Text and the audited consolidated financial statements of Open Text for the financial years ended June 30, 2003, 2002 and 2001 can be reviewed during the Acceptance Period at the registered office of Open Text, 185 Columbia Street West, Waterloo, Ontario NL2 5Z5, Canada and - with exception of the by-laws - on the website [www.opentext.com](http://www.opentext.com).

The Bidder expressly indicates that it reserves the option to acquire IXOS Shares outside this Offer.

Distribution of the Offer Document by third parties and by depositary banks

Irrespective of the statements set out below, this Offer may be accepted by all IXOS-Shareholders in accordance with the terms of this Offer Document. IXOS-Shareholders, who wish to accept this Offer outside of Germany, as well as any person who receives a copy of this Offer Document outside of Germany, are requested to comply with the following.

2016091 Ontario has published this Offer Document in accordance with the regulations of the WpUG as described in Section 13 of this Offer Document. A further publication of this Offer Document or this Offer, especially outside of Germany, has not taken place and is not intended.

This Offer and this Offer Document shall not constitute the filing, publication or any other advertisement for an offer in accordance with laws and regulations of any jurisdiction other than the German jurisdiction. This Offer Document has only been published on the internet to comply with the regulations of the WpUG and this is not intended to constitute the filing of an offer in accordance with the laws of foreign jurisdictions or the publication or advertisement of this Offer and this Offer document in accordance with the laws of foreign

## Edgar Filing: OPEN TEXT CORP - Form CB

jurisdictions.

The forwarding, distribution or delivery of this Offer Document or other information and the acceptance of the Offer may be subject to the requirements of a legal system other than that of Germany. Therefore, unless required by applicable law of a jurisdiction outside the Federal Republic of Germany, the Bidder will not forward, distribute or deliver this Offer Document or other information outside Germany. This Offer Document or any other information shall therefore not be published, dispersed or delivered either directly or indirectly by third parties outside Germany to the extent that this is prohibited by the applicable foreign jurisdiction or dependent on the compliance with governmental procedures or authorizations or further requirements and that have not been complied with.

Persons who acquire a copy of this Offer Document outside of Germany or wish to accept this Offer and for who capital markets regulations and other legal requirements other than those of Germany apply, are requested to inform themselves about those requirements and to comply with them.

Should this Offer Document or other information be forwarded, distributed or delivered outside Germany by a person other than the Bidder in contravention of the foregoing, the Bidder accepts no responsibility for the forwarding, distribution or delivery of this Offer Document complying with the laws of legal systems other than that in Germany, the United States and Canada. The Bidder and the persons acting together with the Bidder disclaim any responsibility for compliance of this Offer or the acceptance of this Offer outside of Germany with all relevant applicable foreign laws other than the laws of Germany, the United States and Canada. Any responsibility of the Bidder for non-compliance with laws other than the laws of Germany, the United States and Canada is expressly excluded.

2016091 Ontario has not authorized any third party to provide any information on this Offer, this Offer Document or the Offered Open Text Shares or the Offered Open Text Warrants, other than information contained in this Offer Document including Appendices 1 - 5 or, in respect of the approval of the shareholders of Open Text of the issuance of the Offered Open Text-Shares and the Common Shares underlying the Offered Open Text-Warrants pursuant to this Offer, documents that have been filed in accordance with Canadian provincial securities laws. If any third party has provided any other information, it should not be considered a statement of the Bidder in connection with the acceptance of this Offer.

Notwithstanding the restrictions above concerning the forwarding, distribution or delivery of the Offer Document, the Offer may be accepted by all IXOS Shareholders in accordance with the terms of this Offer Document and the applicable statutory provisions.

7

Status of the information contained in the Offer Document

All details, views, intentions and statements (also directed to the future) are based - unless expressly stated otherwise - on currently available information, planning and certain assumptions of 2016091 Ontario Inc. and Open Text Corporation, 185 Columbia Street West, Waterloo, Ontario, NL2 5Z5, Canada (Open Text) at the time of publication specified on the Offer Document and could possibly change in the future. The information on IXOS contained in this Offer Document is based on the publicly available sources of information, in particular the business report of IXOS, and on a due diligence examination,

## Edgar Filing: OPEN TEXT CORP - Form CB

which was limited in terms of time and scope.

Furthermore, updates and changes to the information given in this Offer Document will only be published insofar as this is required by statutory provisions; legal publication requirements, especially sec. 23 WpUG remain untouched.

Exchange rates (the Exchange Rates), if not expressly indicated otherwise in this document:

US\$ in Euro as of November 7, 2003: 1 US\$ = EUR 0,87673

CAN\$ in Euro as of November 7, 2003: 1 Can\$ = EUR 0,65511

8

### 1. Summary of the Offer

The following summary comprises only a selection of the information contained in the Offer Document. As the summary does not contain all information that might be important for the IXOS Shareholders, it should be read in conjunction with, and is qualified by, the more detailed information contained elsewhere in this Offer Document.

Bidder: 2016091 Ontario Inc., Waterloo, Ontario, Canada

Target company: IXOS Software Aktiengesellschaft, Grasbrunn, Germany

Subject of the offer: Acquisition of all bearer shares in IXOS Software Aktiengesellschaft traded under the ISIN DE 0005061501 (WKN 506 150) each with a proportional value of EUR 1.00 of the registered share capital and dividend entitlement as from the financial year beginning on 1. July 2003 (IXOS Share).

Addressees of the Offer All IXOS-Shareholders

Cash Consideration: Either, EUR 9.00 per IXOS Share (the Cash Consideration)

Alternative Share and Warrant Consideration: EUR 9.00 per IXOS Share (the Cash Consideration)

Alternatively, IXOS Shareholders may elect to receive 0.5220 of a common share of Open Text (the Open Text Share) for each IXOS Share (the Offered Open Text Share) and 0.1484 of a warrant for each IXOS Share (the Offered Open Text Warrant), each whole warrant exercisable to purchase one Open Text Share for up to one year after the Closing Day of the offer at a strike price of US \$20.75 (= EUR 18.19 calculated at the Exchange Rate) per share (the Alternative Share and Warrant Consideration)

IXOS Shareholders may elect in respect of all or part of their IXOS Shares to receive either Cash Consideration or Alternative Share and Warrant Consideration.

## Edgar Filing: OPEN TEXT CORP - Form CB

The Alternative Share and Warrant Consideration will consist of whole Offered Open Text Shares and whole Offered Open Text Warrants; in calculating the Alternative Share and Warrant Consideration for Tendered IXOS Shares fractional Offered Open Text Shares and fractional Offered Open Text Warrants will be rounded down.

The Alternative Share and Warrant Consideration does not fulfill the requirements of a return service in accordance with ss. 31 para. 2 of the WpUG. However, it is admissible as an optional, alternative return service according to the conditions of the WpUG. The Alternative Share and Warrant Consideration provides any IXOS Shareholder wishing to participate in the development of Open Text and the associated activities of both companies with an alternative return service to that in cash.

The exchange ratio between the Offered Open Text Shares and the Offered Open Text Warrants under the terms of the Alternative Share and Warrant Consideration were established by 2016091 Ontario after full assessment in accordance with negotiations with IXOS. This Alternative Share and Warrant Consideration has not been ratified for appropriateness either by BaFin or an auditor.

Each IXOS Shareholder should carefully consider the investment considerations and risks of this Alternative Share and Warrant Consideration set forth in Appendix 1, paragraph VII, and the risk factors respecting the Offered Open Text Warrants under Section 7.2.4.3.

Furthermore, each IXOS Shareholder should consider the additional information on the Alternative Share and Warrant Consideration as set out in Section 7.2.2.

Acceptance Period: 01. December 2003 until 16. January 2004, 12:00 h (local time Frankfurt/Main)

Conditions: The Takeover Bid and the contracts entered into by way of acceptance of this offer are subject to different conditions precedent and conditions subsequent described under Section 9.

9

Acceptance: In order to accept this Offer, IXOS Shareholders must declare their acceptance through a written declaration vis a vis a securities services company (Depositary Bank) and instruct their Depositary Bank to re-book the IXOS Shares in the event they wish to accept this Offer for the Cash Consideration under ISIN DE0001359396 (WKN 135 939) and in the event they wish to accept this

## Edgar Filing: OPEN TEXT CORP - Form CB

Offer for the Alternative Share and Warrant Consideration under ISIN DE0001359388 (WKN 135 938) at Clearstream Banking AG. The acceptance will become effective upon re-booking of the IXOS Shares in respect of which the Offer shall be accepted under the respective aforementioned ISIN / WKN at Clearstream Banking AG no later than 17.30 h on the second banking day (Frankfurt/Main) after the acceptance deadline. The acceptance is free of charge for the shareholders of IXOS. All costs associated with the acceptance and transfer of the IXOS Shares, in particular the costs and fees charged by the deposit banks, will be borne by 2016091 Ontario Inc. Any charges by deposit banks outside the Federal Republic of Germany, however, must be borne by the IXOS Shareholder.

Trading with Tendered IXOS Shares:

Trading of the Tendered IXOS Shares on the Frankfurt stock exchange (geregelter Markt - Prime Standard) is envisaged from December 3, 2003 until January 12, 2003.

International Securities Identification Number:

IXOS Shares  
ISIN DE 0005061501  
(WKN 506 150)

Tendered IXOS Shares (Cash Consideration)  
ISIN DE0001359396  
(WKN 135 939)

Tendered IXOS Shares (Alternative Share and Warrant Consideration)  
ISIN DE0001359388  
(WKN 135 938)

Publication:

The Offer Document approved on 28. November 2003 was subsequently published on 01. December 2003 by announcement on the Internet under [www.2016091ontario.de](http://www.2016091ontario.de) and by the availability of copies for free distribution from Commerzbank AG, and by announcement in the Financial Times Deutschland. All notifications in conjunction with this Takeover Bid will be published by announcement on the Internet under [www.2016091ontario.de](http://www.2016091ontario.de) and by a reprint in the Financial Times Deutschland.

Acquisition of shares during the Takeover Bid:

Neither 2016091 Ontario nor Open Text has acquired any IXOS Shares since the publication of 2016091 Ontario's decision to make the Takeover Bid on 21. October 2003 until the time of publication of this Offer Document. Although 2016091 Ontario reserves the right to acquire additional IXOS Shares outside the takeover bid procedures, there are no concrete intentions for such an acquisition at the present time.

2. Takeover Bid

2.1. Subject

## Edgar Filing: OPEN TEXT CORP - Form CB

### 2.1.1. Cash offer

The Bidder hereby offers to all shareholders of IXOS Software Aktiengesellschaft (each individually IXOS Shareholder and jointly IXOS Shareholders) to acquire their non-par-value bearer shares in IXOS Software Aktiengesellschaft (ISIN DE 0005061501, WKN 506 150), each with a proportional amount of EUR 1.00 in the registered share capital per share and with dividend entitlement from the financial year beginning on 1. July 2003 in return for

EUR 9.00 per IXOS Share

10

on the terms of this Offer Document (Takeover Bid or Offer).

### 2.1.2. Alternative offer

The Bidder hereby offers as an alternative to all IXOS Shareholders, to acquire their non-par-value shares in IXOS Software Aktiengesellschaft (ISIN DE0005061501 [WKN 506 150]) each with a proportional amount of EUR 1.00 and with dividend entitlement from the financial year beginning 1st July 2003 in return for at the election of each IXOS Shareholder

0.5220 of a common share of Open Text (ISIN CA6837151068, WKN 899 027) with dividend entitlement from the financial year beginning on 1. July 2003 for each IXOS Share and 0.1484 of a warrant (ISIN CA6837151142), each whole warrant exercisable to purchase one Open Text Share for up to one year after the Closing Day (as defined hereinafter) at a strike price of US \$20.75 (= EUR 18.19 calculated at the Exchange Rate) per share

on the terms of this Offer Document (Takeover Bid or Offer).

### 2.1.3. General

IXOS Shareholders may elect in respect of all or part of their IXOS Shares to receive either Cash Consideration or Alternative Share and Warrant Consideration.

"Closing Day" shall be the day on which the transfer of title to the Tendered IXOS Shares pursuant to the provisions of this Offer Document (Section 8.2) becomes legally effective.

This Offer aims at gaining control over IXOS Software Aktiengesellschaft and is therefore a takeover bid pursuant to sec. 29 (1) WpUG. The Bidder published its decision to make the Takeover Bid on 21. October 2003.

### 2.2. Period for Acceptance

The period for the acceptance of this Takeover Bid (Acceptance Period) begins with the publication of this Offer Document on

01. December 2003

and ends on

16. January 2003, 12.00 h (local time Frankfurt/Main)

The execution of this Offer in case of acceptance is described in Section 8.

### 2.3 Extensions of the Acceptance Period

In the event of a change to this Offer published within the last two weeks

## Edgar Filing: OPEN TEXT CORP - Form CB

before the end of the Acceptance Period or in the event the Bidder waives one or all of the conditions set forth in Section 9, the Acceptance Period will be automatically extended for two weeks (Extended Acceptance Period). This shall also apply if the changed offer infringes legal provisions.

If an offer to acquire IXOS Shares is made by a third party (Competing Offer) during the Acceptance Period, the expiry of the Acceptance Period shall be determined by the expiry of the period for acceptance of the competing offer if the Acceptance Period expires before the expiry date of the period for acceptance of the competing offer. This shall also apply if the competing offer is changed or prohibited or infringes legal provisions.

If a shareholders' meeting of IXOS concerning the offer is convened after publication of the offer document, the period for acceptance shall end on February 9, 2003.

The settlement of the Offer in case of acceptance during the Extended Acceptance Period is described in Section 8 below.

11

### 2.4 Additional Acceptance Period

If on expiry of the Acceptance Period the conditions precedent under Section 9 are fulfilled and the conditions subsequent under Section 9 have not occurred, the IXOS Shareholders who have not accepted the Offer during the Acceptance Period can accept the Offer within two weeks of publication of the result of this Offer by the Bidder in accordance with sec. 23 para. 1 sent. 1 No. 2 WpUG (Additional Acceptance Period). The Additional Acceptance Period is expected to start on 23. January 2004 and will end on February 6, 2004. On expiry of the Additional Acceptance Period, the Offer can no longer be accepted.

The execution of the Offer in the case of acceptance during the Additional Acceptance Period is described in Section 8.8.

### 3. Bidder

#### 3.1. Corporate and Financial Data of the Bidder and the Open Text Group

2016091 Ontario is a corporation duly incorporated under the laws of the Province of Ontario, Canada, and the address of its registered office is 185 Columbia Street West, Waterloo, Ontario N2L 5Z5, Canada. It was incorporated on September 18, 2002.

2016091 Ontario is a 100 % subsidiary of Open Text Corporation, 185 Columbia Street West, Waterloo, Ontario N2L 5Z5, Canada. The sole purpose of 2016091 Ontario Inc. is the holding of the shares of IXOS within the group whose parent company is Open Text (Open Text Group). Open Text has entered into an agreement with the Bidder to provide the liquid funds and Open Text Shares as well as Open Text Warrants necessary for the acquisition of the shares of IXOS under the offer.

Apart from 2016091 Ontario no other persons within the meaning of sec. 2 par. 5 WpUG have acted in common with 2016091 Ontario for the purposes of this Takeover Bid. There are no voting rights resulting from shares in IXOS attributed to the Bidder pursuant to sec. 30 WpUG.

#### 3.2. Open Text Group

## Edgar Filing: OPEN TEXT CORP - Form CB

The parent company of Open Text Group, Open Text, is a corporation duly incorporated under the laws of the Province of Ontario, Canada, and has its registered office in 185 Columbia Street West, Waterloo, Ontario, Canada.

Open Text Group is one of the leading companies in the field of development and sale of software for Enterprise Content Management (ECM). Open Text is a market leader in Collaboration and Knowledge Management and has delivered innovative ECM software that brings people together to share knowledge, achieve excellence, deliver innovation, and enhance processes. Open Text began with the successful deployment of the world's first search engine technology for the Internet. Today, as the leading global supplier of Collaboration and Content Management software for the enterprise, Open Text supports fifteen million seat licenses across 10,000 corporate deployments in 31 countries and 12 languages throughout the world. In the financial year ended on June 30, 2003 the consolidated sales (in US-GAAP) of the Open Text Group totaled EUR 170.6 (US\$ 177.7) million with a consolidated asset total on June 30, 2003 of EUR 206.3 (US\$ 238.7) million. The consolidated net income for the year of the Open Text Group for the financial year ended on June 30, 2003 was EUR 26.7 (US\$ 27.8) million. The Open Text Group had an average workforce during the financial year ended on June 30, 2003 of 1,097 employees. (The figures indicated above have been converted by using the US\$-EUR-exchange rates as of June 30, 2003 given by the Bank of Canada.)

As of September 30, 2003 Open Text Group had consolidated worldwide sales for the first quarter of its fiscal year 2003/2004 of EUR 39.3 (US\$ 44.2) million with a consolidated interim balance sheet total on September 30, 2003 of EUR 208.0 (US\$242.4) million. The consolidated net income for the first quarter of the Open Text Group of the financial year 2003/2004 ended on September 30, 2003 was EUR 3.0 (US\$3.4) million. On September 30, 2003 the Open Text Group had 1,168 employees. (The figures indicated above have been converted by using the US\$-EUR-exchange rate as of September 30, 2003 as given by the Bank of Canada.)

12

### 3.3. Business Activities of the Bidder and the Open Text Group

The Bidder has not pursued any business activities prior to this Takeover Bid.

The Open Text Group has activities in the following lines of business:

Open Text develops, markets, licenses and supports Collaboration and Knowledge Management Software for use on intranets, extranets and the Internet. Open Text's principal product line is Livelink(R), a leading collaboration and knowledge management software product for global enterprises. The software enables users to capture as well as find electronically stored information, work together in creative and collaborative processes, perform group calendaring and scheduling, and distribute or make available to users across networks or the Internet the resulting work product and other information. This collaborative environment enables ad hoc teams to form quickly across functional and organizational boundaries, which enables information to be accessed by employees using any standard Web browser. Fully Web-based with open architecture, Livelink(R) provides rapid out-of-the-box deployment, accelerated adoption, and low cost of ownership. Open Text provides integrated solutions that enable people to use information and technology more effectively at departmental levels and across enterprises. Open Text offers its solutions both as end-user stand-alone products and as fully integrated modules, which together provide a complete solution that is easily incorporated into existing enterprise business systems. Although most of Open Text's technology is proprietary in nature, Open Text does on occasion include certain third party software in its products.



## Edgar Filing: OPEN TEXT CORP - Form CB

### 4. Description of IXOS Software AG

#### 4.1. Corporate and Financial Data of IXOS Software AG

IXOS Software Aktiengesellschaft is a stock corporation registered in the commercial register of the local court (Amtsgericht) of Munich under HRB 116 846. As of November 26, 2003, the registered share capital of IXOS amounted to EUR 21,554,884 and was divided into 21,554,884 non-par-value bearer shares, each with a proportionate amount of EUR 1.00 in the registered share capital. There also existed conditional share capital I in the amount of EUR 870,116, conditional share capital II in the amount of EUR 261,980, conditional share capital III in the amount of EUR 298,233, conditional share capital IV in the amount of EUR 500,000 as well as authorized share capital IV in the amount of EUR 3,000,000 and authorized share capital V in the amount of EUR 7,762,329.

IXOS has issued stock options under several stock option schemes in the aggregate amount of 2,965,201 IXOS Shares, to be exercised under the terms and conditions set forth in the stock option schemes (Stock Option Scheme). As of November 26, 2003, 1,390,670 of the stock options are outstanding, each providing rights to one IXOS Share. Only some of 354,277 options are currently exercisable and in the money and can therefore lead to a contingent capital increase by a maximum of 354,277 IXOS-Shares until the deadline of the additional acceptance period.

	Before exercise of option	After exercise of all 354,277 options
-----	-----	-----
Issued share capital	21,554,884	21,909,161
-----	-----	-----
Contingent capital I	870,116.	515,839
-----	-----	-----
Contingent capital II	261,980	261,980
-----	-----	-----
Contingent capital III	298,233	298,233
-----	-----	-----
Contingent capital IV	500,000	500,000
-----	-----	-----
Authorized capital IV	3,000,000	3,000,000
-----	-----	-----
Authorized capital V	7,762,329	7,762,329
-----	-----	-----

There are no additional subscription rights to IXOS Shares other than those from the issued options from the share option program, i.e. no option rights, conversion privileges or other subscription rights. The aforementioned IXOS authorized capital has to date not been approved for issuance by the IXOS board and IXOS has committed itself in the Business Combination Agreement (section 5.3) with the Bidder not to issue any fresh capital or any authorized capital until the closing day of the Offer.

## Edgar Filing: OPEN TEXT CORP - Form CB

of the Frankfurt Stock Exchange (Prime Standard) using the ticker symbol "XOS" (ISIN: DE0005061501 [WKN 506 150]). IXOS Shares are included in the TecDax. In the U.S. representing an entitlement to a specific number of IXOS Shares, American Depositary Shares [ADSs] are traded on the NASDAQ stock exchange using the ticker symbol "XOSY".

### 4.2. Business Activities of IXOS

IXOS is a leading provider of Enterprise Content Management (ECM) solutions. IXOS solutions optimize and expedite business processes, reduce costs, minimize risk and enhance the competitiveness of companies. In addition to its product portfolio, IXOS offers a broad spectrum of services, including global 24x7 customer support and a global team of highly qualified consultants. Another advantage is its close partnerships with leading international IT providers and system integrators. Large corporations in widely varied industries have chosen IXOS as a dependable, strategic partner. As of June 30, 2003 some 2,715 installations around the globe with more than 2 million users benefit from IXOS's long years of expertise in the field of business content management.

With offices in 17 countries and a network of certified Distributors and Resellers for the rest of the world, IXOS operates globally.

IXOS is represented by 14 subsidiaries in key industrial centers worldwide (IXOS Group). The headquarters are in Grasbrunn, near Munich. The development work of IXOS SOFTWARE AG is concentrated in the Munich region and in Kempten (Germany), San Mateo (U.S.A.), Prague (Czech Republic), and Basel (Switzerland). The Basel site is a development center only, and was added to IXOS' locations when Obtree Technologies, Inc. was acquired in fiscal year 2002/2003. There are sales and service teams at all IXOS locations with the exception of Basel and Obtree Technologies UK Limited which ceased operations. After the balance sheet date June 30, 2003, IXOS SOFTWARE AG formed the IXOS SOFTWARE NORDIC A/S subsidiary, which is responsible for sales and services in Denmark, Sweden, Norway, and Finland. Also additional subsidiaries in France and Spain have been formed in order to strengthen IXOS' presence in the countries concerned.

In the business year ending on June 30, 2003 IXOS Group had (all accounting under the principles of US GAAP) consolidated worldwide sales of EUR 127.1 million with a consolidated balance sheet total on June 30, 2003 of EUR 108.3 million. The consolidated net loss for the year of the IXOS Group for the financial year ended on June 30, 2003 was EUR (4.0) million. On June 30, 2003 the IXOS Group had 919 employees.

As of September 30, 2003 IXOS Group had consolidated worldwide sales for the first quarter of its fiscal year 2003/2004 of EUR 30.1 million with a consolidated interim balance sheet total on September 30, 2003 of EUR 100.3 million. The consolidated net loss for the first quarter of the IXOS Group for the first quarter of the financial year 2003/2004 ended on September 30, 2003 was EUR (1.9) million. On September 30, 2003 the IXOS Group had 911 employees.

### 5. Background to the Takeover Bid

#### 5.1. Economic Reasons for the Takeover Bid

In order to be successful as a provider of enterprise content management ("ECM") solutions systems it is necessary to offer comprehensive solutions. The software solutions have to contain web and content management functions, integrated collaboration and search functions and provide solutions for business processes. Market consolidation through the takeover of ECM vendors is enabling financially strong players in this segment to expand their key business by widening their range of offered products and by obtaining synergies in the ECM sector.

## Edgar Filing: OPEN TEXT CORP - Form CB

It is the intention of the Bidder and Open Text through the combination of Open Text and IXOS to offer the most complete ECM solution to meet the needs of current and prospective customers and provide for extensive worldwide presence. The Bidder and Open Text believe that a combined Open Text and IXOS will be able to offer customers a combination of technologies, solution flexibility and platform choice, all delivered from a single, financially stable company they can partner with for the long term.

14

In the longer term it is the intention of the Bidder and Open Text to provide one-stop-shopping for comprehensive ECM solutions designed to manage the complete lifecycle of information across the organization, from creation to archiving.

The geographic focus of both Open Text and IXOS is considered highly complementary. Approximately 60% of Open Text's revenue comes from North America, approximately 36% from Europe, and approximately 4% from Asia Pacific. Approximately 60% of the IXOS